



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

Dennis P. Whalen
Executive Deputy Commissioner

Public

October 25, 2005

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Michael Dwayne Brooks, M.D.
3601 E. McDowell Road, Apt. 1149
Phoenix, Arizona 85008 4384

Michael Dwayne Brooks, M.D.
515 West 59th Street, Apt. 6J
New York, New York 10019

Francis Ruddy, Esq.
NYS Department of Health
Division of Legal Affairs
Metropolitan Regional Office
90 Church Street, 4th Floor
New York, New York 10007

RE: In the Matter of Michael Dwayne Brooks, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 05-236) 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 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.

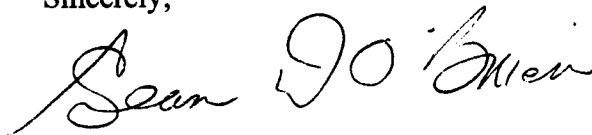
The notice of review served on the Administrative Review Board should be forwarded to:

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 "Sean D. O'Brien". The signature is written in a cursive style with a large initial "S" and "D".

Sean D. O'Brien, Director
Bureau of Adjudication

SDO:djh

Enclosure

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

COPY

IN THE MATTER: : HEARING COMMITTEE
OF : DETERMINATION
MICHAEL DWAYNE BROOKS, M.D. : AND ORDER

BPMC NO. 05-236

DAVID HARRIS, M.D., M.P.H., CHAIRPERSON, ADEL ABADIR, M.D.
AND LOIS A JORDAN, duly designated members of the State Board of 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,
STEPHEN BERMAS, ESQ., Administrative Law Judge, served as Administrative
Officer for the Hearing Committee.

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

SUMMARY OF THE PROCEEDINGS

Notice of Hearing dated:	July 12, 2005
Statement of Charges dated:	July 12, 2005
Hearing Date:	September 8, 2005
Deliberation Date:	September 8, 2005

Place of Hearing:

NYS Department of Health
90 Church Street
Room 4-E-09
New York, New York 10007-2919

Petitioner Appeared By:

Francis Ruddy, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
NYS Department of Health

Respondent:

Respondent did not appear and was
not represented by counsel

STATEMENT OF CHARGES

The Statement of Charges has been received in evidence as Petitioner's Exhibit 4B and attached hereto as Appendix A. The Statement of Charges alleges one specification of impaired ability to practice medicine, one specification of practicing medicine while impaired, and one specification of failing to comply with an order for examination pursuant to Public Health Law-Section 230 (7).

FINDINGS OF FACT

Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. All findings are unanimous.

It should be noted that Respondent failed to submit an answer as required by Public Health Law Section 230 (10) (c) (2). The Administrative Officer ruled the pursuant to said provision of the Public Health Law, the Respondent is deemed to have admitted the charges and allegations in the Statement of Charges.

In addition, the Hearing Committee unanimously determined that the evidence sustained the charges and allegations in the Statement of Charges.

1. MICHAEL DWAYNE BROOKS, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 24, 1999, by the issuance of license number 214494 by the New York State Education Department (Pet. Exs 2A and 2B).

2. Respondent between at least July 1, 2001 and December 31, 2001, between at least July 1, 2002 and December 31, 2002, and between at least April 1, 2003 and July 9, 2003, engaged in the habitual use of alcohol and/or narcotics, hallucinogens, or other drugs having similar effects including ketamine, methamphetamine and ecstasy. (Pet Exs. 6A, 6B, 6C and 7).

3. On November 18, 2004, a committee on professional medical conduct, after affording Respondent an opportunity to be heard before it, which Respondent failed to do, and after reviewing information presented by the Office of Professional Medical Conduct, found reason to believe that Respondent may be impaired by alcohol, drugs, or a physical or mental disability. In an order issued November 18, 2004, pursuant to N.Y. Public Health Law Section 230 (7), the committee directed Respondent to submit to an examination by a physician or physicians at Talbott Recovery Campus, 5448 Yorktowne Drive, Atlanta, Georgia 30349, such examination to be commenced no later than December 18, 2004. This order was duly served on Respondent. (Pet. Ex. 3).

4. To date, Respondent has failed to submit to the examination that was ordered. (T. page 26, l. 21-24; page 27, l. 9-12).

5. The Notice of Hearing, Statement of Charges and Uniform Hearing Procedures were duly served on Respondent. (Pet. Ex. 5).

CONCLUSIONS OF LAW

FIRST: Respondent is found to have engaged in professional misconduct within the meaning of N.Y. Education Law Section 6530 (8) by reason of being a habitual user of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, or having a psychiatric condition which impairs Respondent's ability to practice medicine, as charged in the FIRST Specification of Charges, and as set forth in Findings of Fact 2, supra.

SECOND: Respondent is found to have engaged in professional misconduct within the meaning of N.Y. Education Law Section 6530 (7) by reason of practicing medicine while impaired by alcohol, drugs, physical disability or mental disability, as charged in the SECOND Specification of Charges, and as set forth in Findings of Fact 2, supra.

THIRD: Respondent is found to have engaged in professional misconduct within the meaning of N.Y. Education Law Section 6530 (15) by reason of failing to comply with an order issued pursuant to N.Y. Public Law Health Section 230 (7), as charged in the THIRD Specification of Charges, and as set forth in Findings of Fact 3 and 4, supra.

DISCUSSION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, determined by a unanimous vote that Respondent's license to practice medicine in the State of New York should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, the imposition of monetary penalties and dismissal in the interests of justice.

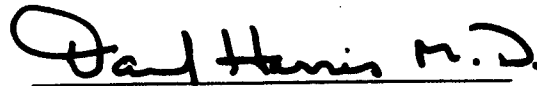
The Hearing Committee found that Respondent continues to disregard the Order for an examination to determine if he may be impaired by alcohol, drugs or a physical or mental disability. They concluded that the public must be protected against impaired physicians who pose a risk of harm to patients treated in the State of New York.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Hearing Committee determines and orders that **RESPONDENT'S** license to practice medicine in New York State be **REVOKED**.
2. This **ORDER** shall be effective upon service on the Respondent pursuant to Public Health Law section 230(10)(h).

**DATED: New York, New York
October 21, 2005**



**DAVID HARRIS, M.D., M.PH
Chairperson**

**ADEL ABADIR, M.D.
LOIS JORDAN**

**TO: Michael Dwayne Brooks, M.D.
3601 E. McDowell Road
Apt. 1149
Phoenix, Arizona 85008-4384**

**Michael Dwayne Brooks, M.D.
515 West 59th Street
Apt. 6J
New York, New York 10019**

**Francis Ruddy, Esq.
NYS Department of Health
Metropolitan Regional Office
90 Church Street – 4th Floor
New York, New York 10007**

APPENDIX I

IN THE MATTER
OF
MICHAEL DWAYNE BROOKS, M.D.

NOTICE
OF
HEARING

TO: Michael Dwayne Brooks, M.D.
3601 E. McDowell Road, Apt. 1149, Phoenix, Arizona 85008-4384,
(NY licensure address) 515 West 59th Street, Apt. 6J, NY, NY 10019

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 Thursday, September 8, 2005, at 10:00 a.m., at the Offices of the New York State Department of Health, 90 Church Street, 4th floor, NY, NY 10007, 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. SEAN D. O'BRIEN, 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: New York, New York
July 12, 2005



Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be directed to: Francis Ruddy
Assistant Counsel
Bureau of Professional Medical Conduct
90 Church Street, 4th floor
New York, New York 10007
(212) 417-4450

IN THE MATTER
OF
MICHAEL DWAYNE BROOKS, M.D.

STATEMENT
OF
CHARGES

Michael Dwayne Brooks, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 24, 1999, by the issuance of license number 214494 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, between at least July 1, 2001 and December 31, 2001, between at least July 1, 2002 and December 31, 2002, and between at least April 1, 2003 and July 9, 2003, engaged in the habitual use of alcohol and/or narcotics, hallucinogens, or other drugs having similar effects, including ketamine, methamphetamine, ecstasy.
- B. On November 18, 2004, a committee on professional conduct, after affording Respondent an opportunity to be heard before it, which Respondent failed to do, and after reviewing information presented by the Office of Professional Medical Conduct, found reason to believe that Respondent may be impaired by alcohol, drugs, or a physical or mental disability. In an order issued November 18, 2004, pursuant to N.Y. Public Health Law Section 230(7), the committee directed Respondent to submit to an examination by a physician or physicians at Talbott Recovery Campus, 5448 Yorktowne Drive, Atlanta, Georgia 30349, such examination to be commenced no later than December 18, 2004. This order was duly served on Respondent.

1. To date, Respondent has failed to submit to the examination that was ordered.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

BEING AN HABITUAL USER OR HAVING A PSYCHIATRIC CONDITION WHICH IMPAIRS THE ABILITY TO PRACTICE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(8) by being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, or having a psychiatric condition which impairs the licensee's ability to practice as alleged in the facts of the following:

1. Paragraph A.

SECOND SPECIFICATION

PRACTICING WHILE IMPAIRED

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(7) by practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability as alleged in the facts of the following:

2. Paragraph A.

THIRD SPECIFICATION
FAILURE TO COMPLY WITH AN ORDER

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(15) by failing to comply with an order issued pursuant to subdivision seven of section two hundred thirty of the Public Health Law, as alleged in the facts of:

3. Paragraphs B and B1.

DATED: July 12, 2005
New York City, New York



Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct