



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

January 12, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Cindy M. Fascia, Esq.
NYS Department of Health
Empire State Plaza
Corning Tower - Room 2429
Albany, New York 12237

John Max Dowback, M.D.
12 Cat Hollow Road
Bayville, NY 11709-3024

Jerald J. DeSocio, Esq.
Maggiani & DeSocio
1295 Northern Boulevard
Manhasset, NY 11030

RE: In the Matter of John Max Dowback, M.D.

Dear Ms. Sachey, Dr. Dowback and Mr. DeSocio:

Enclosed please find the Determination and Order (No. 93-141) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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.

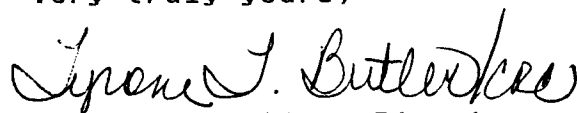
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified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

Office of Professional Medical Conduct
New York State Department of Health
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 than be delivered to the Office of Professional Medical Conduct in the manner noted above.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Very truly yours,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

STATE OF NEW YORK : DEPARTMENT OF HEALTH

-----X
IN THE MATTER :
OF :
JOHN MAX DOWBACK, M.D. :
-----X

ADMINISTRATIVE
REVIEW BOARD
DETERMINATION
AND
ORDER
NO. 93-141

The Administrative Review Board for Professional Medical Conduct (hereinafter the "REVIEW BOARD"), consisting of Robert M. Briber, Winston S. Price, M.D., Maryclaire B. Sherwin and Edward C. Sinnott, M.D.¹ held deliberations on December 10, 1993 to review the Professional Medical Conduct Hearing Committee's (hereinafter the "HEARING COMMITTEE") September 22, 1993 Determination finding Dr. John Max Dowback guilty of professional misconduct and revoking his license to practice medicine in the State of New York. Dr. Dowback requested the review through a Notice of Review which the Board received on October 18, 1993. James F. Horan served as Administrative Officer to the Review Board. Jerald J. DeSocio Esq. submitted a brief for Dr. Dowback on November 18, 1993 and a reply to the Petitioner's brief on December 13, 1993. Cindy M. Fascia, Esq. filed a brief on behalf of the Office of Professional Medical Conduct (Petitioner) on November 12, 1993 and a reply to the Respondent's brief on December 1, 1993.

¹Dr. William Stewart did not participate in the deliberations in this case due to illness.

SCOPE OF REVIEW

New York Public Health Law (PHL) Section 230(10)(i), Section 230-c(1) and Section 230-c(4)(b) provide that the Review Board shall review:

- whether or not a Hearing Committee Determination and penalty are consistent with the Hearing Committee's findings of fact and conclusions of law; and
- whether or not the penalty is appropriate and within the scope of penalties permitted by PHL Sec. 230-a.

PHL Sec. 230-c (4)(b) permits the Review Board to remand a case to the Hearing Committee for further consideration.

PHL Sec. 230-c(4)(c) provides that the Review Board's Determinations shall be based upon a majority concurrence of the Review Board.

HEARING COMMITTEE DETERMINATION

The Petitioner brought this proceeding against Dr. Dowback pursuant to Public Health Law Section 230(10)(p) and Education Law Section 6530(9), which provide an expedited hearing in cases in which professional misconduct charges against a physician are based upon a prior criminal conviction in New York or another jurisdiction or upon a prior administrative adjudication which would amount to misconduct if committed in New York. The expedited hearing determines the nature and severity of the penalty which the Hearing Committee will impose based upon the criminal conviction or prior administrative adjudication.

The Hearing Committee in this matter found that the Petitioner had met its burden of proof in establishing that the Respondent was convicted following a jury trial, in the Circuit Court for Oktibbeha County in the State of Mississippi for Arson in the Second Degree for willfully and maliciously aiding, counseling and causing to be burned a building or structure. The Court ordered the Respondent to serve four years in prison and fined him Five Thousand (\$5000.00) Dollars. The Committee found that the Respondent was guilty of misconduct for having been convicted of a crime in another state that would constitute a crime in New York. The Hearing Committee found further that the Mississippi State Board of Medical Licensure had found the Respondent had been convicted of a crime involving moral turpitude, arising from the arson conviction, and had revoked the Respondent's Mississippi license. The Hearing Committee found that the Mississippi Board finding, that the Respondent was guilty of misconduct in Mississippi, constituted misconduct in New York.

The Hearing Committee voted to revoke the Respondent's license to practice medicine in the State of New York. The Committee determined that the Respondent had been convicted of a serious felony offense. The Committee stated that they had considered and rejected the Respondent's testimony as to mitigation and leniency, and they stated that they did not find the Respondent to be believable. The Committee determined that, based upon the Respondent's felony conviction and upon the Mississippi disciplinary proceeding, that the appropriate penalty

was the revocation of Dr. Dowback's license to practice medicine in New York State.

THE REQUEST FOR REVIEW

The Respondent has asked that the Review Board remand this case to the Hearing Committee for a further hearing. The Respondent raises three issues: 1) that the Hearing Committee did not consider evidence that would demonstrate that the crime for which the Respondent was convicted would constitute a crime in New York; 2) that the Mississippi arson offense for which the Respondent was convicted would not be arson in New York; and 3) that the Committee's penalty is inappropriate.

The Petitioner opposes the Respondent's request for a remand. The Petitioner argues that the evidence before the Hearing Committee included copies of sections from the New York Penal Law defining both Arson and Conspiracy; that the crime which the Respondent committed would constitute a crime in New York; and, the penalty of revocation is appropriate.

THE REVIEW BOARD DETERMINATION

The Review Board has considered the entire record below and the briefs which counsel have submitted. The Review Board votes to sustain the Hearing Committee's Determination that the Respondent was guilty of misconduct based upon the findings of professional misconduct in Mississippi and upon the Respondent's conviction in Mississippi for arson. We further sustain the Committee's determination that the Respondent was convicted of

criminal conduct in Mississippi which would constitute a crime in New York. The evidence before the Committee consisted of the Mississippi Conviction and the Mississippi arson statute, as well as the New York Penal Law Provisions on arson and conspiracy. (Petitioner's Ex. 6). The Board finds that the Respondent had an opportunity at the hearing to argue that the Respondent's conduct in Mississippi would not constitute a crime in New York.

The Review Board sustains the Hearing Committee's Determination to revoke the Respondent's license to practice medicine in New York. That Determination is consistent with the Committee's Finding and Conclusions that the Respondent was guilty of conduct in Mississippi which would constitute a crime in New York and was guilty of professional misconduct in Mississippi. The Determination is appropriate based upon the serious felony offense which the Respondent committed in Mississippi and based upon the Committee's finding that the Respondent was not credible in his testimony requesting leniency.

The Respondent has requested that the Board remand this case for further proceedings so that he could present additional evidence to the Hearing Committee on mitigation and so that Respondent could argue that his Mississippi conduct would not constitute a crime in New York. The Respondent contends that the issues were not raised effectively at the original hearing because he was without counsel.

The Review Board finds no reason to remand. We have found already, that the Respondent had the opportunity at the hearing to

present evidence on mitigation and to argue that his Mississippi conduct would not constitute a crime in New York. The Respondent also had the opportunity to be represented by counsel at the first hearing. Neither the Hearing Committee nor the Petitioner prevented the Respondent from having assistance of counsel at the hearing. Further, the Respondent had been subject to a Mississippi disciplinary proceeding and should have been aware of the serious penalty that was possible as a result of such a proceeding in New York. The Board concludes that the Respondent is not entitled to an additional hearing now that he has decided to retain counsel.

ORDER

NOW, based upon this Determination, the Review Board issues the following **ORDER**:

1. The Determination of the Hearing Committee on Professional Medical Conduct finding Dr. John Max Dowback guilty of professional misconduct is sustained.

2. The Determination of the Hearing Committee to revoke the Respondent's license to practice medicine in the State of New York is sustained.

ROBERT M. BRIBER

MARYCLAIRE B. SHERWIN

WINSTON S. PRICE

EDWARD C. SINNOTT, M.D.

IN THE MATTER OF JOHN MAX DOWBACK, M.D.

ROBERT M. BRIBER, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Dowback.

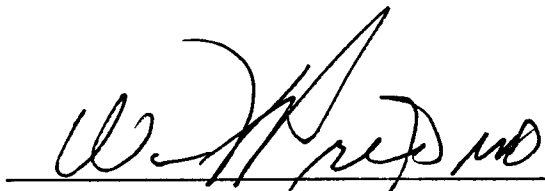
January 11, 1994
DATED: Albany, New York


ROBERT M. BRIBER

IN THE MATTER OF JOHN MAX DOWBACK, M.D.

WINSTON S. PRICE, M.D., a member of the Administrative Review Board for Professional Medical Conduct concurs in the Determination and Order in the Matter of Dr. Dowback.

DATED: Brooklyn, New York

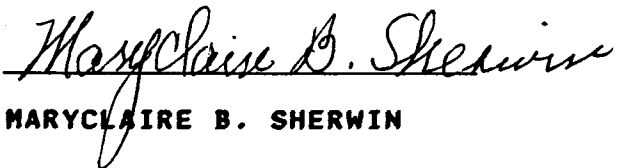
A handwritten signature in cursive script, appearing to read "W. S. Price, M.D.", is written over a horizontal line.

WINSTON S. PRICE, M.D.

IN THE MATTER OF JOHN MAX DOWBACK, M.D.

MARYCLAIRE B. SHERWIN, a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Dowback.

DATED: Malone, New York


MARYCLAIRE B. SHERWIN

IN THE MATTER OF JOHN MAX DOWBACK, M.D.

EDWARD C. SINNOTT, M.D., a member of the Administrative Review Board for Professional Medical Conduct, concurs in the Determination and Order in the Matter of Dr. Dowback.

DATED: Roslyn, New York

January 7, 1944

A handwritten signature in cursive script, appearing to read "Ed C. Sinnott", written over a horizontal line. The signature is fluid and somewhat stylized.

EDWARD C. SINNOTT, M.D.



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

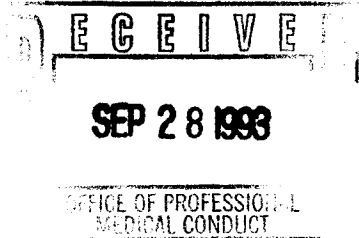
Paula Wilson
Executive Deputy Commissioner

September 22, 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

E. Marta Sachey, Esq.
NYS Department of Health
Empire State Plaza
Corning Tower - Room 2429
Albany, New York 12237

John Max Dowback, M.D.
12 Cat Hollow Road
Bayville, New York 11709-3024



RE: In the Matter of John Max Dowback, M.D.

Dear Ms. Sachey and Dr. Dowback:

Enclosed please find the Determination and Order (No. BPMC-93-141) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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:

New York State Department of Health
Office of Professional Medical Conduct
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 than 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 (p), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he 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 all action 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.

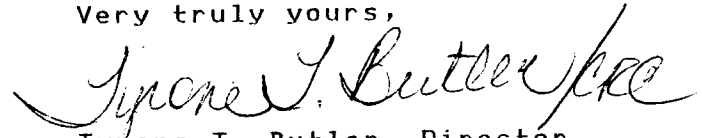
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Corning Tower -Room 2503
Empire State Plaza
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.

Very truly yours,

A handwritten signature in cursive script that reads "Tyrone T. Butler". The signature is written in dark ink and is positioned above the typed name.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

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

-----X

IN THE MATTER ;
OF ;
JOHN MAX DOWBACK, M.D. ;

DETERMINATION
AND
ORDER
OF THE
HEARING
COMMITTEE
BPMC NO.
93-141

-----X

A Notice of Hearing and Statement of Charges dated March 19, 1993 were served upon JOHN MAX DOWBACK, M.D. (hereinafter referred to as "Respondent"). The undersigned Hearing Committee consisting of ROBERT M. KOHN, M.D. CHAIRPERSON, DAVID T. LYON, M.D. AND IRVING S. CAPLAN, was duly designated and appointed by the State Board for Professional Medical Conduct. JONATHAN M. BRANDES, ESQ., Administrative Law Judge, served as Administrative Officer.

A hearing was conducted on July 28, 1993 pursuant to section 230 (10)(e) of the Public Health Law and sections 301-307 and 401 of the New York State Administrative Procedure Act to receive evidence concerning alleged violations of section 6530 of the New York Education Law by Respondent. The hearing was at the Offices of the New York State Department of Health, Corning Tower, Albany, New York.

The Department of Health appeared by E. Marta Sachey, Esq., Associate Counsel, of counsel to Peter J. Millock, Esq., General Counsel. Respondent appeared in person and proceeded pro se. Evidence was received and a transcript of this proceeding was made.

STATEMENT OF CASE

The proceeding was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing where a licensee is charged solely with a violation of New York Education Law, Section 6530(9). In such cases, 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 the expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon a licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to New York Education Law Section 6530(9)(a)(iii) (McKinney Supp. 1992), in that he has been convicted of an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State Law. Respondent was also charged with professional misconduct within the meaning of section 6530 (9)(b) of the New York Education Law by reason of his having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State. The charges are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges which is attached

to this Determination and Order (Appendix I).

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. The 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 the cited evidence.

1. Respondent was authorized to practice medicine in New York State on May 6, 1983 by the issuance of license number 154033 by the New York State Education Department. Respondent was last registered with the New York State Education Department to practice medicine for the period January 1, 1991 through December 31, 1992 (Ex. 1).

2. Respondent was found guilty by jury verdict on May 7, 1992 of the crime of second degree arson in the Circuit Court of Oktibbeha County, Mississippi (Ex. 3).

3. The jury verdict was based upon Respondent's act of willfully and maliciously aiding, counseling and causing to be burned a building or structure, specifically, Respondent's own office located on University Drive, Starkville, Mississippi (Ex. 4).

4. Respondent was sentenced to serve a term of four (4) years in the Mississippi Department of Corrections, and pay a fine of five thousand dollars (\$5,000) (Ex.4).

5. The Mississippi State Board of Medical Licensure, in Findings of Fact, Conclusions of Law and Order, dated August 20, 1992, found Respondent guilty of having been convicted of a felony involving moral turpitude (Ex.3).

6. The findings of the Mississippi Board were based upon Respondent's conduct in having been found guilty of second degree arson on May 7, 1992, as set forth above (Ex. 3)

7. The Mississippi Board, pursuant to its order dated August 20, 1992, revoked Respondent's license to practice medicine in Mississippi (Ex. 3).

CONCLUSIONS

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee.

The Hearing Committee unanimously concluded that the Department of Health had met its burden of proof. The preponderance of the evidence clearly demonstrated that Respondent was convicted in Mississippi of arson. The acts established by that conviction were clearly acts which would constitute a crime under the Penal Law of this State. Hence, those acts constituted misconduct under New York Education Law Section 6530(9)(a)(i). In addition, the Mississippi Board of Medical Licensure revoked Respondent's license to practice medicine based upon professional misconduct. This makes Respondent guilty of misconduct in this state based upon section

6530(9)(b) of the New York Education Law.

Therefore, the Hearing Committee sustains the specifications of misconduct contained in the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions set forth above, unanimously determined that Respondent's medical license be revoked. In so finding, the Committee has considered and rejected Respondent's testimony as to mitigation and leniency. Respondent was convicted of a serious felony offense. He claimed that the conviction was wrongful and that there were extenuating circumstances. As the Committee listened to Respondent, they noted a confusion in his demeanor. He lost credibility as he continued to speak. At first, Respondent's explanation of a vendetta by the local citizens seemed plausible. But little by little small and then larger inconsistencies and untruths emerged. The most important example of this concerned his fire insurance. Respondent gave at least two inconsistent explanations of the amount of the insurance, the size of the loss and whether and when he submitted a claim to the insurance company. During cross examination, the Committee found Respondent unwilling to give direct answers to straightforward questions. For all these reasons, the Committee was unwilling to believe Respondent. This leaves a conviction of a very serious crime and revocation by a sister state. The Committee can see no

reason to disagree with the findings by the Mississippi Board.

ORDER

Based upon the foregoing it is hereby ordered that:

1. The specifications of professional misconduct contained in the Statement of Charges in this matter be

SUSTAINED; and

2. Respondent's license to practice medicine in New York State be **REVOKED**.

DATED: Buffalo, New York

Sept 17, 1993


ROBERT M. KOHN, M.D.
Chairperson

DAVID T. LYON, M.D.
SISTER MARY THERESA MURPHY

TO: E. Marta Sachey, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
Albany, New York

John Max Dowback, M.D.
12 Cat Hollow Road
Bayville, New York 11709-3024

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

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: JOHN MAX DOWBACK, M.D. : PROCEEDING
: -----X

TO: JOHN MAX DOWBACK, M.D.
12 Cat Hollow Road
Bayville, New York 11709-3024

Petitioners
EXH. NO. 1 DATE 7/28/93
ID. X EVD. X
INT'L Sec

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 21st day of April at 2:15 p.m. o'clock in the forenoon of that day at Room 2509, Corning Tower Building, Empire State Plaza, Albany, New York 12237.

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, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: NANCY MASSARONI, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before April 9, 1993 .

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before April 9, 1993 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 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
March 19, 1993

Peter D. Van Buren

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

Inquiries should be addressed to:

Cindy M. Fascia
Associate Counsel
(518) 473-4282

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

-----X
IN THE MATTER : STATEMENT
OF : OF
JOHN MAX DOWBACK, M.D. : CHARGES
-----X

JOHN MAX DOWBACK, M.D., the Respondent, was authorized to practice medicine in New York State on May 6, 1983 by the issuance of license number 154033 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1991 through December 31, 1992 from 12 Cat Hollow Road, Bayville, New York 11709-3024.

FACTUAL ALLEGATIONS

1. Respondent was found guilty by jury verdict on May 7, 1992 of the crime of second degree arson, in the Circuit Court of Oktibbeha County, Mississippi.

2. The jury verdict was based upon Respondent's act of willfully and maliciously aiding, counseling and causing to be burned a building or structure, specifically, Respondent's own office located on University Drive, Starkville, Mississippi.

3. Respondent, on June 8, 1992, in the Circuit Court of Oktibbeha County, Mississippi, was sentenced by the Hon. John M. Montgomery to serve a term of four (4) years in the Mississippi Department of Corrections, and pay a fine of five thousand dollars (\$5,000.00).

4. The act upon which Respondent was convicted constituted a crime under the law of Mississippi, and if committed in New York State, would have constituted a crime under New York State law, specifically N.Y. Penal Law §20.00 and N.Y. Penal Law §150.10.

5. The Mississippi State Board of Medical Licensure, in Findings of Fact, Conclusions of Law and Order dated August 20, 1992, found Respondent guilty of having been convicted of a felony involving moral turpitude, in violation of Sub-Section (6) of Section 73-25-29, Miss. Code (1972), as amended.

6. The Mississippi Board's findings were based upon Respondent's conduct in having been found guilty of second degree arson on May 7, 1992, as set forth above in paragraphs 1 through 3.

7. The Mississippi Board, pursuant to its Order dated August 20, 1992, revoked Respondent's license to practice medicine in Mississippi.

8. The conduct upon which the Mississippi Board found Respondent guilty of professional misconduct would, if committed in New York State, constitute professional misconduct under

N.Y. Educ. Law §6530(9)(a)(i) [being convicted of committing an act constituting a crime under New York state law] (McKinney Supp. 1993).

FIRST SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(a)(iii) (McKinney Supp. 1992) by reason of his having been convicted of an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State Law, in that Petitioner charges:


1. The facts in Paragraphs 1 through 4.

SECOND SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. law §6530(9)(b) (McKinney Supp. 1992) by reason of his having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

2. The facts in Paragraphs 1 through 8.

DATED: Albany, New York
March 19, 1993



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