

October 31, 2014

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul Tsui, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

Romanchal Mosai, M.D.
REDACTED

Romanchal Mosai, M.D.
5084 West Colonial Drive
Orlando, Florida 32808

RE: In the Matter of Romanchal Mosai, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 14-272) 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 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
Office of Professional Medical Conduct
Riverview Center
150 Broadway - Suite 355
Albany, New York 12204

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), (McKinney Supp. 2013) and §230-c subdivisions 1 through 5, (McKinney Supp. 2013), "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., Chief Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

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,

REDACTED
James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH:cah
Enclosure

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

COPY

IN THE MATTER
OF
ROMANCHAL MOSAI, M.D.

DETERMINATION
AND
ORDER
BPMC#14-272

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("the Department"). A July 15, 2014 Commissioner's Order and Notice of Referral Proceeding with Statement of Charges was served upon Romanchal¹ Mosai, M.D. ("Respondent") and is attached to this Determination and Order as Appendix 1. A hearing, pursuant to N.Y. Public Health Law ("PHL") §230 and New York State Admin. Proc. Act §§301-307 and 401, was held on September 17, 2014 at the Department's offices at 150 Broadway, Albany, New York.

Peter B. Kane, M.D., Eleanor Lombardi Wilk, D.O., and David F. Irvine, DHSc, RPA-C, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee ("Committee") in this matter. Ann H. Gayle, Administrative Law Judge, served as the administrative officer. The Department appeared by Paul Tsui, Associate Counsel. The Respondent did not appear and did not submit an answer to the charges. Evidence was received and a transcript of this hearing was made.

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

¹ also known as Roman [transcript, page 6]

STATEMENT OF CASE

This case was brought pursuant to PHL §230(10)(p) which provides for a hearing with circumscribed issues when a licensee is charged with misconduct under N.Y. Education Law ("Educ. Law") §6530(9) based upon a criminal conviction under federal or state law and/or upon an administrative adjudication in another state regarding conduct that would amount to a crime and/or professional misconduct if committed in New York. The scope of the hearing is limited to a determination of the penalty, if any, to be imposed upon the licensee. In the instant case, Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(a)(iii) for having been convicted of a crime under the laws of another jurisdiction, §6530(9)(b) for having been found guilty of professional misconduct by another state, and §6530(9)(d) for having had disciplinary action taken against him.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Citations in brackets, which refer to transcript page numbers ["T"] and exhibits ["Ex"] that were accepted into evidence, represent evidence found persuasive by the Committee in arriving at a particular finding. All Committee findings were unanimous.

1. Respondent did not appear at the hearing although notified of the hearing by personal service on July 22, 2014. [Ex 2]
2. Respondent was authorized to practice medicine in New York State on October 27, 1978 by the issuance of license number 136602 by the New York State Education Department. [Ex 3]
3. On January 24, 2013, Respondent was adjudicated guilty based on a plea of nolo contendere to a charge of R.I.C.O. (racketeering) under Florida Statute Code 895.03(3) by

the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida ("Florida Circuit Court") in case number 2010-CF-007627-A-O, and his sentence included incarceration for 1 day, probation for 20 years, 200 hours of community service, a fine in the amount of \$21,655.70, and restitution in the amount of \$625. [Ex 4]

4. On September 30, 2013, the Board of Medicine of the State of Florida's Department of Health ("Florida Board") issued a final order incorporating an April 16, 2013 settlement agreement with certain amendments. The Florida Board's order included, *inter alia*, a fine in the amount of \$30,000, costs in the amount of \$13,501.74, probation to include a practice monitor, a permanent restriction on Respondent's license prohibiting him from prescribing controlled substances, and required courses in ethics, prescribing, and record keeping. [Ex 5; Ex 6]
5. On September 10, 2013, the State Board of Medicine of the Commonwealth of Pennsylvania's Department of State ("Pennsylvania Board") issued a final order revoking Respondent's license to practice medicine and surgery in the Commonwealth of Pennsylvania. [Ex 7]

CONCLUSIONS OF LAW

The Department charged Respondent with three Specifications of Charges of professional misconduct under Educ. Law §6530.

Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(a)(iii) by having been convicted of a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law (First Specification). The Committee finds that Respondent's crime of racketeering in Florida, if committed in New York, would have constituted a crime under New York state law. [T 7, 12-13]

Respondent is further charged with professional misconduct pursuant to Educ. Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state (Second Specification), and pursuant to Educ. Law §6530(9)(d) by having his license to practice medicine revoked, suspended or having other disciplinary action taken, 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 (Third Specification). The Committee concludes that the conduct upon which the Florida Board's findings was based and the disciplinary action was taken, *i.e.*, fraudulent practice, negligence, inadequate record keeping, and having been convicted of a crime, if committed in New York state would constitute professional misconduct under the laws of New York state, to wit, Educ. Law §§6530(2), (3), (32), and (9)(a)(iii), respectively. The Committee further concludes that the conduct upon which the Pennsylvania Board's findings was based and the disciplinary action was taken, *i.e.*, having been convicted of a crime in another state, would constitute professional misconduct under the laws of New York state, to wit, Educ. Law §§6530(9)(a)(iii). [T 8-9, 10-11]

As such, the Committee unanimously concludes that the First, Second, and Third Specifications are sustained.

DETERMINATION AS TO SANCTION

The Committee, in considering the full range of sanctions available pursuant to PHL Law §230-a, including: (1) censure and reprimand; (2) suspension of the license, wholly or partially; (3) limitation on practice; (4) revocation of the license; (5) annulment of the license or

registration; (6) limitation on registration or further licensure; (7) monetary penalties; (8) a course of education or training; (9) performance of public service; and, (10) probation, unanimously concludes that the only appropriate sanction is a revocation of Respondent's license.

The Committee finds that Respondent's felony conviction for racketeering based on acts he committed by virtue of his Florida medical license is a very serious offense. The Committee further finds that Respondent's medical license related conviction, coupled with the Florida Board's action based on fraud, negligence, and inadequate record keeping for his care and treatment of patients in Florida demands a revocation as the only appropriate sanction to address Respondent's very serious misconduct.


ORDER

IT IS HEREBY ORDERED THAT:

1. The following charges of misconduct under Educ. Law §6530 are sustained:
 - Educ. Law §6530(9)(a)(iii) – having been convicted of a crime under the laws of another jurisdiction
 - Educ. Law §6530(9)(b) – having been found guilty of professional misconduct by another state
 - Educ. Law §6530(9)(d) – having had disciplinary action taken
2. Pursuant to PHL §230-a(4) Respondent's license to practice medicine shall be revoked.
3. This order shall be effective upon service on the Respondent by personal service or by certified mail as required under PHL §230(10)(h)

DATED: 11/29/2014, New York
_____, 2014

REDACTED


PETER B. KANE, M.D., Chair
ELEANOR LOMBARDI WILK, D.O.
DAVID F. IRVINE, DHSc, RPA-C

APPENDIX 1

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

EXHIBIT
#1
LA 9-17-74

IN THE MATTER
OF
ROMANCHAL MOSAI, M.D.
CO-13-10-5585A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: Romanchal Mosai, M.D.
REDACTED

Romanchal Mosai, M.D.
5084 West Colonial Drive
Orlando, FL 32808

The undersigned, Howard A. Zucker, M.D., J.D., Acting Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that **ROMANCHAL MOSAI, M.D.**, Respondent, licensed to practice medicine in the State of New York on October 27, 1978, by license number 136602, has been convicted of committing an act constituting a felony in the Circuit Court of the County of Orange, State of Florida which, if committed within New York State, would have constituted a felony under New York State law, as is more fully set forth in the Statement of Charges attached, hereto, and made a part, hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), effective immediately **ROMANCHAL MOSAI, M.D.**, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

ANY PRACTICE OF MEDICINE IN VIOLATION OF THIS COMMISSIONER'S ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY, DEFINED

BY NEW YORK EDUCATION LAW §6512.

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230 and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 17th day of September, 2014, at 10:30 a.m., at 150 Broadway, Suite 510, Menands, New York 12204-2719, at the offices of the New York State Health Department and at such other adjourned dates, times, and places as the committee may direct. Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health no later than ten days prior to the hearing. Any charge and allegation not answered shall be deemed admitted. Respondent may wish to seek the advice of counsel prior to filing such answer.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. Respondent shall appear in person at the hearing and may be represented by counsel who shall be an attorney admitted to practice in New York state. Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to §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 hearing will proceed whether or not Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and adjournment requests are not, therefore, routinely granted. Requests for adjournments must be made in writing to

the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, 150 Broadway, Suite 510, Menands, NY 12204-2719, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
July 15, 2014

REDACTED

Howard A. Zucker, M.D., J.D.
Acting Commissioner of Health
New York State Department of Health

Inquiries should be addressed to:

Paul Tsui
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

IN THE MATTER
OF
ROMANCHAL MOSAI, M.D.
CO-13-10-5585-A

STATEMENT
OF
CHARGES

ROMANCHAL MOSAI, M.D., Respondent, was authorized to practice medicine in New York State on October 27, 1978, by the issuance of license number 136602 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 24, 2013, in the Circuit Court of the County of Orange, State of Florida, Respondent pleaded nolo contendere to racketeering, a first degree felony, and adjudicated guilty. Respondent was sentenced to one day in jail, 20 years of probation, 200 hours of community service, fined \$21,655.70, and ordered to pay \$625.00 restitution.

B. On or about April 16, 2013, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Settlement Agreement (hereinafter "Florida Agreement"), inter alia, reprimanded the Respondent, fined him \$30,000.00 plus costs, suspended his license to practice medicine for a period of one year, and subjected him to probation supervision for a period of one year based upon the conviction for Racketeering as well as the inappropriate and excessive prescribing of Lortab to three patients, including two undercover police officers, without completing appropriate examinations and failing to maintain appropriate records. On or about September 30, 2013, the Florida Board issued a Final Order incorporating the Settlement Agreement of April 16, 2013, with certain amendments regarding the Respondent's plea in the Circuit Court, the terms of probation regarding a practice monitor, and a restriction on Respondent's license prohibiting him from prescribing controlled substances.

C. The conduct resulting in the Florida Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(9)(a)(iii) (Being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law).
2. New York Education Law §6530(2) (Practicing the profession fraudulently or beyond its authorized scope).
3. New York Education Law §6530(3) (Practicing the profession with negligence on more than one occasion).
4. New York Education Law §6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

D. On or about June 7, 2013, the Commonwealth of Pennsylvania, Department of State, State Board of Medicine (hereinafter "Pennsylvania Board"), by an Adjudication and Order, inter alia, revoked Respondent's license to practice medicine in the Commonwealth of Pennsylvania based upon Respondent's conviction in the State of Florida as outlined in Paragraph "A."

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York State Education Law §6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

2. The facts in Paragraphs B and C and C1, B and C and C2, B and C and C3, B and C and C4, and/or D.

THIRD SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked, suspended, or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

3. The facts in Paragraphs B and C and C1, B and C and C2, B and C and C3, B and C and C4, and/or D.

DATED: *July 15*, 2014
Albany, New York

REDACTED

MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

To: Paul Tsui
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Room 2512, Corning Tower
Empire State Plaza
Albany, New York 12237

Romanchal Mosai, M.D.

(REDACTED)

Romanchal Mosai, M.D.
5084 West Colonial Drive
Orlando, Florida 32808