



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.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

PUBLIC

February 1, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Frantz Jasmin, M.D.
3920 Monticello Avenue
Bronx, New York 10466

Frantz Jasmin, M.D.
3919 Dyre Avenue
Bronx, New York 10466

Robert Bogan, Esq.
Paul Maher, Esq.
NYS Department of Health
Hedley Park Place
433 River Street – 4th Floor
Troy, New York 12180

RE: In the Matter of Frantz Jasmin, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-28) 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.

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.

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, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

COPY

DETERMINATION

AND

ORDER

BPMC-00-28

IN THE MATTER
OF
FRANTZ JASMIN, M.D.

A Notice of Referral Proceedings and Statement of Charges, both dated November 12, 1999 were served upon the Respondent, **FRANTZ JASMIN, M.D.**

TERESA BRIGGS, M.D., M.P.H., Chairperson, **JAMES ROBERSON, M.D.** and **TRENA DEFRANCO**, duly designed 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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on January 19, 2000, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.** and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent appeared in person and testified on his own behalf.

Evidence was received and transcripts of these proceeding 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 case, 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, the Respondent is charge 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 as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis 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. All Hearing Committee findings were unanimous unless otherwise stated.

1. **FRANTZ JASMIN, M.D.**, the Respondent, was authorized to practice medicine in New York state on September 1, 1988, by the issuance of license number 176059 by the New York State Education Department. (Pet's. Ex. 4)
2. On July 16, 1998, in the United States District Court, Southern District of New York, the Respondent was found guilty of Mail Fraud in violation of 18 U.S.C. §1341, and was sentenced to five (5) months imprisonment, two (2) years supervised release upon release from imprisonment and ordered to pay \$32,801.35 restitution, later corrected to \$10,3360.99 restitution. (Pet's. Ex. 5; Resp's. Ex's. A and B).

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(ii) by having been convicted of an act constituting a crime under federal law.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that on July 16, 1998, in the United States District Court, Southern District of New York, the Respondent pleaded guilty to Mail Fraud in violation of 18 U.S.C. §1341, in that he submitted false medical insurance claim forms to the insurance carriers via the United States Postal Service.

The Respondent was sentenced to and did serve five (5) months in prison; he was also sentenced to 2 years of supervised release and required to wear an ankle bracelet for five months; he was ordered to make \$32,801.35 in restitution, later corrected to \$10,360.99 restitution.

By letter dated May 28, 1999 the Respondent was notified that he was being excluded from participation in the Medicare, Medicaid, and all Federal health care programs as defined in section 1128B(f) of the Social Security Act for a minimum period of 10 years.

The Respondent testified at the hearing and was a credible witness. He testified that he pleaded guilty to the mail fraud charges because the cost in defending the case far outweighed the ordered amount of restitution; he admitted that he would have difficulty defending against the charges because his documentation was not good; and he was threatened with a 5 year prison term if he went to trial and lost.

He also testified that the audit which uncovered the discrepancies covered a period of approximately 10 years and the discrepancies could be attributed to his admittedly poor documentation.

The Respondent has already served five month in prison term and his exclusion from the Medicare, Medicaid and all Federal health care program for 10 years is a very significant penalty, which for practical purposes almost eliminates any significant medical practice.

The charges in this case do not reflect on the Respondent's competence as a practicing physician and the Hearing Committee believes that adding the severe penalty of license revocation to the already imposed federal sanctions would not be appropriate in this case and would serve no useful purpose.

The Hearing Committee determines that an appropriate penalty would be to suspended the Respondent's license to practice medicine for a period of two (2) years, stay the last twenty-one (21) months of said suspension, actual suspension of three (3) months, and place the Respondent on probation for a period of twenty-one (21) months, and require him to perform 200 hours of community/public service as approved by the Office of Professional Medical Conduct during the twenty-one (21) month period of probation.

ORDER

IT IS HEREBY ORDERED THAT:

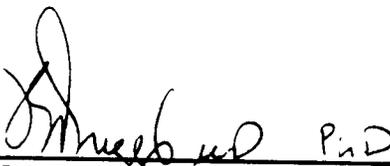
1. The Respondent's license to practice medicine in the State of New York is **SUSPENDED** for two (2) years, the last twenty-one (21) months of said suspension is **STAYED**, three (3) months actual suspension, with terms of probation for the stayed twenty-one (21) months as follows:
 - a. Respondent shall perform 200 hours of community service. The service must be medical in nature, and delivered in a facility or with an organization equipped to provide medical services and serving a needy or medically underserved population. A written proposal for community service must be submitted to, and is subject to the written approval of the Director of OPMC. Community service performed prior to written approval shall not be credited toward compliance with this **ORDER**.

b. The facility or organization so approved shall submit quarterly reports to the Office of Professional Medical Conduct verifying the Respondent's compliance with this ORDER.

2. This ORDER shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail

DATED: Albany New York

Jan 27, 2000


TERESA BRIGGS, M.D., ~~M.P.H.~~, Chairperson
PhD

JAMES ROBERSON, M.D.
TRENA DEFRANCO

APPENDIX I

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

IN THE MATTER
OF
FRANTZ JASMIN, M.D.

NOTICE
OF
REFERRAL
PROCEEDING

TO: FRANTZ JASMIN, M.D.
3920 Monticello Avenue
Bronx, New York 10466

3919 Dyre Avenue
Bronx, New York 10466

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 15th day of December, 1999 at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

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, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, 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 December 6, 1999.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to 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 an 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. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before December 6, 1999 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
November 12, 1999



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

Inquiries should be addressed to:

Robert Bogan
Assistant Counsel
Office of Professional Medical Conduct
433 River Street
Suite 303
Troy, NY 12180
(518)402-0820

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

**IN THE MATTER
OF
FRANTZ JASMIN, M.D.**

**STATEMENT
OF
CHARGES**

FRANTZ JASMIN, M.D., the Respondent, was authorized to practice medicine in New York State on September 1, 1988, by the issuance of license number 176059 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 16, 1998, in the United States District Court, Southern District of New York, Respondent was found guilty of Mail Fraud in violation of 18 U.S.C. §1341, and was sentenced to five (5) months imprisonment, two (2) years supervised release upon release from imprisonment and ordered to pay \$32,801.35 restitution.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(ii) by having been convicted of an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in paragraph A.

DATED: *Nov. 12*, 1999
Albany, New York


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