



# STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Richard F. Daines, M.D.  
Commissioner

March 26, 2007

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Benzena Dosunmu, R.P.A.  
1050A President Street  
Brooklyn, New York 11225

Robert Bogan, Esq.  
NYS Department of Health  
Hedley Building - 4<sup>th</sup> Floor  
433 River Street  
Troy, New York 12180

**RE: In the Matter of Benzena Dosunmu, R.P.A.**

Dear Parties:

Enclosed please find the Determination and Order (No. 07-50) 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.

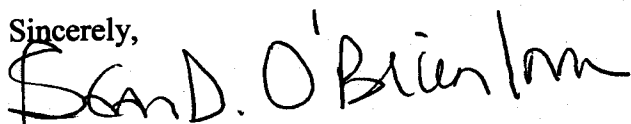
The notice of review served on the Administrative Review Board should be forwarded to:

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,



Sean D. O'Brien, Director  
Bureau of Adjudication

SDO:nm

Enclosure

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

**COPY**

**IN THE MATTER  
OF  
BENZENA DOSUNMU, R.P.A.**

**DETERMINATION**

**AND**

**ORDER**

**BPMC #07-50**

A hearing was held on February 21, 2007, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Order and Notice of Hearing, dated July 5, 2006, and a Statement of Charges, also dated July 5, 2006, were served upon the Respondent, **Benzena Dosunmu, R.P.A.** Pursuant to Section 230(10)(e) of the Public Health Law, **James D. Hayes II, M.D.**, Chairperson, **Nisha K. Sethi, M.D.**, and **Mr. Irving S. Caplan**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Thomas Conway, Esq.**, General Counsel, by **Robert Bogan, 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.

**BACKGROUND**

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)(ii). Copies of the Commissioner's Order and Notice of Hearing and of the Statement of Charges are 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. All Hearing Committee findings were unanimous.

1. Benzena Dosunmu, R.P.A., the Respondent, was authorized to practice as a registered physician's assistant in New York State on January 21, 1987, by the issuance of license number 003169 by the New York State Education Department (Petitioner's Ex. 4).

2. On February 3, 2006, in the United States District Court, Eastern District of New York, the Respondent was found guilty, based on a plea of guilty, of Mail Fraud, in violation of 18 U.S.C. Section 1341, 2 and 3551, and Theft or Embezzlement from

Employee Benefit Plan, in violation of 18 U.S.C. Section 664 and 3551, both of which are felonies. The Respondent was sentenced to twelve months and one day imprisonment, three years supervised release, a \$200.00 assessment, and \$34,327.30 restitution (Petitioner's Ex. 5).

### **VOTE OF THE HEARING COMMITTEE**

#### **SPECIFICATION**

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

VOTE: Sustained (3-0)

### **HEARING COMMITTEE DETERMINATION**

The Respondent did not appear at the hearing. The Administrative Law Judge ruled that Petitioner's Exhibits 2 and 3 proved that the Respondent had been served with the Commissioner's Order and Notice of Hearing and with the Statement of Charges in accordance with the requirements of law. The Administrative Law Judge ruled that the hearing could proceed on the merits, therefore, despite the absence of the Respondent.

The Respondent was convicted of two felonies, Mail Fraud and Theft or Embezzlement from Employee Benefit Plan. This criminal behavior was not a single impulsive act. Her crimes were complicated schemes that required time and planning. As with all felonies, the criminal behavior was serious. The Respondent was sentenced to make restitution of \$34,327.30 to the employee benefit plan. This is a substantial amount of money.

Although the Respondent did not appear at the hearing, she did mail one document to the Petitioner's attorney for inclusion in the record. The Administrative Law Judge took this document into evidence as Respondent's Ex. A. It is a February 13, 2007, letter To Whom It May Concern from Jose Vasquez, Program Coordinator of the Osborne

Association's Working Parents Program. The letter states that the Program provides services to persons transitioning from prison to freedom, that the Respondent has been participating since January 18, 2007, and that Mr. Vasquez is satisfied with the Respondent's progress.

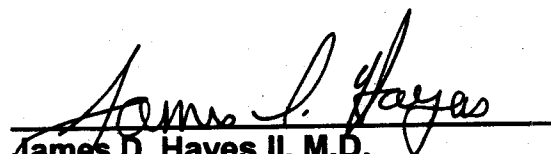
This letter is of limited help to the Respondent. It is lacking in detail and is hearsay evidence. It is a poor substitute for testimony from the Respondent regarding mitigating circumstances, rehabilitation or remorse for her crimes. Given the absence of such testimony, this Hearing Committee has no reliable basis for concluding that the Respondent can be trusted to practice as a registered physician's assistant despite her criminal behavior. Under these circumstances, the only penalty that can be imposed that adequately protects the people of New York State is the revocation of the Respondent's license to practice.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Respondent's New York State license to practice as a registered physician's assistant is revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

**DATED: Endwell, New York**  
March 1, 2007

  
**James D. Hayes II, M.D.**  
**Chairperson**

**Nisha K. Sethi, M.D.**  
**Irving S. Caplan**

# **APPENDIX I**

STATE OF NEW YORK  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

DEPARTMENT OF HEALTH

**IN THE MATTER**

**OF**

**BENZENA DOSUNMU, R.P.A.  
CO-06-03-1402-A**

**COMMISSIONER'S  
ORDER  
AND  
NOTICE OF  
HEARING**

**TO: BENZENA DOSUNMU, R.P.A.  
Inmate No. 71196-053  
FCI Danbury  
Federal Correctional Institution  
Route 37  
Danbury, CT 06811**

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr.P.H., Commissioner of Health, after an investigation, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that **BENZENA DOSUNMU, R.P.A.**, Respondent, licensed to practice medicine in the State of New York as a physician assistant on January 21, 1987, by license number 003169, has been found guilty of committing acts constituting felonies under federal law in the United States District Court, Eastern District of New York.

It is therefore:

**ORDERED**, pursuant to New York Public Health Law §230(12)(b), that effective immediately **BENZENA DOSUNMU, R.P.A.**, Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine as a physician assistant. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to New York Public Health Law §230(12).



**PLEASE TAKE NOTICE** that a hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §§301-307 and 401 . The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 16<sup>th</sup> day of August, 2006, at 10:00 a.m., at Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180, at the offices of the New York State Health Department, and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to §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.

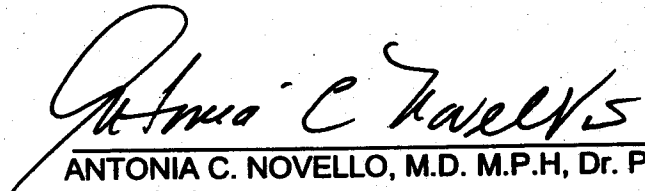
The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

**THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.**

DATED: Albany, New York

*July 5*, 2006

  
ANTONIA C. NOVELLO, M.D. M.P.H, Dr. P.H.,  
Commissioner

Inquires should be addressed to:

Robert Bogan  
Associate Counsel  
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

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IN THE MATTER  
OF  
BENZENA DOSUNMU, R.P.A.  
CO-06-03-1402-A

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STATEMENT  
OF  
CHARGES

BENZENA DOSUNMU, R.P.A., Respondent, was authorized to practice medicine as a Physician Assistant in New York state on January 21, 1987, by the issuance of license number 003169 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about February 3, 2006, in the United States District Court, Eastern District of New York, Respondent was found guilty, based on a plea of guilty, of Mail Fraud, in violation of Title 18 U.S.C. §§ 1341, 2, and 3551 et seq.; and Theft or Embezzlement from Employee Benefit Plan, in violation of Title U.S.C. §§ 664 and 3551 et seq., felonies, and was sentenced to twelve (12) months and one (1) day imprisonment, three (3) years supervised release upon release from imprisonment, a \$200.00 assessment, and \$34,327.30 restitution.

**SPECIFICATION**

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

1. The facts in Paragraph A.

DATED: July 5, 2006  
Albany, New York

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