



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

October 5, 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ezzat Ollah Peykar, M.D.
49 Red Brook Road
Great Neck, New York 10024

Amy T. Kulb, Esq.
Jacobson & Goldberg, LLP
585 Stewart Avenue
Garden City, New York 11530

Valerie Donovan, Esq.
Diane Abeloff, Esq.
NYS Department of Health
5 Penn Plaza - Sixth Floor
New York, New York 10001

RE: In the Matter of Ezzat Ollah Peykar, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 98-234) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt **or** seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties **other than suspension or revocation** until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's
Determination and Order.

Sincerely,

A handwritten signature in black ink that reads "Tyrone T. Butler". The signature is written in a cursive style with a large initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

**STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

COPY

**IN THE MATTER
OF
EZZAT OLLAH PEYKAR, M.D.**

**DETERMINATION
AND
ORDER**

BPMC-98-234

A Notice of Referral Proceeding, dated July 21, 1998, and a Statement of Charges, dated May 27, 1998, were served upon the Respondent, **EZZAT OLLAH PEYKAR, M.D.** **GERALD BRODY, M.D.**, Chairman, **NORTON SPRITZ, M.D.**, and **STEPHEN WEAR, PH. D.**, duly designated members of the State Board For Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law.

MICHAEL P. MCDERMOTT, ESQ., Administrative Law Judge, served as the Administrative Officer.

A hearing was held on September 16, 1998, at the offices of the New York State Department of Health, 5 Penn Plaza, New York, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **VALERIE DONOVAN, ESQ.**, and **DIANE ABELOFF, ESQ.**, of Counsel. The Respondent **appeared in person** and was represented by **JACOBSON & GOLDBERG**, 585 Stewart Ave., Garden City, New York, **AMY KULB, ESQ.**, of Counsel.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such case, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(ii). A copy of the Notice of Referral Proceeding of charges is attached to this determination and Order as Appendix I.

WITNESSES

Petitioner:	NONE
Respondent:	Ezzat Ollah Peykar, M.D., the Respondent

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of cited evidence. All Hearing Committee findings were unanimous unless otherwise stated.

1. **EZZAT OLLAH PEYKAR, M.D.**, the Respondent was authorized to practice medicine in New York State on July 22, 1985, by the issuance of license number, 163353 by the New York State Education Department. He is listed as inactive status with the New York State Education Department, with a registration address of:
935 Northern Boulevard - Suite 107, Great Neck, New York 11021. (Pet's Ex.3)

2. On December 16, 1997, in the United States District Court for the Eastern District of New York, a judgement was entered after Respondent pled guilty to Medicare Fraud, a Class A misdemeanor, under U.S.C. 1320a-7b(a)(1). The misdemeanor information to which he pled stated that Respondent "did knowingly and willfully cause materially false statements to be made by others in connection with applications for payments under Subchapter XVIII of Chapter 7 of Title 42, to wit, that patients required the use of certain medical equipment and supplies when , in fact, they did not." (Pet's Ex.2)
The Respondent was sentenced to two (2) years probation, four months of which were home confinement, under the direct supervision of the Probation Department.
He was also ordered to pay a fine of \$5,000.00. (Pet's Ex.4)

VOTE OF THE HEARING COMMITTEE
SPECIFICATION OF CHARGES
HAVING HAD DISCIPLINARY ACTION TAKEN

The Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law.

VOTE: SUSTAINED (3-0)

DETERMINATION OF THE HEARING COMMITTEE

The Respondent testified at the hearing. His testimony was evasive and he was not forthcoming. He was not a credible witness.

The Hearing Committee also notes that in the August 27, 1997, Transcript of Pleadings, U.S. District Court, the Respondent affirmed that he had surrendered his physicians license when in fact he had not done so. (Pet's. Ex. 5)

The Respondent has been convicted, in Federal Court, of a serious crime, Medicare Fraud, and there is no credible evidence in mitigation of the charges.

The Hearing Committee determines unanimously (3-0) that the Respondent's license to practice medicine in New York state should be **REVOKED.**

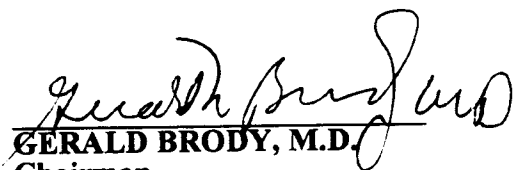
ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice Medicine in the State of New York is hereby **REVOKED.**

2. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Tuckahoe, New York
October 2, 1998


GERALD BRODY, M.D.
Chairman

NORTON SPRITZ, M.D.
STEPHEN WEAR, PH.D.



STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER : NOTICE OF
OF : REFERRAL
EZZAT OLLAH PEYKAR, M.D. : PROCEEDING

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TO: Ezzat Ollah Peykar, M.D.
49 Red Brook Road
Great Neck, New York 10024

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 16th day of September, 1998 at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the

nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before September 4, 1998.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge or Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before

September 4, 1998 and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
July 21, 1998

Peter D. Van Buren by wife

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Valerie B. Donovan
Assistant Counsel
Bureau of Professional
Medical Conduct
Division of Legal Affairs
Corning Tower Building
Room 2509
Empire State Plaza
Albany, New York 12237
(518) 473-4282

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : STATEMENT
OF : OF
EZZAT OLLAH PEYKAR, M.D. : CHARGES

-----X

EZZAT OLLAH PEYKAR, M.D., the Respondent, was authorized to practice medicine in New York State on July 22, 1985 by the issuance of license number 163353 by the New York State Education Department. The Respondent is listed as inactive status with the New York State Education Department, with a registration address of Suite 107, 935 Northern Boulevard, Great Neck, New York 11021.

FACTUAL ALLEGATIONS

A. On December 16, 1997, in United States District Court for the Eastern District of New York, judgment was entered after Respondent pled guilty to Medicare Fraud, a Class A Misdemeanor, under 42 U.S.C. § 1320a-7b(a)(1). The misdemeanor information to which he pled stated that Respondent "did knowingly and willfully cause materially false statements to be made by others in connection with applications for payments under Subchapter XVIII of Chapter 7 of Title 42, to wit, that patients required the use of certain medical equipment and supplies when, in fact, they did not."

1. Respondent was sentenced to two years of probation, four

months of which were home confinement, under the direct supervision of the Probation Department. He was also ordered to pay a fine of \$5,000.

SPECIFICATION

CRIMINAL CONVICTION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. Paragraphs A and/or A. 1.

DATED: *May 27*, 1998
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct