



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

March 24, 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Nicholas George Georgakis, M.D. 300 Federal Road Brookfield, Connecticut 06804-0000	Dawn A. Dweir, Esq. Associate Counsel NYS Department of Health 5 Penn Plaza - 6th Floor New York, NY 10001
Steven J. Hyman, Esq. Leavy, Rosensweig & Hyman 11 East 44th Street New York, New York 10017	

RE: In the Matter of Nicholas G. Georgakis, M.D.

Dear Dr. Georgakis, Mr. Hyman and Ms. Dwier:

Enclosed please find the Determination and Order (No. 93-41) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

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.

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.

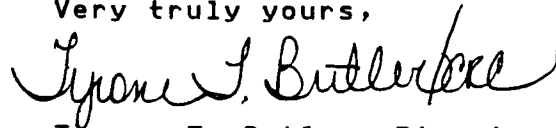
The notice of review served on the Administrative Review Board should be forwarded to:

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 : DETERMINATION
: :
OF : AND
: :
NICHOLAS GEORGE GEORGAKIS, M.D. : ORDER
-----X

ORDER NO. BPMC-93-41

A Notice of Hearing and Statement of Charges, both dated September 16, 1992, were served upon the Respondent, Nicholas George Georgakis, M.D. **REV. EDWARD J. HAYES (Chair), WILLIAM W. FALOON, M.D., and EDWARD C. ZAINO, M.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. **LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. A hearing was held on November 19, 1992. The Department of Health appeared by Dawn A. Dweir, Esq., Associate Counsel. The Respondent appeared by Leavy, Rosensweig & Hyman, Steven J. Hyman, Esq., of Counsel. Evidence was received and witnesses sworn and heard 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 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 an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(ii). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in 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. 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 the cited evidence.

1. Nicholas George Georgakis, M.D. (hereinafter "Respondent"), was authorized to practice medicine in New York State on July 15, 1959 by the issuance of license number 082581 by the New York State Education Department. Respondent was registered with the New York State Education Department to practice medicine

for the period January 1, 1991 through December 31, 1992 at 300 Federal Road, Brookfield, Connecticut 06804-0000. (Pet. Ex. #1).

2. On August 24, 1988, in the U.S. District Court for the District of Connecticut, Respondent was convicted upon a plea of guilty of one count of bribery of a public official, a felony violation of Title 18 United States Code, Sections 201(b) and 2. The crime involved Respondent's participation in a scheme or arrangement, between 1984 and 1986, in which he made payments to an Internal Revenue Service (IRS) agent in return for reduced tax bills. (Pet. Ex. #5).

3. Respondent was sentenced to period of five years imprisonment and required to pay a fine of \$5,000. The execution of the sentence of imprisonment was suspended after four months and Respondent was placed on probation with supervision for a period of five years. (Pet. Ex. #5).

4. As a consequence of the criminal conviction, Respondent voluntarily surrendered his Connecticut medical license during his four month period of incarceration. This voluntary surrender was codified by the Connecticut Medical Examining Board on September 19, 1989. Following his release from prison in March, 1989, Respondent resumed his medical practice in Connecticut. (15; Pet. Ex. #6).

5. Respondent is board certified in allergy and immunology. Respondent maintains a private practice of medicine with offices in Ridgefield, Connecticut and Brookfield,

Connecticut. Respondent holds an appointment as an associate clinical professor of medicine at the Yale School of Medicine. Respondent is an aviation medical examiner for the Federal Aviation Agency (FAA). He is also a consultant in allergy and immunology at Kilmer Army Hospital in West Point, New York. (11-13).

CONCLUSIONS OF LAW

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

The Hearing Committee unanimously concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates the fact that on August 24, 1988, Respondent was convicted of one count of bribery of a public official - a crime under federal law. Therefore, the Hearing Committee sustained the Specification of professional misconduct contained in the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and **Conclusions of Law** set forth above, unanimously determined that Respondent should receive a censure and reprimand. In addition, a fine of \$5,000.00 should be imposed. 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, and the imposition of monetary penalties.

The crime for which Respondent was convicted (bribery of a public official) represents a significant breach of the public trust granted to a physician upon receipt of a license to practice medicine. The Hearing Committee has an independent responsibility to determine the appropriate sanction to be imposed upon Respondent's New York medical license due to his crime.

Nevertheless, the Hearing Committee considered the fact that Respondent was incarcerated in a federal prison for a period of four months, and remains on probation. In addition, Respondent surrendered his Connecticut medical license during his period of incarceration, although it was reinstated upon his release from prison. Respondent's misconduct concerned his personal financial affairs (See, Tr., pp. 29-32) and did not involve his medical practice or place any of his patients at risk.

Further, the Hearing Committee had the opportunity to assess Respondent directly during his testimony at the hearing. The Hearing Committee was impressed by his demeanor and believes that Respondent is genuinely remorseful regarding his past misdeeds. It was the unanimous consensus of the Hearing Committee that the continued licensure of Respondent would not place the people of New York at any significant risk of harm. Under the totality of the circumstances, the Hearing Committee determined

that a censure and reprimand, plus the imposition of a \$5,000.00 fine was the appropriate sanction.

ORDER

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

1. The Specification of professional misconduct set forth in the Statement of Charges (Petitioner's Exhibit #3) is **SUSTAINED**;

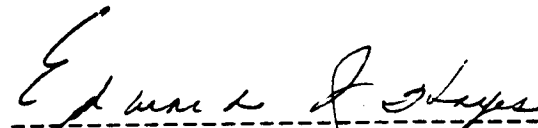
2. Respondent shall receive a **CENSURE AND REPRIMAND**. In addition, a fine in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)** is imposed upon Respondent. Payment of the aforesaid sum shall be made to the Bureau of Accounts Management, New York State Department of Health, Corning Tower Building, Room 1245, Empire State Plaza, Albany, New York 12237 within thirty (30) days of the effective date of this Determination and Order;

3. Any fine not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees;

referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses (Tax Law S.171(27); State Finance Law S.18; CPLR S.5001; Executive Law S.32).

DATED: Albany, New York

March 19, 1993



REV. EDWARD J. HAYES (Chair)

WILLIAM W. FALON, M.D.
EDWARD C. ZAINO, M.D.

TO: Dawn A. Dweir, Esq.
Associate Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Steven J. Hyman, Esq.
Leavy, Rosensweig & Hyman
11 East 44th Street
New York, New York 10017

Nicholas George Georgakis, M.D.
300 Federal Road
Brookfield, Connecticut 06804-0000

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

*Ret. Ex 3 to Ex 2
RS 11/19/92*

-----X
: IN THE MATTER : NOTICE OF
: OF : REFERRAL
: NICHOLAS GEORGE GEORGAKIS, M.D. : PROCEEDING
: -----X

TO: NICHOLAS GEORGE GEORGAKIS, M.D.
300 Federal Road
Brookfield, CT 06804-0000

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. 1992, as amended by ch 37, Laws of 1992) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1992). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 22nd day of October, 1992 at 11 o'clock in the forenoon of that day at 5 Penn Plaza, 6th Floor, New York, New York 10001.

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 Larry Storch, Administrative Law Judge, New York State Department of Health, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, as well as the Department of Health attorney indicated below, on or before October 12, 1992 .

You may file a written answer, brief, and affidavits with the Committee. Seven copies of all papers you wish to submit must be filed with Judge Storch at the address indicated above on or before October 12, 1992 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.

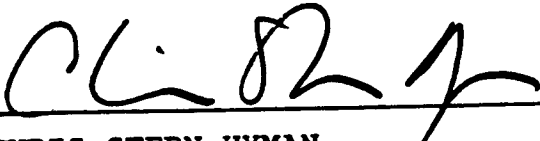
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Judge Storch at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled 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: New York, New York
September 11, 1992



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Dawn A. Dweir
Associate Counsel
212 613-2615

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

-----X
IN THE MATTER : STATEMENT
OF : OF
NICHOLAS GEORGE GEORGAKIS, M.D. : CHARGES
-----X

NICHOLAS GEORGE GEORGAKIS, M.D., the Respondent, was authorized to practice medicine in New York State on July 15, 1959 by the issuance of license number 082581 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 at 300 Federal Road, Brookfield, Connecticut 06804-0000.

FIRST SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530(9)(a)(ii) (McKinney Supp. 1992) in that he has been convicted of an act constituting a crime under federal law, specifically:

1. On August 24, 1988, in the U.S. District Court, District of Connecticut, Respondent was convicted upon a plea of guilty of one

count of bribery of a public official, a felony violation of Title 18 United States Code, Sections 201(b) and 2. Said felony violation involved Respondent's participation in a scheme or arrangement, between 1984 and 1986, in which he made payments to an IRS agent in return for reduced tax bills.

Respondent was sentenced to a period of five years imprisonment and required to pay a fine of \$5,000. The execution of the sentence of imprisonment was suspended after four months and Respondent was placed on probation with supervision for a period of five years.

DATED: Albany, New York

September 16, 1992



CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct