



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

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Office of Professional Medical Conduct

Ansel R. Marks, M.D., J.D.
Executive Secretary

February 15, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Serban I. Cocioba, M.D.
31-62 32nd Street
Second Floor
Astoria, New York 11106

RE: License No. 178659

Dear Dr. Cocioba:

Enclosed please find Order #BPMC 01-38 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect February 15, 2001.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read 'Ansel R. Marks', written over a horizontal line.

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Anthony Benigno, Esq.

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

**IN THE MATTER
OF
SERBAN I. COCIOBA, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

BPMC No. 01-38

Serban I. Cocioba, M.D., (Respondent) states:

That on or about July 3, 1989, I was licensed to practice as a physician in the State of New York, having been issued License No. 178659 by the New York State Education Department.

My current address is 31-62 32nd Street, Second Floor, Astoria, New York 11106, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with one specification of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I admit guilt to the one specification, in full satisfaction of the charges against me. I hereby agree to the following penalty:

My license shall be subject to a censure and reprimand.
Additionally, I shall be fined \$5000. Unless otherwise specified herein, the fine is payable in full within thirty (30) days of the

effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1245
Albany, New York 12237

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent.

Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information

within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the

Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

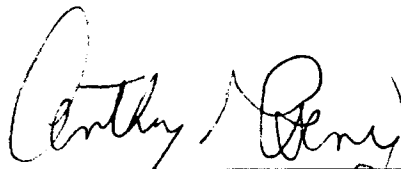
DATE: 01.31., 2001



SERBAN I. COCIOBA, M.D.
RESPONDENT

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: Feb 1, 2001



ANTHONY M. BENIGNO
Assistant Counsel
Bureau of Professional
Medical Conduct

DATE: 2/8/01



DENNIS J. GRAZIANO
Director
Office of Professional
Medical Conduct

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

IN THE MATTER
OF
SERBAN I. COCIOBA, M.D.

CONSENT
ORDER

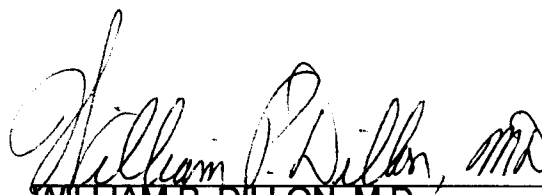
Upon the proposed agreement of Serban I. Cocioba, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 2/13/01


WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
SERBAN I. COCIOBA, M.D.

STATEMENT
OF
CHARGES

Serban I. Cocioba, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 3, 1989, by the issuance of license number 178659 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On August 16, 2000, Respondent submitted an application for registration with the Drug Enforcement Administration (DEA). Respondent falsely answered question 3(d), "Has the applicant ever had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation?" by answering no. Respondent knew at that time that his license was subject to probation imposed by BPMC Order No. 00-132. A copy of BPMC Order No. 00-132 is annexed hereto and included as Exhibit 1.


SPECIFICATION OF CHARGES

FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21) by wilfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in:

1. The facts in paragraph A.

DATED: February 1, 2001
Albany, New York


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

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

COPY
DECISION

**IN THE MATTER
OF
SERBAN ION COCIOBA, M.D.**

**AND
ORDER**

BPMC-00-132

A Notice of Referral Proceeding and a Statement of Charges, both dated, January 28, 2000, were served upon the Respondent, **SERBAN ION COCIOBA, M.D.**

FRANK E. IAQUINTA, M.D., Chairperson, **MARGERY W. SMITH, M.D.** and **STEPHEN E. WEAR, PH.D.**, 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. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on April 19, 2000, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent appeared in person and was represented by **THURM & HELLER, LLP**, 261 Madison Avenue, New York, New York 10016 by **KEVIN D. PORTER, ESQ.**, of Counsel.

Evidence was received and transcripts of these proceeding were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

EXHIBIT 1

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 case, 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, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(ii). A copy of the Commissioner's Order and Notice of Hearing and the Statement of Charges is attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:

None

For the Respondent:

Marcella Ross
Archbishop Nicholas Lambrou
Serban Ion Cocioba, M.D. , the Respondent

FINDINGS OF FACT

The following Findings Fact were made after a review of the entire record in this matter. Numbers in parenthesis 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. All Hearing Committee findings were unanimous unless otherwise stated.

1. **SERBAN ION COCIOBA, MD.,** the Respondent, was authorized to practice medicine in New York State on July 2, 1989, by the issuance of license number 178659 by the New York State Education Department. (Pet's. Ex. 4)

2. On March 22, 1999, in the United States District Court, Southern District of New York, Respondent was found guilty of Unlawful Receipt of Kickbacks in violation of 42 USC 1320a-7b(b)(1), and on or about April 12, 1999, was sentenced to two (2) years probation; six (6) months home confinement, fined \$10,000.00 and assessed \$100.00. (Pet's. Ex.5)

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

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

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case indicates that the Respondent pleaded guilty in United State District Court, Southern District of New York, to Unlawful Receipt of Kickbacks in violation of 42 USC 1320a-7b(b)(1). He was sentenced to two (2) years probation, six (6) month home confinement, fined \$10,000.00 and assessed \$100.00.

The Respondent testified at the instant hearing and the Hearing Committee was impressed by his candor and admissions of past mistakes.

There are some mitigating factors in the record which the Hearing Committee has taken into consideration in determining the nature and severity of the penalty to be imposed upon the Respondent.

- The charges against the Respondent do not reflect on his competence as a physician.
- The current charges are the only charges against the Respondent in an otherwise unblemished record.
- The Respondent enjoys the reputation of being an excellent physician with many years of service to an immigrant Romanian population in the Woodside section of Queens, New York. Many of his patients do not speak English, and many are unable to pay for his medical services.

- The Respondent has contributed a significant amount of his time and professional assistance to his community.
- The Hearing Committee is convinced that the Respondent is truly embarrassed and contrite regarding these charges.
- The Hearing Committee is convinced that there will be no repetition of this conduct by the Respondent.

The Hearing Committee determines that the appropriate penalty in this case would be to place the Respondent on probation under terms and conditions hereinafter specified in the ORDER.

NOTE: The Hearing Committee has considered the options of a fine and community service, but since the Respondent already devotes a significant amount of his time and professional assistance to his community, the Hearing Committee determines that these options are not indicated in this case.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent is placed on probation for a period to coincide with the probation imposed by the United States District Court, Southern District of New York, under the following term and conditions.
 - a. The Respondent shall comply with all the terms and conditions of probation as prescribed by the Federal Court.
 - b. The Respondent shall cause his federal probation officer to submit semi-annual reports to the Office of Professional Medical Conduct reporting on his compliance or failure to comply with any of the terms of his federal probation.
2. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to this Order and shall assume and bear all cost 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.

3. This **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified mail.

DATED: April 28, 2000
John Sweeney, New YOK

Frank E. Iaquinta M.D.
FRANK E. IAQUINTA, M.D., Chairperson

MARGERY W. SMITH, M.D.
STEPHEN E. WEAR, PH.D.

APPENDIX I



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

**IN THE MATTER
OF
SERBAN ION COCIOBA, M.D.**

**NOTICE
OF
REFERRAL
PROCEEDING**

**TO: SERBAN ION COCIOBA, M.D.
31-62 30 Second Street, 2nd Floor
Astoria, New York 11106**

**SERBAN ION COCIOBA, M.D.
26 East 36th Street
Office 1D
New York, New York 10016**

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 23rd day of March, 2000 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 March 14, 2000.

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 March 14, 2000 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
January 28, 2000



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

Inquiries should be addressed to:

Robert Bogan
Assistant Counsel
Office of Professional Medical Conduct
433 River Street
Suite 303
Troy, NY 12180
(518)402-0820

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

IN THE MATTER
OF
SERBAN ION COCIOBA, M.D.

STATEMENT
OF
CHARGES

SERBAN ION COCIOBA, M.D., the Respondent, was authorized to practice medicine in New York state on July 2, 1989, by the issuance of license number 178659 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 22, 1999, in the United States District Court, Southern District of New York, Respondent was found guilty of Unlawful Receipt of Kickbacks in violation of 42 USC 1320a-7b(b)(1), and on or about April 12, 1999, was sentenced to two (2) years probation, six (6) months home confinement, fined \$10,000.00, and assessed \$100.00.

SPECIFICATION

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

1. The facts in paragraphs A.

DATED: Jan 28, 2000
Albany, New York

Peter D. Van Buren

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