



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

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OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

February 3, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kevin C. Roe
Associate Counsel
NYS Department of Health
Corning Tower-Room 2438
Albany, New York 12237

Robert B. Young
3036 Route 89
Seneca Falls, New York 13148

RE: In the Matter of Robert B. Young, M.D.

Dear Mr. Roe and Dr. Young:

Enclosed please find the Determination and Order (No. 95-31) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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), "(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.

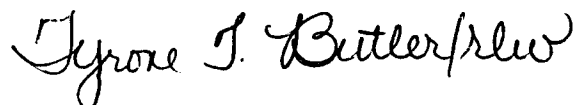
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
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,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm

Enclosure

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

-----X
**IN THE MATTER : DETERMINATION
OF : AND
ROBERT B. YOUNG, M.D. : ORDER**
: BPMC-95-31
-----X

A Notice of Hearing and Statement of Charges, both dated October 6, 1994, were served upon the Respondent Robert B. Young, M.D. Peter D. Kane, M.D., Chairperson, Joseph G. Chanatry, M.D. and Rev. James H. Miller, 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. **JEFFEREY ARMON, ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. A hearing was held on January 25, 1995. The Department of Health appeared by Kevin C. Roe, Associate Counsel. The Respondent did not appear. Evidence was received and transcripts of these proceedings were made.

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

STATEMENT OF CHARGES

The 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). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix 1.

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.

1. Robert B. Young, M.D. (hereinafter "Respondent") was authorized to practice medicine in New York State on December 23, 1969 by the issuance of license number 125981 by the New York Education Department. Respondent was registered with the New York State Education Department to practice medicine through December 31, 1994.

2. By an Order dated December 1, 1992, the New York State Board for Professional Medical Conduct accepted Respondent's Application for a Consent Order in which he admitted to having been convicted after a jury trial to one count of Grand Larceny in the Fourth Degree, eleven counts of Offering a False Instrument for Filing in the First Degree and nine counts of Offering a False Instrument for Filing in the Second Degree. Respondent agreed in said Consent Order to a penalty of a six month suspension of his license to practice medicine, followed by a four and one half year period of probation.

3. On January 26, 1993, Respondent agreed to a temporary surrender of his license to practice medicine in New York. He admitted to being incapacitated for the active practice of medicine due to mental impairment and agreed that his license would be restored only upon a showing that he was no longer so incapacitated.

4. On or about May 16, 1994, Respondent was found guilty after a non-jury trial in New York State Supreme Court, County of Monroe, of one count each of Perjury in the Second Degree, a class E felony in violation of New York Penal Law §210.10; Making an Apparently False Statement in the First Degree, a class E felony in violation of New York Penal Law 210.40; and Offering a False Instrument for Filing in the First Degree, a class E felony in violation of New York Penal Law §175.35. On or about July 14, 1994, Respondent was sentenced to 1 1/2 years to 3 years incarceration on each count to run concurrently.

5. Respondent was personally served with the Notice of Hearing and Statement of Charges (Dept. Ex. 1) on October 11, 1994. (Pet. Ex. 2)

CONCLUSIONS

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 Committee concluded that Respondent had been properly served with the Notice of Hearing and Statement of Charges based upon the Affidavit of Personal Service (Pet. Ex. 2), and that it had obtained jurisdiction over Respondent in this matter as a result.

The Committee determined that the Department had met its burden of proof by demonstrating that Respondent was found guilty of committing an act constituting a crime under

New York State Law. (Ex. 3) Therefore, the Hearing Committee voted to sustain the Specification of professional misconduct contained within the Statement of Charges. (Ex. 1)

DETERMINATION AS TO PENALTY

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

In reaching its determination to revoke Respondent's license to practice medicine in New York, the Committee considered the fact that Respondent had been convicted on two separate occasions of multiple felonies. It also took into account Respondent's temporary surrender of his license due to admitted mental impairment. It was determined that a permanent revocation of Respondent's license was not only appropriate, but also imperative, to adequately protect the public.

The Committee noted that the Respondent provided evidence of the fact that his criminal conviction is being appealed to an appellate court. Should such conviction be overturned in the future, Respondent may bring that fact to the Board's attention for its reconsideration of this determination to revoke his license. However, it is also relevant to note that Respondent would also be required to demonstrate he is no longer incapacitated before the restoration of his license could be considered.

ORDER

Based upon 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**;

2. Respondent's license to practice medicine in New York State be and hereby is **REVOKED**.

DATED: Albany, New York
FEB. 17 1995



PETER D. KANE, M.D., (CHAIR)

JOSEPH G. CHANATRY, M.D.
REV. JAMES H. MILLER

TO: Kevin C. Roe
Associate Counsel
NYS Department of Health
Corning Tower-Room 2438
Albany, New York 12237

Robert B. Young
3036 Route 89
Seneca Falls, New York 13148

PETITIONER'S
EXHIBIT

1-25-94

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

-----x
IN THE MATTER : NOTICE OF
OF : REFERRAL
ROBERT B. YOUNG, M.D. : PROCEEDING
-----x

TO: ROBERT B. YOUNG, M.D.
3036 Route 89
Seneca Falls, New York 13148

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 30th day of November, 1994 at 10:00 a.m. in the forenoon of that day at Conference Room E, Concourse Level, Cultural Education Center, 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 November 21, 1994.

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 November 21, 1994 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
October 6, 1994



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

Inquiries should be addressed to:

KEVIN C. ROE
Associate 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
ROBERT B. YOUNG, M.D. : CHARGES

-----X

ROBERT B. YOUNG, M.D., the Respondent, was authorized to practice medicine in New York State on November 28, 1975 by the issuance of license number 125981 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, 1993, through December 31, 1994, with a registration address of 143 North Street, Auburn, New York 13021.


FACTUAL ALLEGATIONS

A. On or about May 16, 1994, Respondent was found guilty after a non-jury trial in New York State Supreme Court, County of Monroe, of one count each of Perjury in the Second Degree, a class E felony in violation of New York Penal Law §210.10; Making an Apparently False Statement in the First Degree, a class E felony in violation of New York Penal Law §210.40; and Offering a False Instrument for Filing in the First Degree, a class E felony in violation of New York Penal Law §175.35. On or about July 14, 1994, Respondent was sentenced to 1 1/2 years to 3 years incarceration on each count to run concurrently.

SPECIFICATION

Respondent is charged with having been convicted of committing an act constituting a crime under New York State law in violation of New York Education Law §6530(9)(a)(i) (McKinney Supp. 1994) in that, Petitioner charges the facts in Paragraph A.

DATED: *Oct. 6,* 1994
Albany, New York


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