



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

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

Dennis P. Whalen
Executive Deputy Commissioner

November 29, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Heidi Flores Mabatid, M.D.
12984 Lake Wildwood Drive
Penn Valley, CA 95946

David W. Smith, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza-Sixth Floor
New York, New York 10001

RE: In the Matter of Heidi Flores Mabatid, M.D.

EFFECTIVE DATE DECEMBER 6, 1996

Dear Dr. Mabatid and Mr. Smith:

Enclosed please find the Determination and Order (No. 96-285) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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 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 "Tyrone T. Butler nm". The signature is written in a cursive style with a large initial 'T' and 'B'.

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
HEIDI FLORES MABATID, M.D.

COPY

DETERMINATION
AND
ORDER

BPMC - 96-285

ROGER M. OSKVIG, M.D., (Chair), **ADRIAN EDWARDS, M.D.** and **ANN SHAMBERGER** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to § 230(10) of the Public Health Law.

MARC P. ZYLBERBERG, ESQ., **ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer.

The Department of Health appeared by **DAVID W. SMITH, ESQ.**, Associate Counsel.

Respondent, **HEIDI FLORES MABATID, M.D.**, appeared personally and was not represented by counsel.

A Hearing was held on October 22, 1996. Evidence was received and examined. A Transcript of the proceeding was made. After consideration of the record, the Hearing Committee issues this Determination and Order, pursuant to the Public Health Law and the Education Law of the State of New York.

STATEMENT OF CASE

The State Board for Professional Medical Conduct is a duly authorized professional disciplinary agency of the State of New York (§ 230 et seq. of the Public Health Law of the State of New York [hereinafter "**P.H.L.**"]).

This case, brought pursuant to P.H.L. § 230(10)(p), is also referred to as an "expedited hearing". The scope of an expedited hearing is strictly limited to evidence or sworn testimony relating to the nature and severity of the penalty (if any) to be imposed on the licensee¹ (Respondent).

HEIDI FLORES MABATID, M.D., ("**Respondent**") is charged with professional misconduct within the meaning of § 6530(9)(a)(ii) of the Education Law of the State of New York ("**Education Law**"), to wit: professional misconduct ... by reason of being convicted of committing an act constituting a crime under Federal Law (Petitioner's Exhibit # 1 and §6530[9][a][ii] of the Education Law).

A copy of the Statement of Charges is attached to this Determination and Order as Appendix I.

¹ P.H.L. § 230(10)(p), fifth sentence.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. These facts represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. All Findings and Conclusions herein were unanimous. The State, who has the burden of proof, was required to prove its case by a preponderance of the evidence. All Findings of Fact made by the Hearing Committee were established by at least a preponderance of the evidence.

1. Respondent was authorized to practice medicine in New York State on November 28, 1980 by the issuance of license number 144665 by the New York State Education Department (Petitioner's Exhibits # 1 & # 4)².

2. Respondent is not currently registered to practice medicine in the state of New York (Petitioner's Exhibit # 4).

3. The State Board For Professional Medical Conduct has obtained personal jurisdiction over Respondent (Respondent had no objection regarding the attempt at personal service together with the mailing effected on her); (P.H.L. § 230[10][d]); (Petitioner's Exhibits # 2 & # 3); [T-7-9]³.

4. On September 28, 1994, Respondent was charged by the United States Air Force ("USAF") with violations of Articles 92, 107 & 121 of the United States Code of Military Justice ("UCMJ") (Petitioner's Exhibit # 5).

² refers to exhibits in evidence submitted by the New York State Department of Health (Petitioner's Exhibit) or by Dr. Mabatid (Respondent's Exhibit).

³ Numbers in brackets refer to transcript page numbers [T-].

5. In essence, the allegations against Respondent were as follows:

UCMJ Article 92, Specification 1: Respondent willfully failed to report her divorce to the personnel office of the base;

UCMJ Article 92, Specification 2: Respondent willfully failed to report her divorce to the department of Accounting and Finance;

UCMJ Article 107, Specification 1: Respondent willfully and with intent to deceive, falsely indicated that Respondent's mother was a dependent when in fact Respondent's mother was deceased;

UCMJ Article 107, Specification 2: Respondent willfully and with intent to deceive, falsely signed a BAQ (Basic Allowance for Quarters) and COLA (cost of living allowance) recertification listing Respondent's mother as a dependent when in fact Respondent's mother was deceased;

UCMJ Article 121, Specification: Respondent's actions (as indicated by the USAF charges above) constituted theft of military property of a value in excess of \$100 (Petitioner's Exhibit # 5); [T-26-27].

6. On January 9, 1996, after a Court-Martial, Respondent was found: (1) not guilty of UCMJ Article 92, Specification 1; (2) not guilty of UCMJ Article 92, Specification 2 (but guilty of the lesser included offense of negligent dereliction of duty, with a change of date in Specification 2); (3) not guilty of Article 107, Specification 1; (4) guilty of Article 107, Specification 2; and (5) guilty of the Article 121 Specification (except for a change of date) (Petitioner's Exhibit # 5).

7. As a result of said finding of guilt, Respondent was sentenced to six months confinement; forfeiture of all pay and allowances; and dismissal (Petitioner's Exhibit # 5).

8. Respondent presented a copy of her USAF officer performance reports (appraisals) which show an exemplary record (except for the 1995 mention of the pending Court-Martial) (Respondent's Exhibit # A).

9. Respondent submitted character letters mostly regarding Respondent's abilities to practice medicine and provide good patient care (Respondent's Exhibit # B).

10. Respondent submitted proof that she has reimbursed the USAF a sum in excess of \$20,000 (Respondent's Exhibit # C); [T-21-22].

CONCLUSIONS OF LAW

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

The Hearing Committee concludes that the Factual Allegations, from the September 4, 1996 Statement of Charges are SUSTAINED.

The Hearing Committee concludes and determines, based on all of the evidence presented, that the SPECIFICATION OF CHARGES is SUSTAINED.

I Professional Misconduct under §6530(9)(a)(ii) of the Education Law.

The Hearing Committee concludes that the Department of Health has shown, by a preponderance of the evidence, that Respondent was convicted of committing a crime under Federal Law. Respondent's conviction constitutes professional misconduct under the laws of New York State. The Department of Health has met its burden of proof.

Respondent's conduct in the USAF is the New York equivalent of, at least, fraud and grand larceny (Penal Law § 155 et seq).

DETERMINATION

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determines that Respondent's license to practice medicine in New York State should be REVOKED.

This determination is reached after due and careful consideration of the full spectrum of penalties available pursuant to P.H.L. § 230-a, including:

(1) Censure and reprimand; (2) Suspension of the license, wholly or partially; (3) Limitations of the license; (4) Revocation of license; (5) Annulment of license or registration; (6) Limitations; (7) the imposition of monetary penalties; (8) a course of education or training; (9) performance of public service and (10) probation.

The record establishes that Respondent was convicted of committing a crime under Federal Law. In essence, Respondent was convicted of committing frauds and larceny. The frauds occurred when Respondent knowingly and intentionally failed to report her divorce to the USAF. The Hearing Committee believes that this was done to benefit respondent's military benefits (whether the benefits accrued to her ex-husband or to herself by receiving additional military pay for being married). The Hearing Committee also believes Respondent committed fraud when she attempted to deceive the USAF with information about her dependent (but deceased) mother. In addition, the Hearing Committee finds that Respondent's actions constituted theft (larceny) from the USAF and that she knew of same on a continuing basis (each time she was paid).

Therefore, Respondent knew that the information that she provided and that she withheld would be to her personal benefit.

Respondent was only married for one year. She apparently had no problem in reporting her marriage to the USAF. Respondent had been in the USAF for 15 years. When questioned, she was specific on her career, as well as other aspects of her life. However, Respondent was vague on the dates and charges she was accused of.

Respondent is still in denial of the events, attempting to blame her ex-husband for her predicament. Although Respondent's ex-husband may have played a part, it did not appear to the Hearing Committee that Respondent has fully accepted her own culpability. For example, in a letter, dated April 29, 1996, submitted by Respondent (Respondent's Exhibit # B) she states: "... when my Air Force career was abruptly ended." "... I never consciously did anything to jeopardize my work toward that goal." Also, Respondent testified that she had no contact with her ex-husband and without her knowledge, he was using his Air Force ID to continue to use Air Force facilities. Respondent stated: "I did not even know where he got his dependent identification card, ... how could I sign a paper for a dependent ID when I was in Japan and he was in Tampa ...". This reinforces Respondent's lack of understanding or acceptance of the events she caused to occur. The relevant charges involved Respondent's failure to notify the Air Force of her divorce, not that her ex-husband used his ID improperly or without her knowledge. When the Hearing Committee asked Respondent about her signature on the BAQ and COLA recertification forms, Respondent's responses were not clear or believable. Respondent's recollection as to her signature and dates on those forms is in sharp contrast to all of her other responses, such as her career and other aspects of her military life.

The Hearing Committee believes that censure, reprimand, and monetary penalties are not appropriate under the circumstances. Limitations on Respondent's license and education or retraining are also inappropriate in that no questions were raised regarding Respondent's medical ability or knowledge.

The Hearing Committee did consider the possibility of allowing Respondent to practice in a structured non-billing environment, such as a P.H.L. Article 28 facility. However, given the fact that the USAF is one of the most structured environment one could be in, and given the fact that Respondent was able to commit fraud and larceny within that structure, the Hearing Committee rejected that possibility.

The record establishes that Respondent committed violations of Federal Laws. Respondent's lack of integrity is evident by her conduct.

The Hearing Committee was not given any reason to believe that Respondent's actions could not occur again (even if in a different setting). Respondent's acts were deliberate, not accidental and not unconscious.

The Hearing Committee considers Respondent's misconduct to be very serious. With a concern for the taxpayers of New York State, the Hearing Committee determines that revocation of Respondent's license is the appropriate sanction to impose under the circumstances.

All other issues raised have been duly considered by the Hearing Committee and would not justify a change in the Findings, Conclusions or Determination contained herein.

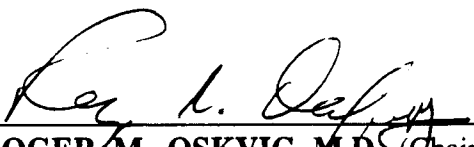
By execution of this Determination and Order by the chair, all members of the Hearing Committee certify that they have read and considered the complete record of this proceeding.

ORDER

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

1. The Specification of professional misconduct contained within the Statement of Charges (Petitioner's Exhibit # 1) is **SUSTAINED**, and
2. Respondent's license to practice medicine in the State of New York is hereby **REVOKED**.

DATED: New York, New York
November 22, 1996



ROGER M. OSKVIG, M.D., (Chair),

ADRIAN EDWARDS, M.D.
ANN SHAMBERGER

Heidi Flores Mabatid, M.D.
12984 Lake Wildwood Drive
Penn Valley, CA 95946

David W. Smith, Esq.
Associate Counsel,
New York State Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza, 6th Floor
New York, New York 10001



APPENDIX I

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

IN THE MATTER
OF
HEIDI FLORES MABATID, M.D.

STATEMENT
OF
CHARGES

HEIDI FLORES MABATID, M.D., the Respondent, was authorized to practice medicine in New York State on November 28, 1980, by the issuance of license number 144665 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about January 9, 1996, after a General Court Martial held by the United States Air Force, Headquarters Fifth Air Force, (PACAF), at which Respondent appeared, Respondent was convicted of the following violations of the United States Code of Military Justice: negligent dereliction of duty (Article 92), signing a false document allowing her divorced husband to continue to use his military dependent's card to receive medical treatment (Article 107), and larceny of money or military property in excess of \$100.00 (Article 121).
1. She received a six months prison term, forfeiture of all pay and benefits and a dishonorable discharge.

SPECIFICATION OF CHARGES

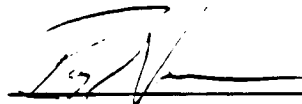
FIRST SPECIFICATION

CONVICTED OF A CRIME

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(a)(ii) by having been convicted of a crime under federal law as alleged in the facts of the following:

1. Paragraphs A and A1.

DATED: September 4, 1996
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct