

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE

PROTHONOTARY

2005 APR 15 PM 3:17

Department of State

Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs

vs.

Harvey Walter Brookman, MD,  
Respondent

Docket No. 0519 -49-05  
File No. 05-49-03062

**ORDER OF TEMPORARY SUSPENSION AND NOTICE OF HEARING**

AND NOW, this 15<sup>th</sup> day of April, 2005, upon review of the Petition for Temporary Suspension of the license to practice Medicine of **Harvey Walter Brookman, MD**, (hereinafter "Respondent") License No. MD-026946-E, filed by the Prosecuting Attorney for the Commonwealth of Pennsylvania, the State Board of Medicine (hereinafter "Board") makes the following findings and enters the following Order:

**SUSPENSION ORDER**

The Board finds the Prosecuting Attorney has alleged facts in the Petition, which, if taken as true, establish at each and every count that the continued practice of medicine by the Respondent presents an immediate danger to the public health and safety. Therefore in accordance with section 40(a) of the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended, (hereinafter "Act"), 63 P.S. § 422.40(a), the Board **ORDERS** that the license issued to the Respondent to practice medicine in the Commonwealth is **TEMPORARILY SUSPENDED** upon the service of this order. Respondent shall surrender his wallet card, registration certificate and wall certificate to representatives of the Bureau of Enforcement and

Investigation, Bureau of Professional and Occupational Affairs, immediately upon service of this order in accordance with the Act at 63 P.S. § 422.44.

#### PRELIMINARY HEARING

A preliminary hearing shall be scheduled and conducted by the Board or Office of Hearing Examiners to be convened within thirty (30) days from the date of issuance of this Order. The preliminary hearing shall be limited to evidence on the issue of whether there is a prima facie case to support temporary suspension of the Respondent's license. The preliminary hearing will be held at a location designated by the Board or a hearing examiner for the Board.

The Respondent is entitled to be present at the preliminary hearing and may be represented by an attorney, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings.

If the Board or hearing examiner finds a prima facie case is not established, Respondent's license will be immediately restored. If a prima facie case is established, the temporary suspension shall remain in effect until vacated by the Board, but in no event longer than 180 days, unless otherwise ordered or agreed to by the participants.

#### FORMAL HEARING

Pursuant to Section 9 (b) of the Medical Practice Act, Act, 63 P.S. § 422.9 (b), actions to suspend revoke or restrict a Respondent's license will be commenced by the filing of an Order to Show Cause.

Respondent is directed to respond to the Petition for Immediate Temporary Suspension by filing an Answer in writing within twenty (20) days of the date of the issuance of the Petition for Immediate Temporary Suspension. A formal hearing will be conducted by the Board or hearing examiner for the Board.

### PROCEDURES

Continuances will be granted for good cause only. A request for a continuance must be filed with the Prothonotary in writing at least one week prior to the date of the hearing. The requirement of the one-week advance filing of a request for continuance will be waived only upon a showing of good cause. The failure to have an attorney present and a request for continuance to retain an attorney will not be considered a valid reason for the granting of a continuance on the day of the hearing. **A request by the Respondent for an extension of time for a continuance which will delay the preliminary hearing or the formal hearing must be accompanied by the agreement of the Respondent that the 180-day temporary suspension will continue during whatever additional time is necessary to conclude the proceedings.**

All proceedings are conducted in accordance with the Administrative Agency Law, 2 Pa.C.S. §§ 501-508, 701-704; 63 P.S. §§ 2201-2207; and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1-35.251. A record of the hearing will be stenographically prepared by an official reporting service. A copy of the transcript may be secured by personally making arrangements with the reporting service at the time of the hearing.

Any document submitted in this matter must be filed with:

Deanna S. Walton, Prothonotary  
Bureau of Professional and Occupational Affairs  
2601 North Third Street  
Harrisburg, PA 17110  
717-772-2686

Any document filed with the Prothonotary must also be served on the Prosecuting Attorney:

Gregory S. Olsavick  
Prosecuting Attorney  
2601 North Third Street  
Harrisburg, Pennsylvania 17110  
717-783-7200

**BY ORDER:**

**STATE BOARD OF MEDICINE  
PROBABLE CAUSE SCREENING COMMITTEE**

\_\_\_\_\_  
**Kishor S. Mehta**

  
**Howard K. Goldstein, Esquire**

Respondent's Addresses:

**Harvey Walter Brookman, MD**  
12 Moon Circle  
Yardley, PA 19067

Prosecuting Attorney:

**Gregory S. Olsavick, Esquire**

Board Counsel:

**Gerald S. Smith, Esquire**

Date of Issuance:

4/18/05

**BY ORDER:**

**STATE BOARD OF MEDICINE  
PROBABLE CAUSE SCREENING COMMITTEE**

  
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Kishor S. Mehta

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Howard K. Goldstein, Esquire

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12 Moon Circle  
Yardley, PA 19067

**Prosecuting Attorney:**

Gregory S. Olšavick, Esquire

**Board Counsel:**

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**Date of Issuance:**

4/18/05

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DEPARTMENT OF STATE  
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Commonwealth of Pennsylvania  
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vs.

Harvey Walter Brookman, MD,  
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: Docket No.  
:  
: File No. 05-49-03062  
:

CERTIFICATE OF SERVICE

I, Gregory S. Olsavick, hereby certify that I have this 18<sup>th</sup> day of April, 2005 served a true and correct copy of the foregoing Order of Temporary Suspension and Notice of Hearing upon all parties of record in this proceeding in accordance with the requirements of Section 33.31 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code §33.31 (relating to service by the agency).

CERTIFIED MAIL, RETURN RECEIPT REQUESTED:

Harvey Walter Brookman, MD  
12 Moon Circle  
Yardley, PA 19067

  
Gregory S. Olsavick  
Prosecuting Attorney  
Commonwealth of Pennsylvania  
Department of State

P. O. Box 2649  
Harrisburg, PA 17105-2649  
(717) 783-7200

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BEFORE THE STATE BOARD OF MEDICINE


Commonwealth of Pennsylvania :  
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vs. : Docket No.  
Harvey Walter Brookman, MD, : File No. 05-49-03062  
Respondent :

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FIRST CLASS MAIL, POSTAGE PREPAID:

Harvey Walter Brookman, MD  
12 Moon Circle  
Yardley, PA 19067

  
Gregory S. Olsavick  
Prosecuting Attorney  
Commonwealth of Pennsylvania  
Department of State

P. O. Box 2649  
Harrisburg, PA 17105-2649  
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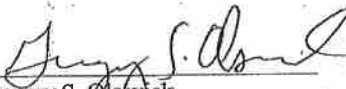
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FIRST CLASS MAIL, POSTAGE PREPAID:

David R. Dearden, Esquire  
Kalogredis, Sansweet, Dearden and Burke, Ltd.  
987 Old Eagle School Road, Suite 704  
Wayne, PA 19087-1708

  
Gregory S. Olsavick  
Prosecuting Attorney  
Commonwealth of Pennsylvania  
Department of State

P. O. Box 2649  
Harrisburg, PA 17105-2649



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Docket No. 0519 -49-05  
File No. 05-49-03062

PETITION FOR IMMEDIATE TEMPORARY SUSPENSION

AND NOW, the Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs, by and through its Prosecuting Attorney, Gregory S. Olsavick, petitions the State Board of Medicine ("Board") for the immediate temporary suspension of the license to practice medicine issued to **Harvey Walter Brookman, MD** ("Respondent"), pursuant to section 40(a) of the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended, ("Act"), 63 P.S. § 422.40(a), and in support thereof alleges as follows:

1. Petitioner is a Prosecuting Attorney for the Bureau of Professional and Occupational Affairs, a departmental administrative agency within the Pennsylvania Department of State.
2. The Respondent is **Harvey Walter Brookman, MD**, who at all times relevant, was licensed to practice medicine in the Commonwealth of Pennsylvania, License No. MD-026946-E.
3. The Respondent's last known address on file with the Board is 12 Moon Circle, Yardley, PA 19067.
4. At all times pertinent to the allegations in this Petition, Respondent was licensed to practice medicine and surgery in the Commonwealth of Pennsylvania.

5. Respondent's license is current and will expire on December 31, 2006, and may be continually renewed thereafter upon the filing of the appropriate documentation and the payment of the necessary fees.

COUNT 1

6. Paragraphs 1 through 5 are incorporated by reference.

7. At all relevant times, Respondent provided medical services to various patients for and on behalf of American Women's Services (a licensed abortion provider) at one or more of their offices in Pennsylvania.

8. Respondent, beginning in 2001 or earlier, performed a large number of abortion procedures on patients, at the King of Prussia office of American Women's Services, to wit, Associates in Obstetrics & Gynecology. In addition he performed procedures at the Pittsburgh office, also known as American Medical Services; and at the State College and Erie offices.

9. At all times subsequent to June 28, 2001, Respondent's Pennsylvania medical license was active, and he was engaged in providing health care services to various individuals in Pennsylvania.

10. However, at no time subsequent to June 28, 2001 and until on or about February 14, 2005, did Respondent maintain medical professional liability insurance coverage, as required by Section 711(a) of the MCare Act, 40 P.S. §1303.711(a). On or about February 14, 2005, Respondent obtained a temporary 30 day policy of medical professional liability insurance coverage.

11. During the period of June 29, 2001 through October 31, 2004, Respondent performed in excess of 2400 abortions at the various American Women's Services facilities identified above.

12. Further, it is believed and thus averred that from and after October 31, 2004, Respondent has continued to perform abortions at one or more of the aforesaid facilities;

notwithstanding that he did not have medical professional liability insurance coverage until the temporary 30 day policy effective on or about February 14, 2005, as aforesaid.

13. Previously, Respondent's medical license was disciplined in the Commonwealth of Pennsylvania, together with other states, based upon incidents involving negligence and/or gross negligence in the area of Obstetrics and Gynecology.

14. Specifically, on January 10, 1995, the Pennsylvania State Board of Medicine entered an Order of Immediate Suspension of Respondent's license. This was based upon the Order of Temporary Suspension entered on November 28, 1994, by the New Jersey State Board of Medical Examiners (supplemented on December 6, 1994).

15. The November 28, 1994 New Jersey reciprocal Order determined that Respondent had repeatedly performed unnecessary and contraindicated hysteroscopies (invasive surgical procedure), which placed various pregnant patients and fetuses at severe risk.

16. Thereafter, by Order dated February 22, 1996, the Pennsylvania State Board of Medicine confirmed and continued the Order of Temporary Suspension, and actively suspended Respondent's medical license.

17. By Amended Order dated May 13, 1996, the Pennsylvania State Board of Medicine, lifted the active suspension of Respondent's license and placed him on a 2-year period of suspension stayed in favor of probation.

18. Based upon the foregoing factual allegations, the Respondent's continued practice of medicine within the Commonwealth of Pennsylvania makes Respondent an immediate and clear danger to the public health and safety.

#### COUNT 2

19. Paragraphs 1 through 18 are incorporated by reference.

20. Pursuant to Section 903(1) of the MCare Act, 40 P.S. §1303.903(1), the Commonwealth was notified of a medical professional liability action filed against Respondent. Specifically, an action filed on or about July 5, 2002, in the Court of Common Pleas of Philadelphia County, July Term 2002, No. 000817.

21. This civil action had been filed by Respondent's former female patient, T.M. During the course of an elective abortion procedure on or about February 16, 2002, at the King of Prussia facility, Respondent was guilty of negligence and medical malpractice, resulting in severe and substantial injuries to the patient.

22. At the time, patient T.M. was 17 years of age.

23. The King of Prussia American Women's Services facility was solely an outpatient facility, and Respondent administered IV sedation anesthesia only to the patient T.M. for purposes of this procedure.

24. It is believed and thus averred that Respondent is not Board Certified in Obstetrics and Gynecology; nor is he affiliated or on the staff of any hospitals in the King of Prussia area.

25. Respondent attempted to perform a dilation and suction aspiration in order to terminate T.M.'s pregnancy at that time. During the procedure, there was noted a loop of bowel and fat in the vagina and tubing. The procedure was then stopped and 911 was called.

26. T.M. had to be emergently transported by helicopter to Hahnemann University Hospital for treatment of injuries to her bowel and colon.

27. T.M. was subjected to immediate surgery at Hahnemann University Hospital, in the nature of an exploratory laparotomy with left hemicolectomy, primary anastomosis in the transverse and sigmoid areas and a small bowel segment resection.

28. During this surgery, the surgeons at Hahnemann University Hospital noted a "two foot

segment of bowel protruding through the vagina." The bowels showed hemorrhage compatible with traumatic injury.

29. Thus, not only was the uterus perforated during the course of the procedure by Respondent, but also the bowel which was then "sucked into the vagina", which implies multiple suction curettage through the perforation.

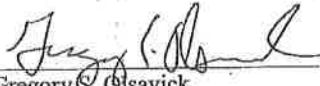
30. Furthermore, this matter arose to the level of gross negligence due and owing to having been performed in an outpatient setting under IV sedation anesthesia.

31. It is believed that Respondent continues and is practicing medicine and surgery presently in an outpatient setting, including the performance of abortions and other gynecological procedures.

32. Based upon the foregoing factual allegations, the Respondent's continued practice of medicine within the Commonwealth of Pennsylvania makes Respondent an immediate and clear danger to the public health and safety.

**WHEREFORE**, the Petitioner respectfully requests that the Board issue an Order immediately suspending the license to practice medicine of **Harvey Walter Brookman, MD**, License No. MD-026946-E pursuant to the authority granted to it pursuant to section 40(a) of the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended, 63 P.S. § 422.40(a).

Respectfully submitted,

  
Gregory C. Olsavick  
Prosecuting Attorney  
Commonwealth of Pennsylvania  
Department of State  
P.O. Box 2649  
Harrisburg, PA 17105-2649  
(717) 783-7200

DATE: 4-15-05