



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., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

March 5, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Debra Hope Federer, M.D.
2508 Palma Sola Blvd.
Bradenton, Florida 34209

Debra Hope Federer, M.D.
P.O. Box 14580
Brandeton, Florida 34280

Debra Hope Federer, M.D.
4304 Fredricksburg Drive #401
Orlando, Florida 32837

RE: In the Matter of Debra Hope Federer, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 02-73) 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 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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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.

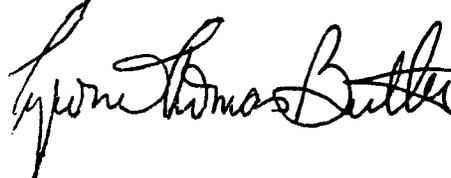
The notice of review served on the Administrative Review Board should be forwarded to:

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, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T' and 'B'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:cah
Enclosure

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

COPY

IN THE MATTER
OF
DEBRA HOPE FEDERER, M.D.

DETERMINATION
AND
ORDER
BPMC #02-73

A hearing was held on February 20, 2002, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated December 5, 2001, were served upon the Respondent, **Debra Hope Federer, M.D.** **Ernst A. Kopp, M.D.**, Chairperson, **Jinil Yoo, M.D.**, and **Sister Mary Theresa Murphy**, 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. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, and **Paul Robert Maher, Esq.**, of Counsel. The Respondent did not appear at the hearing, either in person or by counsel.

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 CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when 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 State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that 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 charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and (d). A copy of the Notice of Referral Proceeding and the Statement of Charges (as amended during the hearing) is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None

For the Respondent: None

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to 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.

1. Debra Hope Federer, M.D., the Respondent, was authorized to practice medicine in New York State on November 19, 1984, by the issuance of license number 160789 by the New York State Education Department (Petitioner's Ex. 4).

2. On December 13, 2000, the Florida Board of Medicine, by a Final Order ("Florida Order"), imposed on the Respondent a \$5,000.00 administrative fine, \$486.50 costs, and a letter of concern. These actions were taken because of the Florida Board's

findings that the Respondent had failed to keep her license in active status and, therefore, had practiced medicine with a delinquent license from on or about February 2, 1996, to on or about August 21, 1998 (Petitioner's Ex. 5).

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State pursuant to New York Education Law Section 6530(16), which defines professional misconduct as a "willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine..."

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having had disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing. Petitioner's Ex. 2, 2(A), 2(B), 3(A), 3(B), 3(C), 3(D), 6(A), 6(B) and 6(C) document the Petitioner's efforts to serve the Respondent, both personally and by certified mail, with the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Ex. 1). Most of these efforts were unsuccessful. Petitioner's Ex. 3(C), however, is a return receipt for certified mail that had been addressed to the Respondent's Post Office box. The receipt is signed by Mark A. Baldwin. It will be presumed that the Post Office would limit access to mail received at the Respondent's Post Office box to the Respondent and persons officially designated by the Respondent as agents to receive her mail. Therefore, it will be concluded that Mr. Baldwin is the Respondent's agent for the receipt of mail and that delivery to him is the legal equivalent of delivery to the Respondent.

Even if Petitioner's Ex. 3(C) did not prove that there had been effective service on the Respondent of the Notice of Referral Proceeding and the Statement of Charges, the Administrative Officer ruled during the hearing that the hearing could proceed even if there had been no service on the Respondent. The reason given by the Administrative Officer for this ruling is that the fault for the failure of service lies with the Respondent. If the Respondent still lives at either of the addresses where service was attempted and did not respond to the notices that she had certified mail to collect, she can and should be faulted for failing to respond to these notices. If she no longer lives at either of these addresses, she can and should be faulted for not notifying the licensing authorities in Florida and New York State of the change of address. Whichever reason explains the failure of the Respondent to receive notice of this hearing, the responsibility lies with the Respondent and it is she who must bear the negative consequences.

The Respondent failed to renew her Florida license to practice medicine and then continued to practice medicine, a violation of Florida Statutes Section 455.711(1). Because this is a statute of considerable importance and because the Respondent continued to practice medicine illegally for two and one-half years, the Hearing Committee concludes that the statute was violated with gross negligence.

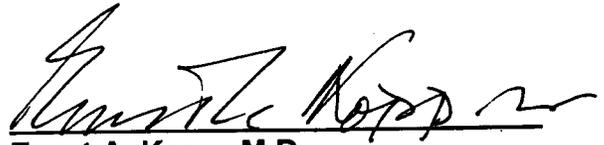
The Petitioner recommended that the Respondent's New York State license be revoked. Since the Respondent did not appear at the hearing, the hearing record contains no evidence regarding mitigation, rehabilitation or any other factor that could serve as a reason for rejecting the Petitioner's revocation recommendation. The Respondent also did not appear for the administrative proceedings in Florida, so there is nothing in the documents from that proceeding (Petitioner's Ex. 5) helpful to the Respondent. The Respondent practiced illegally in Florida for an exceptionally long time and her failure to maintain contact with the licensing authorities in that state and New York State deprive the Hearing Committee of the opportunity to ascertain whether such irresponsible behavior is unlikely to be repeated in the future. The Petitioner's recommendation will be adopted.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine is revoked.
2. This Order shall be effective upon service on the Respondent by personal service or by certified or registered mail, or upon satisfaction of the requirements of Public Health Law Section 230(10)(h).

DATED: Loudonville, New York
Feb 28th, 2002



Ernst A. Kopp, M.D.
Chairperson

Jinil Yoo, M.D.
Sister Mary Theresa Murphy

APPENDIX I

2/2/02

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

IN THE MATTER

OF

DEBRA HOPE FEDERER, M.D.
CO-01-02-0603-A

NOTICE OF

REFERRAL

PROCEEDING

TO: DEBRA HOPE FEDERER, M.D.
2508 Palma Sola Blvd.
Bradenton, FL 34209DEBRA HOPE FEDERER, M.D.
P.O. Box 14580
Bradenton, FL 34280DEBRA HOPE FEDERER, M.D.
4304 Fredicksburg Drive #401
Orlando, FL 32837**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 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 20th day of February 2002, 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 attached Statement of Charges. 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 that 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, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before February 11, 2002.

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 of 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 February 11, 2002, 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 5, 2001



PETER D. VAN BUREN

Deputy Counsel

Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
DEBRA HOPE FEDERER, M.D.
CO-01-02-0603-A

STATEMENT
OF
CHARGES

DEBRA HOPE FEDERER, M.D., the Respondent, was authorized to practice medicine in New York state on November 19, 1984, by the issuance of license number 160789 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 13, 2000, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order"), imposed, upon the Respondent, a \$5,000.00 administrative fine, \$486.50 costs, and a letter of concern, based on failing to keep her license in active status and therefore practiced medicine with a delinquent license from on or about February 2, 1996 until on or about August 21, 1998.

B. The conduct resulting in the Florida Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law §6530(16) ^(grossly negligent) ~~(willfully)~~ failure to comply with substantial provisions of federal, state, or local laws rules, or regulations governing the practice of medicine).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraph A and/or B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having had disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

2. The facts in paragraphs A and/or B.

DATED: *December 5*, 2001
Albany, New York


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