



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**

January 28, 2004

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Robert Bogan, Esq.  
NYS Department of Health  
Office of Professional Medical Conduct  
433 River Street – 4<sup>th</sup> Floor  
Troy, New York 12180

William L. Wood, Jr., Esq.  
Wood & Sher  
14 Harwood Court  
Scarsdale, New York 10583

Faidherbe Ceus, M.D.  
Brooklyn Metropolitan Detention Center  
80 29<sup>th</sup> Street  
Brooklyn, New York 11232

Faidherbe Ceus, M.D.  
60 College Avenue  
Nanuet, New York 10954

**RE: In the Matter of Faidherbe Ceus, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 04-13) 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 licensee 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.

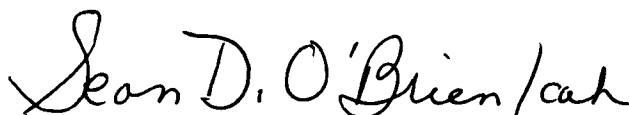
The notice of review served on the Administrative Review Board should be forwarded to:

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,

  
Sean D. O'Brien, Director  
Bureau of Adjudication

SDO:cah  
Enclosure

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

IN THE MATTER  
OF  
FAIDHERBE CEUS, M.D.

DETERMINATION

AND

ORDER

**COPY**

BPMC #04-13

A hearing was held on January 21, 2004, 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 May 6, 2003, were served upon the Respondent, **Faidherbe Ceus, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Peter B. Kane, M.D.**, Chairperson, **Alexander M. Yvars, M.D., F.A.C.S.**, and **James P. Milstein, J.D.**, 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 **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, and **Paul Robert Maher, Esq.**, of Counsel. The Respondent appeared in person and was represented by **William L. Wood, Jr., Esq.**, Wood and Sher, 14 Harwood Court, Scarsdale, New York 10583.

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)(a)(ii). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

### WITNESSES

For the Petitioner:

None

For the Respondent:

Faidherbe Ceus, M.D.  
Mario Saint-Laurent, M.D.  
Pamela Jackson Badila  
Harry Franklin, Esq.  
Angela Moore McMiller, M.D.

### 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. Faidherbe Ceus, M.D., the Respondent, was authorized to practice medicine in New York State on November 8, 1994, by the issuance of license number 197802 by the New York State Education Department (Petitioner's Ex. 4).

2. On March 10, 2003, in the United States District Court, Southern District of New York, the Respondent was found guilty, based on a plea of guilty, of perjury, in violation of 18 USC Section 1623(a), a felony, and was sentenced to nine months imprisonment, two years supervised release upon release from imprisonment, a \$2000.00 fine, and a \$100.00 assessment (Petitioner's Ex. 5 and 6).

### **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**

This professional misconduct proceeding was brought because the Respondent had been convicted of perjury pursuant to 18 USC Section 1623(a). The Petitioner noted that this is a felony and recommended that the Respondent's license to practice medicine be revoked. The Hearing Committee concludes that such a severe penalty is unwarranted.

Although the Hearing Committee understands that any act of perjury is a serious matter, the nature of the perjury in this case constitutes a mitigating factor. The Respondent was not a party to the lawsuit in which the perjury was committed. Instead, he was a psychotherapist for the plaintiff. During a deposition, the Respondent was asked whether he was board certified. He answered falsely that he was. Although this was a lie, it was not a lie from which the Respondent could profit. This was not a case of

one party lying to obtain an unjustified victory over the other party. The Respondent tried to appear more important and prestigious than he was, but he did not do this with the intent of taking unfair advantage of anyone.

Another factor in the Respondent's favor is that the act of professional misconduct was unrelated to the quality of care that he provided to his patients. Also, despite the fact that the perjury was an act of dishonesty, it was not dishonesty for the purpose of illegal profit in the Respondent's practice. In other words, this was not a case of lying to obtain reimbursement to which the Respondent was not entitled.

The Respondent introduced the testimony of four witnesses and documentary evidence from nine other people (Respondent's Ex. C and D) to prove that the Respondent is a physician of excellent skills, dedication and character. The Hearing Committee was impressed with this evidence and concludes that the Respondent is a conscientious physician who sincerely desires to help his patients.

The Petitioner found fault with this evidence, but its criticisms are insubstantial. The Petitioner noted that none of the physicians and nurses who testified or wrote letters was employed at the Respondent's most recent place of employment, the Westchester Medical Center. However, the Petitioner did not state exactly what this proves, nor did the Petitioner's attorney ask the Respondent on cross-examination why there were no letters or witness from Westchester Medical Center personnel. The Hearing Committee will not speculate on the reason.

Regarding the subject of speculation, Dr. McMiller testified that she believed that the Respondent was board certified. The Petitioner requested that the Hearing Committee contemplate how Dr. McMiller came to believe this false information. The Hearing Committee declines to do so. The Petitioner's attorney could have asked Dr.

McMiller on cross-examination why she believed that the Respondent was board certified. The question was not asked. Therefore, the issue will receive no further consideration.

The Petitioner noted that one of the Respondent's witnesses, Mr. Franklin, had no recent information about the Respondent, and that another witness, Dr. Saint-Laurent, had very little information, recent or distant. This affects the weight that should be given their testimony, but does not justify disregarding it completely. The Petitioner also noted that Ms. Badila testified inaccurately that the Respondent treated her husband free of charge. In fact, her husband is an artist who gave the Respondent some of his paintings in gratitude for the help received from the Respondent. However, it is clear that Ms. Badila was referring only to monetary reimbursement in her testimony and that she was not trying to mislead the Hearing Committee. The Petitioner also criticized the Respondent for not arranging for a substitute psychiatrist for Mr. Badila when the Respondent went to prison. However, Ms. Badila's testimony proves that a psychiatrist was no longer needed at that point. Despite the Petitioner's criticisms, Ms. Badila's testimony was persuasive evidence in support of the Respondent's position that he is dedicated to the welfare of his patients.

The Petitioner claimed, or inferred, that the Respondent's curriculum vitae (Respondent's Ex. B) contained inaccuracies. However, the Petitioner provided no examples. The subject will receive no further consideration.

The United States District Court fined the Respondent and sentenced him to nine months imprisonment. The Respondent recently was released from prison and is serving two years of supervised release. Nine months imprisonment for a crime of this nature is a serious punishment. Adding a revocation of the Respondent's medical license to the prison sentence is unnecessarily harsh.

The Hearing Committee, upon hearing the Respondent's testimony and observing his demeanor, believes that he is not a likely candidate for a repetition of his criminal behavior. A penalty consisting of a fine and community service is sufficient for the circumstances of this case.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

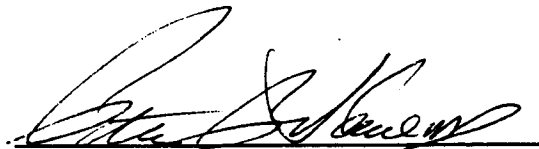
1. A fine of \$3,000.00, payable within six months of the effective date of this Order, is imposed on the Respondent. Payment must be submitted to the New York State Department of Health, Bureau of Accounts Management, Empire State Plaza, Corning Tower, Room 1258, Albany, New York 12237.

2. The Respondent shall perform 300 hours of community service. The service must be medical in nature, delivered in a facility or with an organization equipped to provide medical services, and delivered in a facility or an organization that serves a needy or medically underserved population. Within 60 days of the effective date of this Order, a written proposal for community service must be submitted to the Petitioner's Office of Professional Medical Conduct, Hedley Park Place, 433 River Street, Troy, New York 12180. The proposal is subject to the approval of the Office of Professional Medical Conduct and no service performed prior to approval shall be credited toward compliance with this Order. The Respondent must complete this community service requirement within two years of receipt of approval of his proposal.

3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).



DATED: Cazenovia, New York  
1/22, 2004

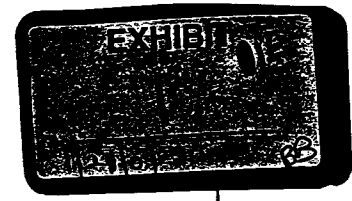


Peter B. Kane, M.D.  
Chairperson

Alexander M. Yvars, M.D., F.A.C.S.  
James P. Milstein, J.D.

# APPENDIX 1

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



**ORIGINAL**

**IN THE MATTER**  
**OF**  
**FAIDHERBE CEUS, M.D.**  
**CO-02-10-5352-A**

**NOTICE OF**  
**REFERRAL**  
**PROCEEDING**

**TO:** FAIDHERBE CEUS, M.D.  
Brooklyn Metropolitan Detention Center  
80 29<sup>th</sup> Street  
Brooklyn, NY 11232

**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 5<sup>th</sup> day of June 2003, 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.

TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before May 27, 2003.

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 May 27, 2003, 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

*May 6*, 2003



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  
FAIDHERBE CEUS, M.D.  
CO-02-10-5352-A

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STATEMENT  
OF  
CHARGES

FAIDHERBE CEUS, M.D., the Respondent, was authorized to practice medicine in New York state on November 8, 1994, by the issuance of license number 197802 by the New York State Education Department.

**FACTUAL ALLEGATIONS**


A. On or about March 10, 2003, in the United States District Court, Southern District of New York, Respondent was found guilty, based on a plea of guilty, of perjury, in violation of 18 USC §1623(a), a felony, and was sentenced to nine (9) months imprisonment, two (2) years supervised release upon release from imprisonment, a \$2000.00 fine, and a \$100.00 assessment.

**SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(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: *May 6*, 2003  
Albany, New York

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