



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

PUBLIC

February 19, 2003

Dennis P. Whalen
Executive Deputy Commissioner

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Loretta Tracey Miles, M.D.
518 6th Avenue
Bethlehem, Pennsylvania 18018-5204

Amy B. Merklen
Associate Counsel
NYS Department of Health
Bureau of Professional
Medical Conduct
Corning Tower, Room 2509
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Loretta Tracey Miles, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 03-042) 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.

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.

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.

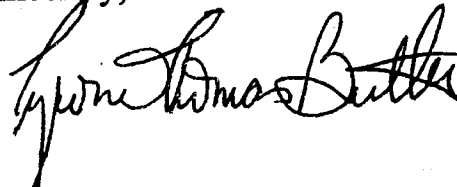
The notice of review served on the Administrative Review Board should be forwarded to:

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, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:djh
Enclosure

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

COPY

IN THE MATTER
OF
LORETTA TRACEY MILES, M.D.

DETERMINATION
AND
ORDER

BPMC NO. 03-042

A Notice of Hearing and a Statement of Charges, both dated September 27, 2002, were served upon the Respondent, **Loretta Tracey Miles, M.D.**, by the New York State Department of Health ("the Petitioner"). **John W. Choate, M.D.**, Chairperson, **Teresa S. Briggs, M.D., Ph.D.**, and **Ms. Virginia Marty**, 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. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Amy B. Merklen, Esq.**, of Counsel. The Respondent appeared in person and was represented by Maynard, O'Connor, Smith & Catalinotto, 80 State Street, Albany, New York 12207, **Concetta R. Lomanto, 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.

PROCEDURAL HISTORY

Date of Service:

October 17, 2002

Hearing Held:

November 20, 2002
January 24, 2003

Deliberations Held:

January 24, 2003

Witnesses for the Petitioner:

None

Witnesses for the Respondent:

Loretta Tracey Miles, M.D.
David Keffer

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10), which established procedures for bringing charges of professional medical misconduct against a physician and for conducting an administrative hearing to resolve such charges. In this case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(42), which defines professional misconduct as:

Failing to comply with a signed agreement to practice medicine in New York state in an area designated by the commissioner of education as having a shortage of physicians or refusing to repay medical education costs in lieu of such required service, or failing to comply with any provision of a written agreement with the state or any municipality within which the licensee has agreed to provide medical service, or refusing to repay funds in lieu of such service as consideration of awards made by the state or any municipality thereof for his or her professional education in medicine, or failing to comply with any agreement entered into to aid his or her medical education;...

The Respondent is specifically charged with being in default on a loan from the United States Department of Health and Human Services that was made to her to assist her medical school education. Copies of the Notice of Hearing and the Statement of Charges are attached to this Determination and Order as Appendix 1.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Citations in parentheses below refer to testimony and exhibits found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Loretta Tracey Miles, M.D., the Respondent, was authorized to practice medicine in New York State on October 27, 1987, by the issuance of license number 172838 by the New York State Education Department (Petitioner's Ex. 3).

2. During the Respondent's medical school education, she obtained a Health Education Assistance Loan ("the loan") to help finance the cost of her schooling (Petitioner's Ex. 4).

3. Once the Respondent became employed as a physician, she made the required periodic payments on the loan as well as on other debt she had incurred to finance her medical school education (transcript p. 7).

4. The Respondent was struck by a motorcycle in March of 1997, causing an injury to her right foot (transcript pp. 7, 24).

5. The Respondent injured her right knee in December of 1997. The injury required surgery in December 1997, February 1998 and February 1999. (transcript pp. 7-8, 24-25).

6. Despite the three surgeries, the Respondent continued to experience considerable pain in her right knee, a problem that is still present (transcript pp. 8, 18). She also still experiences pain in her right foot from the motorcycle accident.

7. The Respondent has not worked as a physician, nor has she had any other type of employment, since February of 1999 (transcript p. 26).

8. The Respondent moved from New York City to her mother's house in Bethlehem, Pennsylvania in 1999 (transcript pp. 8-9). From that point until August of 2002, the Respondent spent a considerable amount of her time tending to the needs of her sister and her mother. The Respondent provided care to her sister, who had breast cancer and schizophrenia, until her sister's death in May of 2001 (transcript pp. 11, 19-20). The Respondent provided care to her mother, who had congestive heart failure,

pulmonary edema and other medical problems, until her mother's death in August of 2002 (transcript pp. 11, 19-20).

9. After the Respondent stopped working in February 1999, she continued to pay her debts from her savings until her savings were exhausted (transcript p. 10). She has not made payments on the loan since then.

10. Since August of 2002, the Respondent has not sought medical treatment for her right knee and has done nothing to address her unemployment.

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"The Respondent is charged with professional misconduct by failing to comply with a written agreement with the DHHS [Department of Health and Human Services] by refusing to repay medical education loans in violation of [New York Education Law] Section 6530(42)..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent does not dispute either the allegation that she is not in compliance with the terms of the loan or the allegation that this constitutes professional misconduct pursuant to Education Law Section 6530(42). The disagreement between the Petitioner and the Respondent concerns what penalty, if any, should be imposed. The Respondent urged the Hearing Committee to dismiss the charges "in the interest of justice" pursuant to Education Law Section 6530. The Petitioner declined to recommend a specific penalty, but argued that a penalty should be imposed.

The Respondent's recommendation for a dismissal is based in large part on the difficulties the Respondent has experienced since the motorcycle accident. The Respondent argued that her failure to pay the loan was the result of an inability to be

employed during the last four years because of her injuries, particularly the knee injury, and because of the demands on her time and energy caused by her sister's and her mother's health problems. The Respondent reasoned that she should not be penalized for a problem caused by injuries and family responsibilities, rather than a willful refusal to meet her financial responsibilities. The Respondent's recommendation for a dismissal is also based on the testimony of her friend, David Keffer. He testified that he is willing to use his savings to bring the Respondent into compliance with the loan, whether that means periodic payments or a lump sum payment of the entire loan and accrued interest. He testified that he has enough money to do either. The Respondent argued that there is no reason to impose a penalty, an act that will make it very difficult for her ever to find employment as a physician, because the Respondent's problem with the loan has been resolved by Mr. Keffer.

The Hearing Committee is not convinced that no penalty needs to be imposed on the Respondent. One reason is that a promise to pay someone else's debt is not the equivalent of payment of the debt. Although the hearing record contains no reason to doubt Mr. Keffer's honesty or reliability, it also contains no basis for concluding that it is a certainty that he will do what he has promised to do. The Hearing Committee also is concerned about the Respondent's failure to do anything since her mother's death in August of 2002 concerning the condition of her knee and her employment status. Her explanation for her inaction, that she had to host her relatives during the holidays, was totally unconvincing. The Respondent's inaction over the last few months causes the Hearing Committee to conclude that the Respondent can not be relied upon to address her health and employment problems in a prompt and effective manner if she is left to her own devices. Until she does effectively address these problems, she is not going to be able to resume payments on the loan (absent help from Mr. Keffer, which for reasons

stated above, is not a certainty). Therefore, the Hearing Committee concludes that the Respondent needs to be placed on probation under terms that will increase the chances that the loan will be repaid.

ORDER

IT IS HEREBY ORDERED THAT:

1. The First Specification is sustained.
2. The Respondent is placed on probation under the terms and conditions of paragraphs 3 through 10 of this Order.
3. Within six months of the effective date of this Order, the Respondent must either pay the loan plus interest in full or have commenced periodic payments on the loan satisfactory to the holder of the loan. Documentation of timely compliance with this requirement must be sent to the Petitioner's Office of Professional Medical Conduct ("OPMC") at the following address: New York State Department of Health, Office of Professional Medical Conduct, Hedley Park Place, 433 River Street, Troy, New York 12180.
4. The Respondent shall remain on probation until the loan is paid in full with interest.
5. The Respondent shall conduct herself in all ways in a manner befitting her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by her profession. If, during the period of probation, the Respondent commits professional misconduct as enumerated in New York State Education Law Sections 6530 or 6531, such act shall be deemed a violation of probation and an action may be taken against the Respondent's license pursuant to New York State Public Health Law Section 230(19).

6. The Respondent shall submit to OPMC written notification of any change in employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.

7. The Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of the Respondent's compliance with the terms of this Order and shall personally meet with a person designated by OPMC when so requested.

8. The period of probation shall be tolled during periods in which the Respondent is not engaged in the active practice of medicine in New York State. The Respondent shall notify OPMC, in writing, if the Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of 30 consecutive days or more. The Respondent shall notify OPMC again prior to any change in that status. The period of probation shall resume and any terms of probation that were not fulfilled shall be fulfilled upon the Respondent's return to practice in New York State.

9. Upon receipt of evidence of noncompliance with the terms of probation, OPMC or the State Board for Professional Medical Conduct may initiate a violation of probation proceeding and/or any other proceeding against the Respondent as may be authorized by law.

10. The Respondent shall assume and bear all costs related to her compliance with this Order.

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

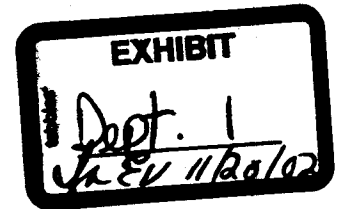
DATED: Austerlitz, New York
2/14, 2003



John W. Choate, M.D.
Chairperson

Teresa S. Briggs, M.D., Ph.D.
Virginia R. Marty

APPENDIX I



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

IN THE MATTER
OF
LORETTA TRACY MILES, M.D.
CO-01-09-4545-A

NOTICE
OF
HEARING

TO: LORETTA TRACY MILES, M.D.
518 6th Avenue
Bethlehem, PA 18018-5204

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on November 20, 2002, at 10:00 a.m., at the Offices of the New York State Department of Health, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York, 12180, and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of 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 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. Pursuant to §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. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
September 27, 2002



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

Inquiries should be directed to:

Amy B. Merklen, Assistant Counsel
Bureau of Professional Medical Conduct
(518) 486-1841

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

IN THE MATTER
OF
LORETTA TRACY MILES, M.D.

**STATEMENT
OF
CHARGES**

Loretta Tracy Miles, M.D., Respondent, was authorized to practice medicine in New York State on or about 1987 by the issuance of license number 172838 by the New York State Education Department. Respondent's registration address is 11 Old Canal Way, Weatogue, CT, 06089. Respondent's current address is 518 6th Avenue, Bethlehem, PA 18018-5204.

FACTUAL ALLEGATIONS

The Respondent received a loan from Federal Department of Health and Human Services (hereinafter "DHHS") which services the Health Education Assistance Loan program. The Respondent signed an agreement with the DHHS agreeing to repay a total of \$25,969.81 plus interest by signing various loan agreements executed between September 9, 1984 and December 17, 1984. Respondent has been in default since September 30, 1999. The DHHS has made many attempts to reach her and resolve this matter to no avail.

SPECIFICATION OF MISCONDUCT

FIRST SPECIFICATION


FAILURE TO REPAY STUDENT LOAN

The Respondent is charged with professional misconduct by failing to comply with a written agreement with the DHHS by refusing to repay medical education loans in violation of § 6530(42) in that Petitioner charges:

1. The allegations in paragraph A.

DATED: *Sept. 27*, 2002

Albany, New York


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