



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

October 14, 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Bradley Mohr, Esq.
NYS Department of Health
Corning Tower Room 2509
Empire State Plaza
Albany, New York 12237

Yasar Aksoy, M.D.
21 Garfield Street
Beckley, West Virginia 25801

RE: In the Matter of Yasar Aksoy, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 98-242) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

COPY

**IN THE MATTER
OF
YASAR AKSOY, M.D.**

DETERMINATION

AND

ORDER

BPMC- 98-242

A Notice of Hearing and Statement of Charges, both dated July 28, 1998, were served upon the Respondent, **YASAR AKSOY, M.D.** **JOSEPH CHANATRY, M.D.**, (Chair), **MOHAMMED GHAZI-MOGHADAM, M.D.** and **D. MARISA FINN**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(100)(e) of the Public Health Law.

CHRISTINE C. TRASKOS, ESQ., Administrative Law Judge, served as the Administrative Officer. A hearing was held on September 16, 1998. The Department of Health appeared by **HENRY M. GREENBERG, GENERAL COUNSEL**, by **BRADLEY MOHR, ESQ.** of Counsel. The Respondent did not appear and was not represented by counsel. Evidence was received and witnesses sworn and heard 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 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)(ii) and 6530 (9) (d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses 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. Respondent was authorized to practice medicine in New York State on October 15, 1992, by the issuance of license number 160532 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. (Ex. 3)
2. On or about April 15, 1997, Respondent was convicted of one count of mail fraud based on a guilty pleas for a violation of 18 U.S.C. § 1341, in the United States District Court for the Southern District of West Virginia, Criminal Action Number CR 5:96-00177. Respondent was sentenced to: 3 months imprisonment; given a 3 year term of supervised release; payment of \$ 1, 910.17 per month for each month of imprisonment; payment of \$217.18 per month for each month for the duration of supervised release; payment of \$48.00

restitution to Mountain State Blue Cross/Blue Shield; fined \$5,000.00; and 100 hours of community service work. (Ex. 5, 7, 8)

3. Respondent was disciplined by the West Virginia Board of Medicine on or about February 9, 1998, by Consent Order. The disciplinary action consisted of a one year Suspension of which 10 months were stayed and two years probation with practice supervision. (Ex. 4)

CONCLUSIONS OF LAW

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 otherwise indicated. The Hearing Committee concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that Respondent plead guilty to the federal crime of mail fraud in the United States District Court for the Southern District of West Virginia. Section 6530 (9) (a) (ii) defines professional misconduct as a conviction of committing an act constituting a crime under Federal Law. In addition, Respondent entered into a Consent Order with the West Virginia Board of Medicine as a result of the aforementioned federal crime. Section 6530(9)(d) defines professional misconduct as having his or her license to practice medicine revoked, suspended or having other 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 revocation, suspension or other disciplinary action, would if committed in New York State, constitute professional misconduct under the laws of New York state. As a result, the Hearing Committee voted to sustain the Specifications of professional misconduct contained within the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, determined that Respondent's license to practice medicine in New York State should be suspended for one (1) year. The suspension shall be tolled until such time that Respondent commences the practice of medicine in New York State. This determination was reached upon due consideration of the full spectrum for penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The Hearing Committee notes that Respondent did not appear at the hearing and no additional information was offered by the Respondent. The Hearing Committee however, notes that the evidence shows that the West Virginia Board recognized that the underlying event upon which the criminal plea was entered was an isolated event. (Ex. 4, p.2) The Hearing Committee further notes that the West Virginia Board suspended Respondent's license for a year, but stayed the suspension for 10 months to permit Respondent to practice medicine under the supervision of an approved physician while on a 2 year probation. (Ex. 4) The Hearing Committee believes that the West Virginia Board had been satisfied that Respondent was adequately punished through the criminal justice system and that he could be rehabilitated and resume his medical practice. The Hearing Committee concludes that a one (1) year outright suspension would serve as a deterrent against any further professional misconduct by Respondent in the State of New York. Therefore, the Hearing Committee believes that a one (1) year tolled suspension without probation is the appropriate sanction in this instance.

ORDER

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

1. The Specifications 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 **SUSPENDED for a period of ONE (1) YEAR.**
3. The period of suspension shall be tolled until such time as Respondent commences a medical practice in New York State.

Dated: **Utica, New York**
 Oct. 8, **, 1998**

Joseph Chanatry M.D.
JOSEPH CHANATRY, M.D. (Chair)

MOHAMMED GHAZI-MOGHADAM, M.D.
D. MARISA FINN

TO: **Bradley Mohr, Esq.**
 Senior Attorney -
 NYS Department of Health
 Corning Tower- 25th Floor
 Empire State Plaza
 Albany, NY 12237

Yasar Aksoy, M.D.
21 Garfield Street
Beckley, West Virginia 25801

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

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IN THE MATTER : NOTICE OF
OF : REFERRAL
YASAR ASKOY, M.D. : PROCEEDING

-----x

TO: YASAR ASKOY, M.D.
21 Garfield Street
Beckley, West Virginia 25801

STATE OF NEW YORK
DEPARTMENT OF HEALTH
DEPT. RESPT EXHIBIT
ID. EVD
DATE.....INITIALS.....

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 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 16th day of September, 1998 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 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, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, 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 September 4, 1998.

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 or 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 September 4, 1998 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
July 28, 1998

Peter D. Van Buren

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

Inquiries should be addressed to:

Bradley Mohr
Senior Attorney
Bureau of Professional Medical Conduct
Division of Legal Affairs
NYS Department of Health
Corning Tower, Room 2509
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
YASAR ASKOY, M.D. : CHARGES

-----X

YASAR ASKOY, M.D., the Respondent, was authorized to practice medicine in New York State on October, 15, 1992, by the issuance of license number 160532 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

1. Respondent on or about April 15, 1997, was convicted of one count of mail fraud based on a guilty plea for a violation of 18 U.S.C. §1341, in the United States District Court for the Southern District of West Virginia, Criminal Action Number CR 5:96-00177. Respondent was sentenced to: 3 months imprisonment; given a 3 year term of supervised release; payment of \$1,910.17 per month for each month of imprisonment; payment of \$217.18 per month for each month for the duration of supervised release; payment of \$48.00 restitution to Mountain State Blue Cross/Blue Shield; fined \$5,000.00; and 100 hours of community service work.

2. The conduct resulting in the conviction consisted of soliciting an acquaintance to send an accomplice to his office posing as a patient so that he could issue a prescription for testosterone, an anabolic steroid and a Schedule III Controlled Substance, for nonmedical purposes. After issuing the prescription, he then billed Blue Cross/Blue Shield for the office visit.

3. Respondent was disciplined by the West Virginia Board of Medicine on or about February 9, 1998, by Consent Order. The disciplinary action consisted of a one year Suspension of which 10 months were stayed and two years probation with practice supervision.

4. The disciplinary action of the West Virginia Board of Medicine was based upon Respondent's Federal mail fraud conviction as referred to in Paragraph One above. The conduct resulting in the disciplinary action would if committed in New York State constitute professional misconduct under New York State Education Law, namely §6530(9)(a)(ii) (conviction of a crime under Federal Law).

SPECIFICATIONS

FIRST SPECIFICATION

CONVICTION OF A FEDERAL CRIME

Respondent is charged with professional misconduct within the meaning of New York State Education Law §6530(9)(i), in that he was convicted of committing an act constituting a crime under Federal Law, in that Petitioner charges:

1. The facts of paragraph 1 and/or 2.

SECOND SPECIFICATION

DISCIPLINARY ACTION BY ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York State Education Law §6530(9)(d), in that he had a disciplinary action taken against his license 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, (NYSED §6530 (9)(a)(ii)), in that Petitioner charges:

2. The facts of paragraph 3 and/or 4.

DATED: *July 28*, 1998
Albany, New York

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