



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

Public

November 24, 2006

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Dilip Bharne, M.D.  
251-37 51<sup>st</sup> Avenue  
Little Neck, New York 11362-1731

Amy T. Kulb, Esq.  
Jacobson, Goldberg & Kulb, LLP  
585 Stewart Avenue – Ste 720  
Garden City, New York 11530

Dilip Bharne, M.D.  
570 W. 125<sup>th</sup> Street  
New York, New York 10027

Robert Bogan, Esq.  
NYS Department of Health  
Office of Professional Medical Conduct  
433 River Street – Ste 303  
Troy, New York 12180

**RE: In the Matter of Dilip Bharne, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 06-266) 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.

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 Respondent or the Department may seek a review of a committee determination.

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 cursive script that reads "Sean D. O'Brien".

Sean D. O'Brien, Director  
Bureau of Adjudication

SDO:djh

Enclosure

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

COPY

-----X  
IN THE MATTER : DETERMINATION  
OF :  
DILIP BHARNE, M.D. : AND  
: ORDER  
-----X

BPMC NO. 06-266

A Notice of Referral Proceeding and Statement of Charges, both dated April 24, 2006, were served upon the Respondent, Dilip Bharne, M.D. JERRY WAISMAN, M.D. (Chair), ROBERT J. CORONA, D.O., and JUDITH GLUSKO, R.N., 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. LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. The Department of Health appeared by Robert Bogan, Esq., Associate Counsel. The Respondent appeared by Jacobson, Goldberg & Kulb, LLP, Amy T. Kulb, Esq., of Counsel. A hearing was held on November 16, 2006. 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 §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 §6530(9)(a)(i). 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. Dilip Bharne, M.D. (hereinafter "Respondent"), was authorized to practice medicine in New York State on July 23, 1990, by the issuance of license number 133812 by the New York State Education Department. (Ex. #4).
2. On or about December 15, 2005, in the Criminal Court of the City of New York, County of New York, Respondent was found guilty, based on a plea of guilty, of one (1) count of attempt of offering a false instrument for filing in the first degree, in violation of New York Penal Law §§ 110 and 175.35. Respondent was sentenced to a one (1) year conditional discharge and \$40,000.00 restitution. (Ex. #5).

#### 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 noted otherwise.

The preponderance of the evidence clearly demonstrates that Respondent was found guilty of an attempt to offer a false instrument for filing in the first degree. This constitutes a Class A misdemeanor under the provisions of the New York Penal Law (§110.05). Therefore, the Hearing Committee concluded that

the Specification of professional misconduct set forth in the Statement of Charges must be sustained.

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 **SUSPENDED** for a period of one(1) year. The suspension shall be stayed and Respondent placed on **PROBATION** for a period of one (1) year. The terms of probation are attached to this Determination and Order in Appendix II and incorporated herein. 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.

Counsel for both Petitioner and Respondent cited different cases previously tried before the State Board for Professional Medical Conduct in support of their arguments regarding sanction. The Hearing Committee considered these arguments, although neither case constitutes binding precedent. Ultimately, however, the Hearing Committee based its determination upon the unique facts and circumstances presented by this case.

The record established that Respondent clearly, and

unequivocally took full responsibility for his actions. He acknowledged his guilt and fulfilled his responsibility to make restitution ahead of the schedule established by the court. The Hearing Committee is convinced that Respondent's sense of remorse and shame for his actions is genuine, and that he is unlikely to ever repeat his mistake.

The Committee also took into consideration the fact that the charge against Respondent does not reflect on his competence as a physician, and that it represents the only charge ever raised against Respondent in an otherwise unblemished career in psychiatry.

Under the totality of the circumstances, the Hearing Committee unanimously concluded that revocation (the sanction sought by Petitioner) was not warranted. The Hearing Committee strongly believes that a one year suspension, stayed, with a one year term of probation most appropriately punishes Respondent, while allowing him the possibility of rehabilitation.

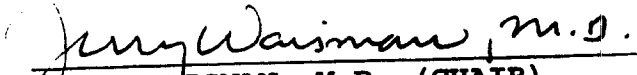
ORDER

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

1. The Specification of professional misconduct, as set forth in the Statement of Charges (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. Said suspension shall be STAYED and Respondent placed on PROBATION for a period of one (1) year. The complete terms of probation are attached to this Determination and Order in Appendix II and incorporated herein;
3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York

Nov. 22, 2006

  
JERRY WAISMAN, M.D. (CHAIR)

ROBERT J. CORONA, D.O.  
JUDITH GLUSKO, R.N.



TO: Robert Bogan, Esq.  
Associate Counsel  
New York State Department of Health  
433 River Street - Suite 303  
Troy, New York 12180-2299

Dilip Bharne, M.D.  
251-37 51<sup>st</sup> Avenue  
Little Neck, New York 11362-1731

Amy T. Kulb, Esq.  
Jacobson, Goldberg & Kulb, LLP  
585 Stewart Avenue - Suite 720  
Garden City, New York 11530

APPENDIX I

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

IN THE MATTER

OF

DILIP BHARNE, M.D.  
CO-06-01-0545-A

NOTICE OF  
REFERRAL  
PROCEEDING

TO: DILIP BHARNE, M.D.  
251-37 51<sup>st</sup> Avenue  
Little Neck, NY 11362-1731

DILIP BHARNE, M.D.  
570 W. 125<sup>th</sup> Street  
New York, NY 10027

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law § 230(10)(p) and New York State Administrative Procedure 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 22<sup>nd</sup> day of June 2006, at 10:00 in the forenoon of that day at the Hedley Park Place, 5<sup>th</sup> 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, 5<sup>th</sup> Floor, 433 River Street, Troy, New York, ATTENTION: HON. SEAN O' BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before June 12, 2006.

Pursuant to the provisions of New York 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 June 12, 2006, 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

*April 24*, 2006



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

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IN THE MATTER

OF

DILIP BHARNE, M.D.  
CO-06-01-0545-A

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STATEMENT

OF

CHARGES

DILIP BHARNE, M.D., Respondent, was authorized to practice medicine in New York state on July 23, 1990, by the issuance of license number 133812 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

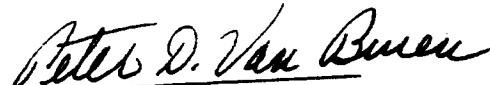
A. On or about December 15, 2005, in the Criminal Court of the City of New York, County of New York, Respondent was found guilty, based on a plea of guilty, of one (1) count of Attempt of Offering a false instrument for filing in the first degree, in violation of New York Penal Law §§110 and 175.35, a class A misdemeanor, and was sentenced to a one (1) year conditional discharge and \$40,000.00 restitution.

**SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(i) by being convicted of committing an act constituting a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *April 24*, 2006  
Albany, New York

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

**APPENDIX II**

## **Terms of Probation**

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, including billing records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his staff at practice locations or OPMC offices.
7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.



8. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.