

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

May 11, 1990

Roger P. Tarter, Physician
2805 Grand Concourse - Apt. 1F
Bronx, N.Y. 10468

Re: License No. 098351

Dear Dr. Tarter:

Enclosed please find Commissioner's Order No. 10553. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By:

MOIRA A. DORAN
Supervisor

DJK/MAH/er
Enclosures

CERTIFIED MAIL- RRR

cc:

**REPORT OF THE
REGENTS REVIEW COMMITTEE**

ROGER P. TARTER

CALENDAR NO. 10553



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

ROGER P. TARTER

No. 10553

who is currently licensed to practice
as a physician in the State of New York.

REPORT OF THE REGENTS REVIEW COMMITTEE

ROGER P. TARTER, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

The instant disciplinary proceeding was properly commenced and on August 2, 1989 a hearing was held before a hearing committee of the State Board for Professional Medical Conduct.

The hearing committee rendered a report of its findings, conclusions, and recommendation, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "A", which includes a copy of the statement of charges.

The hearing committee concluded that respondent was guilty of the first and second specifications of the charges to the extent indicated in its report, and recommended that respondent's license to practice as a physician in the State of New York be revoked.

ROGER P. TARTER (10553)

The Commissioner of Health recommended to the Board of Regents that the findings of fact, conclusions, and recommendation of the hearing committee be accepted. A copy of the recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "B".

On February 28, 1990, the scheduled date of our hearing, respondent did not appear before us in person and no attorney appeared before us on behalf of respondent. Daniel Guenzberger, Esq., presented oral argument on behalf of the Department of Health.

Petitioner's recommendation, which is the same as the Commissioner of Health's recommendation, as to the measure of discipline to be imposed, should respondent be found guilty, was that respondent's license to practice as a physician in the State of New York be revoked.

We have considered the record as transferred by the Commissioner of Health in this matter.

We unanimously recommend the following to the Board of Regents:

1. The hearing committee's findings of fact, conclusions as to the question of respondent's guilt, and recommendation as to the measure of discipline be accepted, and the Commissioner of Health's recommendation as to the hearing committee's findings of fact, conclusions, and recommendation be accepted;

ROGER P. TARTER (10553)

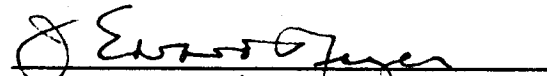
2. Respondent be found guilty, by a preponderance of the evidence, of both specifications of the charges to the extent indicated by the hearing committee; and
3. Respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which we recommend respondent be found guilty. Respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the Commissioner of Education to be issued herein; but said application shall not be granted automatically.

Respectfully submitted,

J. EDWARD MEYER

MELINDA AIKINS BASS

GEORGE POSTEL


Chairperson

Dated: March 30, 1990

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

-----X

IN THE MATTER :

REPORT OF

OF :

THE HEARING

ROGER P. TARTER, M.D. :

COMMITTEE

-----X

TO: The Honorable David Axelrod, M.D.
Commissioner of Health, State of New York

Olive M. Jacob, Chairperson, Sharon H. C. Mead, M.D. and Alvin Rudorfer, D.O., duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. Gerald H. Liepshutz, Esq., served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing Committee submits this report.

SUMMARY OF CHARGES

Respondent was charged with the following acts of professional misconduct as more fully set forth in the Statement of Charges attached hereto:

1. Practicing the profession while impaired by drugs and alcohol under New York State Education Law Section 6509(3) (McKinney 1985) -- FIRST SPECIFICATION

2. Committing unprofessional conduct under New York State Education Law Section 6509(4) (McKinney 1985) for being habitually drunk or dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects -- SECOND SPECIFICATION

SUMMARY OF PROCEEDINGS

Notice of Hearing and
Statement of Charges dated: June 7, 1989

Department of Health
(Petitioner) appeared by: Daniel Guenzburger, Esq.
Assistant Counsel

Respondent appeared by: Respondent failed to appear
either personally or by a
representative

Hearing date: August 2, 1989

Hearing Committee
deliberations: August 2, 1989

Adjournments: None

Hearing Committee absences: None

Ruling on sufficiency of
service of process: Transcript pp. 24-26

Witnesses for Petitioner:

1. Louis Gasparini, Senior
Medical Investigator, NYS
Department of Health
2. Mitchell J. Scher, Senior
Medical Conduct Investigator,
NYS Department of Health
3. Ellen B. Jensen, Project
Director for the Impaired
Physician Program, NYS
Department of Health

Witnesses for Respondent: None

FINDINGS OF FACTS

The following findings of fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript pages unless otherwise noted. These citations represent evidence found persuasive by the Hearing Committee while arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All findings were made by unanimous vote.

1. Roger P. Tarter, M.D., the Respondent, was authorized to practice medicine in the State of New York on February 1, 1967 by the issuance of license number 09835-1 by the New York State Education Department. (Petitioner's Exhibit 2)

2. The Respondent is currently registered with the State Education Department to practice medicine for the period January 1, 1989 through December 31, 1991. (uncontested)

FIRST AND SECOND SPECIFICATIONS

3. On May 3, 1988 the Respondent practiced medicine at the Inwood Medical Group, 177 Dyckman Street, New York, New York. At approximately 4:00 p.m. the Respondent fainted while taking a patient's blood pressure. The Respondent was taken by ambulance to the emergency room of The Presbyterian Hospital in the City of New York ("Presbyterian Hospital"), Columbia-Presbyterian Hospital Medical Center, 622 West 168th Street, New York, New York. The Ambulance Call Report noted the Respondent's chief

complaint as "altered mental status." (Petitioner's Exhibits 5A, 5B, 5C, and 7)

4. Between May 3, 1988, 6:40 p.m. and May 4, 1988, 10:25 a.m., the Respondent was held in the Presbyterian Hospital emergency room. Respondent's son gave a history for his father. He stated that the Respondent had a prior history of drug addiction and had recently suffered a relapse. (Petitioner's Exhibit 5B)

5. On or about May 3, 1988, a toxicology screen for blood and urine performed at Presbyterian Hospital revealed the presence of cocaine. (Petitioner's Exhibits 5B, 5C and 6)

6. The Respondent told a Health Department investigator that he had consumed a few drinks during the night prior to May 3, 1988. (Tr. 32)

SECOND SPECIFICATION

7. On October 24, 1988 Respondent entered the Harbors Chemical Dependency Recovery Program, Portsmouth, Virginia for evaluation and treatment and was diagnosed as mixed drug and alcohol dependent. (Petitioner's Exhibit 8; Tr. 39)

8. During December, 1988, the Harbors Chemical Dependency Recovery Program terminated the Respondent for non-compliance with the therapeutic regimen, including Respondent's failure to abstain from alcohol while at the program. (Petitioner's Exhibit 8; Tr. 39)

CONCLUSIONS

The following conclusions were made pursuant to the findings of fact herein. All conclusions resulted from a unanimous vote of the Hearing Committee.

FIRST SPECIFICATION

The findings herein (Findings of Fact Nos. 3, 4 and 5) support the charge that the Respondent practiced medicine while impaired by drugs, inasmuch as cocaine was found to be present in his system subsequent to his fainting while caring for a patient.

The Hearing Committee does not conclude that the Respondent practiced medicine while impaired by alcohol. The Committee was not convinced that consuming a "few drinks" the night prior to caring for a patient supports this allegation. (Finding of Fact No. 6)

SECOND SPECIFICATION

The findings herein (Findings of Fact Nos. 3, 4, 5, 7 and 8) support the charge that the Respondent committed unprofessional conduct for being habitually drunk or dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects.

In reaching this conclusion regarding drug usage, the Hearing Committee gave much weight to the statements on the first page of Petitioner's Exhibit 5B that the Respondent had told his son that he had "relapsed" regarding his drug use. Also, this

emergency room record states that although the Respondent denied alcohol or drug use, his son stated that the Respondent had part of his right hand amputated secondary to drug use in that hand. Furthermore, Exhibit 5B states that Respondent had scars over veins on his right arm and hand.

RECOMMENDATION

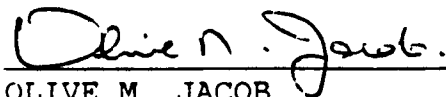
The Hearing Committee, pursuant to its Findings of Fact and Conclusions herein, unanimously recommends the following:

1. Practicing the profession while impaired by drugs and alcohol: This charge (FIRST SPECIFICATION) should be sustained as to drugs, but not as to alcohol.
2. Committing unprofessional conduct for being habitually drunk or dependent on, or a habitual user of (drugs): This charge (SECOND SPECIFICATION) should be sustained.
3. The Respondent's license to practice medicine in New York State should be revoked. In making this recommendation the Hearing Committee notes that he has twice previously been adjudicated to have committed acts of medical misconduct. (Petitioner's Exhibits 9 and 10) Also, the Respondent has

previously failed miserably in a substance abuse rehabilitation program. (Petitioner's Exhibit 8)

DATED: September 19, 1989

Respectfully submitted,



OLIVE M. JACOB
Hearing Committee Chairperson

Sharon H.C. Mead, M.D.
Alvin Rudorfer, D.O.

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

-----X
IN THE MATTER : STATEMENT
OF : OF
Roger P. Tarter, M.D. : CHARGES
-----X

Roger P. Tarter, M.D., the Respondent, was authorized to practice medicine in New York State on February 1, 1967 by the issuance of license number 09835-1 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, 1989 through December 31, 1991.

FACTUAL ALLEGATIONS

- A. On or about May 3, 1988 the Respondent practiced medicine at the Inwood Medical Group, 177 Dyckman Street, New York, New York. At approximately 4:00 p.m. the Respondent fainted while taking a patient's blood pressure. The Respondent was taken by ambulance to the emergency room of The Presbyterian Hospital in the City of New York ("Presbyterian Hospital"), Columbia-Presbyterian Hospital Medical Center, 622 West 168th Street, New York, New York. The Ambulance Call Report noted the Respondent's chief complaint as "altered mental status."

- B. On or about and between May 3, 1988, 6:40 p.m. and May 4, 1985, 10:25 a.m., the Respondent was held in the Presbyterian Hospital emergency room. Respondent's son gave a history for his father. He stated that the Respondent had a prior history of drug addiction and had recently suffered a relapse.
- C. On or about May 3, 1988 a toxicology screen for blood and urine performed at Presbyterian Hospital revealed the presence of cocaine.
- D. On or about October 3, 1988 the Respondent admitted to Senior Medical Conduct Investigator Mitchell Scher that he had been intoxicated by alcohol on May 3, 1988.
- E. On or about October 24, 1988 Respondent entered the Harbors Chemical Dependency Recovery Program, Portsmouth, Virginia for evaluation and treatment and was diagnosed as mixed drug and alcohol dependent.
- F. On or about December, 1988, the Harbors Chemical Dependency Recovery Program terminated the Respondent for non-compliance with the therapeutic regimen, including Respondent's failure to abstain from alcohol while at the program.

SPECIFICATION OF CHARGES

PRACTICING THE PROFESSION WHILE IMPAIRED

FIRST SPECIFICATION

Respondent is charged with practicing the profession while impaired by drugs and alcohol under N.Y. Educ. Law Section 6509(3) (McKinney 1985), in that Petitioner charges:

1. The facts in paragraphs A, B, C, and D.

BEING A HABITUAL USER OF DRUGS AND ALCOHOL

SECOND SPECIFICATION

Respondent is charged with committing unprofessional conduct under N.Y. Educ. Law Section 6509(4) (McKinney 1985) for being habitually drunk or dependent on, or a habitual user of narcotics, barbituates, amphetamines, hallucinogens, or other drugs having similar effects, in that Petitioner charges:

2. The facts in paragraphs A, B, C, D, E, and F.

DATED: Albany, New York
June 7, 1989



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct

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

-----X
IN THE MATTER :
OF :
ROGER P. TARTER, M.D. :
-----X

COMMISSIONER'S

RECOMMENDATION

TO: Board of Regents
New York State Education Department
State Education Building
Albany, New York

A hearing in the above-entitled proceeding was held on August 2, 1989. Respondent, Roger P. Tarter, M.D., failed to appear either personally or by a representative. The evidence in support of the charges against the Respondent was presented by Daniel Guenzburger, Esq.


NOW, on reading and filing the transcript of the hearing, the exhibits and other evidence, and the findings, conclusions and recommendation of the Committee,

I hereby make the following recommendation to the Board of Regents:

- A. The Findings of Fact and Conclusions of the Committee should be accepted in full;
- B. The Recommendation of the Committee should be accepted; and
- C. The Board of Regents should issue an order adopting and incorporating the Findings of Fact and Conclusions and further adopting as its determination the Recommendation described above.

The entire record of the within proceeding is
transmitted with this Recommendation.

DATED: Albany, New York
January 4, 1989


DAVID AXELROD, M.D.
Commissioner of Health
State of New York

**ORDER OF THE COMMISSIONER OF
EDUCATION OF THE STATE OF NEW YORK**

ROGER P. TARTER

CALENDAR NO. 10553



The University of the State of New York

IN THE MATTER

OF

ROGER P. TARTER
(Physician)

DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 10553

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 10553, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (April 27, 1990): That, in the matter of ROGER P. TARTER, respondent, the recommendation of the Regents Review Committee be accepted as follows:

1. The hearing committee's findings of fact, conclusions as to the question of respondent's guilt, and recommendation as to the measure of discipline be accepted, and the Commissioner of Health's recommendation as to the hearing committee's findings of fact, conclusions, and recommendation be accepted;
2. Respondent is guilty, by a preponderance of the evidence, of both specifications of the charges to the extent indicated by the hearing committee; and
3. Respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which respondent is guilty. Respondent may, pursuant to Rule 24.7(b) of the Rules of the Board of Regents, apply for restoration of said license after one year has elapsed from the effective date of the service of the order of the

ROGER P. TARTER (10553)

Commissioner of Education to be issued herein; but said application shall not be granted automatically; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

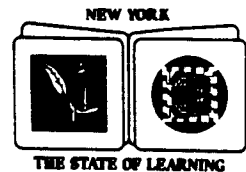
and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Thomas Sobol, Commissioner of Education of the State of New York, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand and affix the seal of the State Education Department, at the City of Albany, this *4th* day of *May*, 1990.

Thomas Sobol
Commissioner of Education



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

Roger P. Tarter, Physician
37 Adams Street
Mount Vernon, New York 10551

March 27, 1992

Re: License No. 098351

Dear Dr. Tarter:

Enclosed please find Commissioner's Order No. 11701. This Order goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order in your case is a revocation or a surrender of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. Your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department. In the event you are also served with this Order by personal service, the effective date of the Order is the date of personal service.

If the penalty imposed by the Order in your case is a revocation or a surrender of your license, you may, pursuant to Rule 24.7 (b) of the Rules of the Board of Regents, a copy of which is attached, apply for restoration of your license after one year has elapsed from the effective date of the Order and the penalty; but said application is not granted automatically.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By:

GUSTAVE MARTINE
Supervisor

DHJ/GM/er

CERTIFIED MAIL - RRR

cc: Gayle O'Brien, Esq.
112 State Street
Albany, New York 12207



The University of the State of New York

IN THE MATTER

OF

ROGER P. TARTER
(Physician)

**DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 11701**

Upon the application of ROGER P. TARTER, for reconsideration of the determination of the Board of Regents pursuant to the Rules of the Board of Regents, under Calendar No. 11701, the report of the Regents Review Committee, a copy of which is made a part hereof, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (March 27, 1992): That the recommendation of the Regents Review Committee be accepted and the application of ROGER P. TARTER, for reconsideration of the April 27, 1990 determination of the Board of Regents be denied; and that the Deputy Commissioner for the Professions be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

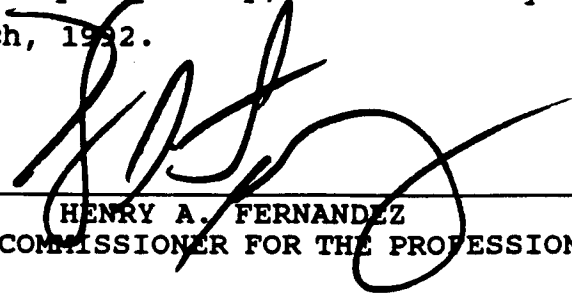
and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

ROGER P. TARTER (11701)

IN WITNESS WHEREOF, I, Henry A. Fernandez, Deputy Commissioner for the Professions of the State of New York, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand, at the City of Albany, this 27th day of March, 1992.



HENRY A. FERNANDEZ
DEPUTY COMMISSIONER FOR THE PROFESSIONS

**ORDER OF THE DEPUTY COMMISSIONER FOR
THE PROFESSIONS OF THE STATE OF NEW YORK**

ROGER P. TARTER

CALENDAR NO. 11701



The University of the State of New York

IN THE MATTER
of the
Disciplinary Proceeding
against

ROGER P. TARTER

Application For
Reconsideration
No. 11701

who was licensed to practice as a
physician in the State of New York.

REPORT OF THE REGENTS REVIEW COMMITTEE

ROGER P. TARTER, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

On August 2, 1989 a hearing was held before a hearing committee of the State Board for Professional Medical Conduct which subsequently rendered a report of its findings, conclusions, and recommendation.

The specifications upon which the hearing committee determined respondent to be guilty related to the first specification (practicing while impaired), involving the discovery, when respondent was taken to a hospital after fainting while taking a patient's blood pressure, that respondent had a history of drug addiction, that he had relapsed, and that a toxicology screen of respondent revealed the presence of cocaine; and the second

ROGER P. TARTER (11701)

specification (being habitually drunk or dependent on, or an habitual user of drugs), involving the facts as set forth in the first specification, as well as respondent's having been diagnosed as drug and alcohol dependent and his termination from a clinical dependency recovery program for non-compliance.

The hearing committee recommended that respondent's license to practice as a physician in the State of New York be revoked.

The Commissioner of Health recommended to the Board of Regents that the findings of fact, conclusions, and recommendation of the hearing committee be accepted.

On February 28, 1990, the scheduled original date of our review of this matter, respondent did not appear before us in person and no attorney appeared before us on behalf of respondent. Daniel Guenzberger, Esq., presented oral argument on behalf of the Department of Health.

In our report dated March 30, 1990 we recommended that the hearing committee and the Commissioner of Health's findings of fact, conclusions as to guilt, and recommendation as to the penalty be accepted and that respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which we recommended respondent be found guilty.

On May 4, 1990 an order of the Commissioner of Education was issued pursuant to the vote of the Board of Regents on April 27, 1990 which accepted the aforesaid findings of fact, conclusions,

ROGER P. TARTER (11701)

and recommendations, and revoked respondent's license to practice as a physician in the State of New York.

Respondent has now applied for a reconsideration of the determination of the Board of Regents pursuant to 8 N.Y.C.R.R. §3.3(f).

We have carefully reviewed and considered the extensive submissions pertaining to this application, including the legal positions, as well as affidavits and other evidence, submitted by both parties.

Central to respondent's application is the contention that respondent did not receive notice of the charges and proceedings in this matter, and that due diligence was not used by the Department of Health in its attempts to serve respondent as required under the Public Health Law.

Public Health Law §230(10), in relevant part, provides as follows:

(d) Service of charges and of notice of hearing. A copy of the charges and the notice of the hearing shall be served on the licensee personally by the board at least twenty days before the hearing. If personal service cannot be made after due diligence and such fact is certified under oath, a copy of the charges and the notice of hearing shall be served by registered or certified mail to the licensee's last known address by the board at least fifteen days before the hearing.

The Department of Health initially attempted to serve respondent personally on June 28, 1989 at 2805 Grand Concourse, Bronx, New York, which was the address provided by respondent on his then current registration statement. The investigator who was

ROGER P. TARTER (11701)

assigned to serve notice on respondent determined from building management that respondent no longer maintained an office at that address. According to respondent's affidavit, he had been wrongfully evicted by the landlord by the date in question.

Thereafter, on June 30, July 1, and July 6, 1989 three separate unsuccessful attempts were made to serve respondent at 100 Herriot Street - Apt 4M, Yonkers, New York. This was the address that corresponded to the telephone number utilized by the Department of Health to communicate with respondent prior to the attempted service and was believed to be the address of respondent's residence. This belief was confirmed by a building employee on the first date of attempted service by the investigator and subsequently by the management company for the building.

Having been unsuccessful at serving respondent personally, the Department of Health then sent the statement of charges and notice of hearing to respondent, by certified mail, to the 100 Herriot Street address. This correspondence was returned to the Department of Health with a stamp indicating that the forwarding order had expired.

The Administrative Officer at the hearing ruled that the service provisions of the Public Health Law had been complied with by the Department of Health. We agree and conclude that respondent has not demonstrated to the contrary in this regard.

Respondent contends that he did not receive actual notice of the proceedings in this matter and that he was not residing at the

ROGER P. TARTER (11701)

100 Herriot Street address at the time of the attempted service. Respondent further contends both that he had advised the Department of Health of his actual residential address in Mount Vernon by letter dated March 20, 1989 and that due diligence required that the Department of Health attempt to obtain his address from various other agencies, including the Department of Social Services and the Medicaid Management Information Service, to which respondent claims to have continued to provide current address information. We find these contentions unpersuasive.

The Department of Health made attempts to serve respondent personally at his last known address of 100 Herriot Street and such attempts were unsuccessful, despite due diligence. That respondent may not, in fact, have resided at that address at the time of the attempted service does not negate the appropriateness of the actions of the Department of Health. Nor has respondent established that the Department of Health actually received information from him by which it was advised of his Mount Vernon address, or that such information was mailed to the Department of Health in a manner reasonably calculated to so advise the Department of Health.

Additionally, there is no requirement that the Department of Health pursue all possible sources for additional addresses for respondent after it had obtained the aforesaid confirmation that the address utilized was that of respondent's residence. This is particularly so when the actions of the Department of Health are

ROGER P. TARTER (11701)

viewed in the context of respondent's obligations under Education Law §6502(5) and under the terms of a probation that he was then serving to keep his address current. See, Marcus v. Ambach, 136 A.D.2d 778, 523 N.Y.S.2d 241.

The remainder of respondent's application for reconsideration involves the sufficiency and weight of the evidence in this matter, as well as evidence with which respondent would refute the determination. We find therein nothing, as with the issue of service, that warrants our reconsideration of this matter pursuant to 8 N.Y.C.R.R. §3.3(f).


We unanimously recommend to the Board of Regents that respondent's application for reconsideration of the April 27, 1990 determination of the Board of Regents be denied.

Respectfully submitted,

J. EDWARD MEYER

MELINDA AIKINS BASS

GEORGE POSTEL


Chairperson

Dated:

March 9, 1992

REPORT OF THE
REGENTS REVIEW COMMITTEE

ROGER P. TARTER

CALENDAR NO. 11701