



## Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Acting Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

January 5, 2017

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Simmon Wilcox, M.D.  
[REDACTED]  
Taft Correctional Institution  
1500 Cadet Road  
Taft, California 93268

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

**RE: In the Matter of Simmon Wilcox, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 17-009) 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. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "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,



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**

**SIMMON WILCOX, M.D.**

**DETERMINATION**

**AND**

**ORDER**

**BPMC #17-009**

A hearing was held on December 13, 2016, at the offices of the New York State Department of Health ("Department").<sup>1</sup> Pursuant to § 230(10)(e) of the Public Health Law ("PHL"), **WILLIAM A. TEDESCO, M.D.**, Chairperson, **DENNIS P. ZIMMERMAN, M.S., CRC**, and **MARY E. RAPPAZZO, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **DAWN MacKILLOP-SOLLER, ADMINISTRATIVE LAW JUDGE ("ALJ")**, served as the administrative officer.

The Department appeared by Marc Nash, Senior Attorney. A Notice of Referral Proceeding and Statement of Charges dated October 24, 2016, were served upon Simmon Wilcox, M.D. ("Respondent"), who did not appear at the hearing.<sup>2</sup> There were no witnesses at the hearing. The Hearing Committee received and examined documents from the Department and a stenographic reporter prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustains the charge that the Respondent committed professional misconduct, in violation of Education Law ("Educ. Law") § 6530(9)(a)(ii), by having been convicted of the felony counts of Conspiracy to Distribute Oxycodone, in violation of 21 United States Code ("U.S.C.") 841(a)(1) and

<sup>1</sup> The location of the hearing was 150 Broadway, Suite 510, Menands, New York.

<sup>2</sup> Copies of the Notice of Referral Proceeding and Statement of Charges are attached to this Determination and Order as Appendix I. The Department presented evidence to show that on November 3, 2016, the Respondent was personally served at Taft Correctional Institution, located in Taft, CA, with the Notice of Hearing and Statement of Charges, establishing jurisdiction pursuant to PHL 230(10)(d)(i). [Exhibit 2].

846, and Distribution of Oxycodone, in violation of 21 U.S.C. 841(a)(1). The Hearing Committee unanimously votes 3-0 to revoke the Respondent's license to practice medicine in New York.

### **BACKGROUND**

This case began with an Order by the Commissioner of Health, Howard A. Zucker, M.D., J.D., summarily suspending the Respondent's medical license pursuant to PHL § 230(12)(b). The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a registered provider or licensee is charged solely with a violation of Educ. Law § 6530(9). In such cases, the charge of misconduct is 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 Respondent is charged with one specification of professional misconduct pursuant to Educ. Law § 6530(9)(a)(ii) by having been convicted of committing acts constituting crimes under federal law, in violation of 21 U.S.C. 841(a)(1) and 846.

### **FINDINGS OF FACT**

These Findings of Fact were made by the Hearing Committee after a review of the record in this matter. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence. The references in brackets refer to exhibits ["Ex."]. The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. On October 17, 1983, the Respondent was authorized to practice medicine in New York by the Education Department and was issued license number 156341. [Ex. 3].

2. On or about May 11, 2016, in the United States District Court, District of Utah, the Respondent was found guilty after trial of the felony counts of Conspiracy to Distribute Oxycodone, in violation of 21 U.S.C. 841(a)(1) and 846, and Distribution of Oxycodone, in violation of 21 U.S.C.

841(a)(1), both of which are punishable pursuant to 21 U.S.C. 841(b)(1)(C). The Respondent was sentenced to a term of imprisonment of one hundred months or eight years, followed by a three-year period of supervised release, and payment of an assessment in the amount of \$200.00. [Ex. 1, 4].

#### **VOTE OF THE HEARING COMMITTEE**

The Respondent violated New York Educ. Law § 6530(9)(a)(ii) by having been convicted of committing acts constituting crimes under federal law.

VOTE: Sustained (3-0)

#### **CONCLUSIONS OF LAW**

In the United States District Court, District of Utah, a federal court, the Respondent was adjudicated guilty, following a trial, on the felony counts of Conspiracy to Distribute Oxycodone, in violation of 21 U.S.C. 841(a)(1) and 846, and Distribution of Oxycodone, in violation of 21 U.S.C. 841(a)(1). The conduct that is the subject of the Statement of Charges in this action constitutes crimes under federal law. Therefore, the specification of misconduct contained in the Statement of Charges of this proceeding is sustained.

The Respondent did not appear at the hearing in person or by counsel. After considering the documentary evidence concerning service of the Notice of Referral Proceeding and Statement of Charges, the ALJ ruled that the Department had met the requirements of law for service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits despite the Respondent's absence. The Department presented evidence to show the Respondent's involvement in the illegal distribution of a Schedule II controlled substance, specifically oxycodone. The Hearing Committee noted the serious nature of the offenses and the Respondent's role in handling such dangerous, addictive and potentially harmful drugs, which resulted in his sentence of eight years in prison. [Ex. 4]. As such, in considering the full spectrum of

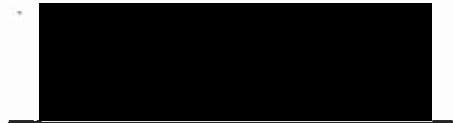
penalties available by statute, including revocation, suspension, censure and reprimand, probation and the imposition of fines, the Hearing Committee unanimously concluded that the evidence supports the penalty of revocation of the Respondent's New York medical license.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The specification of professional misconduct, as set forth in the Statement of Charges, is **SUSTAINED**;
2. The Respondent's license to practice medicine in New York State is **REVOKED**; and
3. This Determination and Order shall be effective upon service on the Respondent. Service shall be either by certified mail or upon the Respondent at his 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  
1/3, 2016  
2017



William A. Tedesco, M.D.  
Chairperson

Dennis P. Zimmerman, M.S., CRC  
Mary E. Rappazzo, M.D.

TO: Simmon Wilcox, M.D.  
[Redacted]  
Taft Correctional Institution  
1500 Cadet Road  
Taft, CA 93268

Marc Nash, Esq.  
Senior Attorney  
Bureau of Professional Medical Conduct  
Corning Tower Building - Room 2512  
Empire State Plaza  
Albany, New York 12237

# APPENDIX I

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

**IN THE MATTER  
OF  
SIMMON WILCOX, M.D.**

**NOTICE OF  
REFERRAL  
PROCEEDING**

**TO: Simmon Wilcox, M.D.  
Taft Correctional Institute  
1500 Cadet Road  
Taft, California 93268**

**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 §§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 December 14, 2016, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Menands (Albany), NY 12204-2719.<sup>1</sup>

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 who shall be an attorney admitted to practice in New York state. 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, Riverview Center, 150

<sup>1</sup> For GPS purposes, enter "Menands", not "Albany".



Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least ten days prior to the date of 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 answer. You may also file a written brief and affidavits with the Committee. All such documents 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, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

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. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

**YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.**

Department attorney: Initial here [REDACTED]

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.

**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 OUT 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  
October 24 2016



**MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct**

**Inquiries should be addressed to:**

**Marc S. Nash  
Senior Attorney  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, NY 12237  
(518) 473-1706**

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

**IN THE MATTER  
OF  
SIMMON WILCOX, M.D.**

**STATEMENT  
OF  
CHARGES**

SIMMON WILCOX, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 17, 1983, by the issuance of license number 156341 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about May 11, 2016 in the United States District Court, District of Utah, Respondent was found guilty to a felony of Conspiracy to Distribute Oxycodone [21 U.S.C. § 841(a)(1) and § 846] and a felony of Distribution of Oxycodone [21 U.S.C. § 841(a)(1)]. Respondent was sentenced to a total term of one hundred (100) months incarceration followed by a three year period of supervised release on each count, to run concurrently. Respondent was further assessed a monetary penalty in the amount of Two Hundred Dollars (\$200.00).

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

Respondent violated Education Law § 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 Paragraph A.

DATE: October 27, 2016  
Albany, New York



**MICHAEL A. HISER**  
Deputy Counsel  
Bureau of Professional Medical Conduct