



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson E. Rockefeller Empire State Plaza

Albany, New York 12237

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

May 9, 1995

RECEIVED  
MAY 10 1995  
OFFICE OF MEDICAL CONDUCT

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Kevin C. Roe, Esq.  
Associate Counsel  
Bureau of Professional Medical Conduct  
NYS Department of Health  
Corning Tower-Room 2438  
Empire State Plaza  
Albany, New York 12237

Edward F. Gerber, Esq.  
Ali, Pappas and Cox, P.C.  
234 Harrison Street  
Syracuse, New York 13202-3084

Muhammad Ismail, M.D.  
Main Street  
Beaver Falls, New York 13305

P.O. Box 409  
Beaver Falls, New York 13305

**RE: In the Matter of Muhammad Ismail, M.D.**

Effective Date: 05/16/95

Dear Mr. Roe, Mr. Gerber and Dr. Ismail:

Enclosed please find the Determination and Order (No. 95-99) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 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.

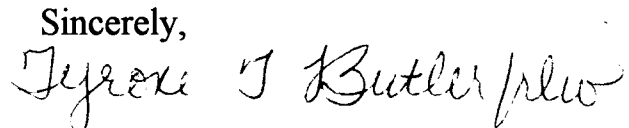
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
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 cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

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

**IN THE MATTER**  
**-OF-**  
**MUHAMMAD ISMAIL, M.D.**

**Respondent**

**DECISION**  
**AND**  
**ORDER**  
**OF THE**  
**HEARING COMMITTEE**

**BPMC ORDER NO. 95- 99**

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated December 15, 1994, which were served upon **MUHAMMAD ISMAIL, M.D.**, (hereinafter referred to as "Respondent"). **GERALD ANSELL, M.D.**, Chairperson, **ERNST A. KOPP, M.D.**, and **MICHAEL WALKER**, 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. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on May 3, 1995 at the Cultural Education Building, Empire State Plaza, Albany, New York. The State Board For Professional Medical Conduct appeared by **KEVIN C. ROE, ESQ.**, Associate Counsel, Bureau of Professional Medical Conduct. Respondent did not appear in person. A letter from **Edward F. Gerber, Esq.**, of counsel to **Ali, Pappas and Cox, P.C.**, 224 Harrison Street, Syracuse, New York was received in the record. Evidence was received. Legal argument was heard. There was no testimony offered. A transcript of these proceedings was made.

After consideration of the entire record, the Hearing Committee issues this Decision and Order.

## STATEMENT OF CASE

This case 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 Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior acts. The scope of this 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)(iii). The charge arises from a conviction by plea in the United States District Court, Northern District of New York. The allegations in this proceeding and the underlying conviction are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges, a copy of which is attached to this Decision and Order as Appendix I.

## FINDINGS OF FACT

The Committee adopts the factual statement set forth on pages one and two of the Statement of Charges (Appendix I) as its findings of fact and incorporates them herein. The Committee adds the fact that Respondent is presently registered to practice medicine in New York State.

## CONCLUSIONS

Respondent chose not to be present at this proceeding. On May 3, after the conclusion of the hearing, a letter was received from an attorney by the Administrative Law Judge. The said letter was received by the Prosecutor via fax prior to the hearing. A copy of the said letter was offered in evidence by the State

and received by the Administrative Law Judge as Exhibit 101. The letter does not request an adjournment of this proceeding. It simply states that Respondent is ill and will not be able to attend the hearing. Respondent had previously been granted an adjournment. Exhibit 102, which was also offered by the State and received in evidence, makes it clear that Respondent understands the procedure for obtaining an adjournment. Certainly counsel would know the procedure. Respondent has made no legitimate effort to obtain a continuance of this proceeding. Hence, the hearing was held as a default proceeding.

Respondent pled guilty to bribery of a public official. The Committee finds this to be a serious infraction. The serious nature of the infraction combined with Respondent's lack of reasonable effort to attend these proceedings leads the Committee to consider the most serious penalty available. The Committee finds that Respondent's disregard for this practice and the crime which he has admitted constitutes a violation of the moral standards of the medical community of this state, which this committee represents.

### **ORDER**

Therefore, based upon the foregoing,

#### **IT IS HEREBY ORDERED THAT:**

1. The Factual allegations in the Statement of Charges are **SUSTAINED**.

Furthermore, it is hereby **ORDERED** that;

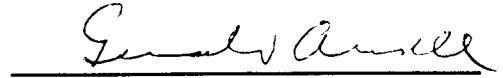
2. The Specification of Misconduct contained within the Statement of Charges (Appendix I) is **SUSTAINED**;

Furthermore, it is hereby **ORDERED** that;

3. Respondent 's license to practice medicine in the state of New York is hereby **REVOKED**.

**Dated: Endicott, New York:**

May 8, 1995



**GERALD ANSELL, M.D.,  
Chairperson**

**ERNST A.KOPP, M.D.  
MICHAEL WALKER**

**TO: KEVIN C. ROE, ESQ.**  
Associate Counsel,  
Bureau of Professional Medical Conduct  
New York State Department of Health  
Corning Tower  
Albany, New York 12237

**EDWARD F. GERBER, ESQ.**  
ALI, PAPPAS AND COX, P.C.  
234 Harrison St.  
Syracuse, N.Y. 13202-3084

**MUHAMMAD ISMAIL, M.D.**  
Main St.  
Beaver Falls, N.Y. 13305

P.O. Box 409  
Beaver Falls, N.Y. 13305

**APPENDIX ONE**



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

-----X

IN THE MATTER : NOTICE OF  
OF : REFERRAL  
MUHAMMAD ISMAIL, M.D. : PROCEEDING

-----X

TO: MUHAMMAD ISMAIL, M.D.  
Main Street \ Registration Address  
Beaver Falls, New York 13305 /  
P.O. Box 409 \ Mailing Address Provided  
Beaver Falls, New York 13305 / by Former Office Manager

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. 1994) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 25th day of January, 1995 at 10:00 o'clock in the forenoon of that day at Cultural Education Building, Conference Room E, Concourse Level, 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: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before January 12, 1995.


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 January 12, 1995 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 the 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  
*December 15, 1994*

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

Inquiries should be addressed to:

ELIZABETH C. HOGAN  
Assistant Counsel  
NYS Department of Health  
Division of Legal Affairs  
Corning Tower Building  
Room 2429  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
MUHAMMAD ISMAIL, M.D. : CHARGES

-----X

MUHAMMAD ISMAIL, M.D., the Respondent, was authorized to practice medicine in New York State on September 6, 1973 by the issuance of license number 117535 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993, through December 31, 1994, at Main Street, Beaver Falls, New York 13305.

**FACTUAL ALLEGATIONS**

1. Respondent, on or about June 19, 1991 in the United States District Court, Northern District of New York was convicted by plea of one count of 18 U.S.C. 209(a), a misdemeanor.
2. More specifically, Respondent paid a government employee a total of ninety thousand dollars (\$90,000.00) as compensation for services to Respondent, i.e. bribery re the sale to the United States Government of land owned by Respondent.


3. Respondent was sentenced on September 23, 1991 to a one year term of probation and fined ten thousand dollars (\$10,000.00).

SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(a)(ii), being convicted of committing an act constituting a crime under federal law in that Petitioner charges:

1. The facts in Paragraphs 1, 2 and 3.

DATED: *Dec. 15*, 1994  
Albany, New York

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