



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller State Office Building

Albany, New York 12237

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

October 9, 1996

CORRECTED LETTER
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Frederick Zimmer, Esq.
NYS Department of Health
Corning Tower-Room 2438
Empire State Plaza
Albany, New York 12237

Delroy Brooks, M.D.
PO Box 898
332 Mechanic Street
Orange, New Jersey 07051

Delroy Brooks, M.D.
Interfaith Hospital
Parkway Family Health Center
391 Eastern Parkway
Brooklyn, New York 11238

RE: In the Matter of Delroy Brooks, M.D.

Dear Mr. Zimmer and Dr. Brooks:

In sending you the above noted Determination and Order, there was an error in the cover letter. The following is a corrected letter.

Five days after receipt of the 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

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
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

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, stylized initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:rlw
Enclosure

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

COPY

IN THE MATTER
OF
DELROY C. BROOKS, M.D.

DETERMINATION
AND
ORDER

BPMC-96-223

BENJAMIN WAINFELD, M.D., Chairperson, **ANDREW CONTI, M.D.**, and **MR. LUIS W. OSORIO**, duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230(10)(e) and 230(12) of the Public Health Law. **ELLEN B. SIMON, ESQ.**, Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing Committee submits this Determination.

SUMMARY OF THE PROCEEDINGS

Amended Statement of Charges dated:	July 29, 1996
Affidavit of Service of Notice of Hearing and Statement of Charges dated:	July 2, 1996
Pre-hearing conference:	July 8, 1996
Hearing date:	August 13, 1996
Deliberation date:	August 13, 1996
Place of hearing:	NYS Department of Health 5 Penn Plaza New York, New York

Department appeared by:

Henry M. Greenberg, Esq.
General Counsel
NYS Department of Health

BY: Frederick Zimmer, Esq.
Assistant Counsel

Respondent did not appear

WITNESSES

None

STATEMENT OF CHARGES

The Statement of Charges essentially charges the Respondent with professional misconduct by reason of having practiced the profession of medicine fraudulently, having been convicted of a crime, and having failed to comply with an agreement entered into to aid his medical education.

The charges are more specifically set forth in the Amended Statement of Charges, a copy of which is attached to and made a part of this Determination and Order.

FINDINGS OF FACT

Numbers in parenthesis refer to Petitioner's Exhibits, and they denote evidence that the Hearing Committee found persuasive in determining a particular finding.

1. Delroy C. Brooks, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 2, 1993 by the issuance of license number 192869 by the New York State Education Department (Ex. 2, p. 2).

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2. By a Judgment of the United State District Court for the District of New Jersey filed on March 4, 1976, Respondent was found guilty of knowingly and willfully obstructing and retarding the passage of a third-class insured parcel of mail, in violation of 18 U.S.C. Section 1701. For that crime, Respondent received a suspended-term sentence and was placed on probation for one year (Exs. 3, 4).

3. On April 4, 1995, in the United States District Court for the District of New Jersey, a Default Judgment was entered against Respondent in Civil Action No. 95-0848, dated March 30, 1995, for his default to the United States of America in the sum of \$511,012.08 plus costs, plus interest from the date of judgment at the legal rate of .06570 computed daily and compounded annually until paid in full, and a 10 percent surcharge in the amount of \$51,101.21. These sums were owed because of Respondent's having defaulted both in the service obligation that he incurred as a condition of his having received medical scholarship awards and in the payment of the debt that resulted when Respondent failed to fulfill that service obligation (Exs. 4, 5, 6 and 7).

4. On or about June 27, 1988 and June 1, 1990, Respondent filed with the New York State Education Department Applications for a Limited Permit in Medicine. On or about June 1, 1993, Respondent filed with that same Department an Application for License and First Registration. On each of those applications, Respondent was asked the questions "Have you ever been convicted of a crime (felony or misdemeanor) in any state or country?" and "Have you ever been charged with a crime (felony or misdemeanor) in any state or country, the disposition of which was other than by acquittal or dismissal?" On all those applications, Respondent answered "No" to those questions (Ex. 2, pp. 2, 3, 13, 14, 15 and 16).

VOTE OF THE HEARING COMMITTEE

In consideration of the foregoing, the Hearing Committee votes unanimously to sustain the charges as follows:

FIRST SPECIFICATION
(Practicing the profession fraudulently);

SECOND SPECIFICATION
(Having been convicted of a crime); and

THIRD SPECIFICATION
(Failing to comply with an agreement entered into to aid his medical education):

SUSTAINED

CONCLUSIONS

1. Respondent was aware, at the time of his applications in 1988 and 1990 for a Limited Permit in Medicine and in 1993 for a License and First Registration, of his conviction, in February 1976, of a crime.
2. Respondent therefore knowingly and willfully lied about that conviction on those applications.

DETERMINATION OF THE HEARING COMMITTEE AS TO PENALTY

In determining an appropriate penalty to impose upon Respondent, the Hearing Committee has seriously considered and weighed all possible penalties and sadly, but unanimously, determines that Respondent's license to practice medicine in New York State should be **REVOKED**.

The Hearing Committee is aware that Respondent's initial conviction occurred in 1976, well before he began to practice medicine in New York. The Committee is also aware that -- despite that conviction -- Respondent successfully completed medical school and earned his degree. Nonetheless, Respondent neither performed his service obligation nor repaid his resulting medical scholarship debt; he failed to appear in court to answer the charges resulting from that failure to meet his obligations; and, finally, Respondent elected not to appear before this Committee to refute or explain any of the Department's evidence against him -- even though his license to practice medicine was possibly at risk. Accordingly, the Hearing Committee is concerned about Respondent's apparent pattern of irresponsibility, poor judgment, and poor character. Therefore, although the Committee recognizes that none of the charges relates directly to Respondent's medical practice, the Committee has genuine concerns about how Respondent can be responsible to and adequately care for his patients.

The Committee is resigned to recognizing that no penalty it may determine can force Respondent to fulfill his outstanding obligations. But given that none of the charges concern Respondent's actual medical practice, deficiencies in which might be remedied by other penalties, and given both Respondent's repeated failure to meet his responsibilities and the magnitude of his outstanding obligations, the Hearing Committee concludes that no lesser penalty than revocation seems appropriate.

ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. Respondent's license to practice medicine in New York State is **REVOKED.**

DATED: New York, New York
9/24 1996



BENJAMIN WAINFELD, M.D.
Chairperson

ANDREW CONTI, M.D.
LUIS W. OSORIO

PETITIONER'S 1A
IN CA P/13176

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

-----X

IN THE MATTER	:	AMENDED
OF	:	STATEMENT
	:	OF
DELROY C. BROOKS, M.D.,	:	CHARGES
Respondent	:	

-----X

DELROY C. BROOKS, M.D., the Respondent, was authorized to practice medicine in New York State on July 2, 1993 by the issuance of license number 192869 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent, by a Judgment of the United States District Court for the District of New Jersey filed on March 4, 1976, was found guilty of knowingly and willfully obstructing and retarding the passage of the mail, in violation of 18 U.S.C. §1701. Respondent received a suspended term sentence and was placed on probation for the period of one year.

B. Respondent, on or about June 1, 1990 and on or about June 27, 1988, filed Applications for a Limited Permit in Medicine with the New York State Education Department. On or about June 1, 1993, Respondent filed with the New York State Education Department an Application for License and First Registration. On these applications, Respondent was asked the questions "Have you ever been convicted of a crime (felony or

NEW YORK STATE DEPARTMENT OF HEALTH 19

misdemeanor) in any state or country?" and "Have you ever been charged with a crime (felony or misdemeanor) in any state or country, the disposition of which was other than by acquittal or dismissal?". On these applications, Respondent knowingly and intentionally falsely answered "No" to the above questions. In fact, Respondent had been convicted of a crime in federal court as described in paragraph A above.

C. Respondent, via a Default Judgment, Civil Action # 95-0848 dated March 30, 1995, was found by the United States District Court, District of New Jersey, to be in default to the United States of America for the sum of \$511,012.08 plus costs, plus interest from date of judgment at the legal rate of .06570 computed daily and compounded annually until paid in full, and a 10% surcharge in the amount of \$51,101.21. These sums were owed by virtue of Respondent's having defaulted on his service obligation which he incurred as a condition of his receiving medical scholarship awards, and on the debt which resulted when Respondent failed to fulfill his service obligation.

FIRST SPECIFICATION
PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(2) (McKinney Supp. 1996) by reason of his having practiced the profession fraudulently, in that Petitioner charges:

1. The facts in Paragraphs A and B.

SECOND SPECIFICATION

HAVING BEEN CONVICTED OF A CRIME

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(a)(ii) (McKinney Supp. 1996) by reason of his having been convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

2. The facts in Paragraph A.

THIRD SPECIFICATION

FAILING TO COMPLY WITH AN AGREEMENT
ENTERED INTO TO AID HIS MEDICAL EDUCATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(42) (McKinney Supp. 1996) by reason of his having failed to comply with an agreement entered into to aid his medical education, in that Petitioner charges:

3. The facts in Paragraph C.

Dated: Albany, New York

July 29, 1996

Peter D. Van Buren

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

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