



**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

The Law Office of Roland R. Acevedo
27 Whitehall Street
New York, New York 10004

Lauretta Grzegorzcyk, M.D.


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

RE: In the Matter of Lauretta Grzegorzcyk, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 17-008) 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
LAURETTA GRZEGORCZYK, M.D.

DETERMINATION
AND
ORDER

BPMC #17-008

A hearing was held on November 17, 2016, at the offices of the New York State Department of Health ("Department").¹ Pursuant to § 230(10)(e) of the Public Health Law ("PHL"), JILL M. RABIN, M.D., Chairperson, HEIDI B. MILLER, PA-C, M.P.H., and JONATHAN ECKER, M.D., duly designated members of the State Board for Professional Medical Conduct ("BPMC"), served as the Hearing Committee in this matter. DAWN MacKILLOP-SOLLER, ADMINISTRATIVE LAW JUDGE ("ALJ"), served as the administrative officer.

The Department appeared by Ian Silverman, Assistant Counsel. A Notice of Referral Proceeding and Statement of Charges dated July 5, 2016, were served upon Laretta Grzegorzcyk, M.D. ("Respondent").² Roland R. Acevedo, Esq. appeared on behalf of the Respondent, who testified on her own behalf. There were no other 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 committing acts constituting crimes under federal law in her plea of guilty to one count of Conspiracy to Commit Health Care Fraud, in violation of Title 18 United States Code ("U.S.C.") 1347, and one count of Conspiracy to Commit Mail Fraud, in violation

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

² Copies of the Notice of Referral Proceeding and Statement of Charges are attached to this Determination and Order as Appendix I and were personally served on the Respondent on July 14, 2016, establishing jurisdiction. [Exhibit 2].

of Title 18 U.S.C. 1341. The Hearing Committee unanimously votes 3-0 to suspend the Respondent's license to practice medicine in New York with a license limitation, completion of medical education courses and probation with conditions.

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 18 U.S.C. 1347 and 1341.

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. "] or transcript page numbers ["T"]. The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. On October 20, 1987, the Respondent was authorized to practice medicine in New York by the Education Department and was issued license number 172740. [Ex. 3].

2. On or about April 2, 2016, in the United States District Court, Southern District of New York, the Respondent pled guilty to the felony crimes of Conspiracy to Commit Health Care Fraud, in violation of 18 U.S.C. 1347, and Conspiracy to Commit Mail Fraud, in violation of 18 U.S.C. § 1341. The Respondent was sentenced, on or about April 15, 2016, to three years of probation and was ordered to pay \$3,777,083.81 in restitution and a \$200.00 assessment. [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, Southern District of New York, a federal court, the Respondent was adjudicated guilty, following her plea of guilty, to the felony crimes of Conspiracy to Commit Health Care Fraud and Conspiracy to Commit Mail Fraud, in violation of 18 U.S.C. 1347 and 1341, respectively. 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. [Ex. 1, 4].

The Department presented evidence to show that the crimes that the Respondent was convicted of involved her participation in a scheme to defraud insurance companies while working as a medical doctor in no-fault medical clinics. The Respondent testified that her job duties were limited to performing physicals, taking histories, issuing prescriptions for physical therapy, and ordering tests, such as x-rays and MRIs. The Respondent also testified that throughout most of her tenure at the clinics, she was unaware that the individuals charged with managing and operating them were engaged in fraudulent practices. [Ex. A; T. 30-33, 37, 50].

The Hearing Committee had difficulty reconciling the Respondent's unawareness of fraud involving the clinics with the evidence that demonstrated that she owned them. The Respondent also admitted that at the time she incorporated the clinics, she was cognizant of a law that required that they be operated and controlled by medical professionals as opposed to lay people, which was violated here. The Respondent acknowledged using her medical license to facilitate this process, but explained that she was owner in "name only" and not involved in the daily management of the clinics. This conduct concerned the Hearing Committee because in the treatment that she provided to up to 15 car accident victims per day, which included ordering tests, issuing prescriptions and referrals to on-site chiropractors, acupuncturists and physical therapists, the Respondent contributed to a multi-million dollar profit margin at the clinics that was based on fraudulent treatment and billing practices. The evidence also showed that the Respondent's medical practices at the clinics continued throughout the period of the underlying investigation that led to her arrest. [Ex. A; T. 23-36, 41-43, 53-55].

Although troubled by the entire scenario, the Hearing Committee determined that the Respondent credibly testified to her extremely limited role in the fraudulent scheme. The Respondent convinced the Hearing Committee that for the majority of the time that she worked at the clinics, she was unaware of any wrongdoing. The Respondent testified in detail to her dedication to her job and how the medical care that she provided to patients was needed and warranted and not connected to kickbacks or bonuses. She also denied submitting any bills for treatment that she did not provide or related to testing or prescriptions for patients that she did not see. The Hearing Committee also took into consideration the evidence showing the Respondent's prior medical practice at a different clinic in 2006, where she became "embroiled in a (M)edicaid fraud case," but noted that no charges were filed against her. In considering the full spectrum of penalties available by statute, the Hearing Committee unanimously concluded that based on the totality of the circumstances in this case, the

Respondent's age at 69 and lack of any other criminal convictions or professional misconduct history, the Respondent's medical license be subject to the penalty of suspension for a period of one year with a license limitation to preclude ownership and incorporation of medical facilities, clinics or practices, completion of medical coursework in billing and internal medicine and three years of probation with conditions to include a practice monitor. [Ex. A, B; T. 26, 42-43, 48-49, 54].

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 is suspended for one year commencing on the effective date of this Order during which time the Respondent shall comply with the following terms:
 - a. The Respondent shall enroll in and complete continuing medical education courses in the topics of medical billing and internal medicine. The courses shall be subject to the prior written approval of the Director of the Office of Professional Medical Conduct ("OPMC");
 - b. The Respondent shall have a practice monitor agreement in place with a licensed physician. The practice monitor shall be subject to the prior written approval of the Director of the OPMC;
3. The Respondent is placed on probation for a period of three years, pursuant to the Terms of Probation (Appendix II), to include a practice monitor, and commencing on the date that the suspension is terminated. The period of probation shall be tolled while the Respondent is not engaged in the practice of medicine in New York State;

4. The Respondent's medical license is subject to a permanent license limitation prohibiting ownership or incorporation of any medical facility, clinic or practice;
5. The Respondent must comply with the terms of this Determination and Order and all the Terms of Probation attached to this Determination and Order; and
6. This Determination and Order shall be effective upon service on the Respondent. Service shall be either by certified mail or upon the Respondent at her 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

Deborah 9/25, 2016


Jill M. Rabin, M.D.
Chairperson

Heidi B. Miller, PA-C, M.P.H.
Johnathan Ecker, M.D.

TO: The Law Office of Roland R. Acovedo
27 Whitehall Street
New York, New York 10004

Lauretta Grzegorzcyk, M.D.


Ian Silverman, Esq.
Assistant Counsel
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX I

IN THE MATTER
OF
LAURETTA GRZEGORCZYK, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Laretta Grzegorzcyk, M.D.


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 September 15, 2016 at 10:30 a.m., at the offices of the New York State Department of Health, 259 Monroe Ave, Rochester, NY 14607.

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 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
July 5, 2016


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Ian Silverman
Assistant Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

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

IN THE MATTER

OF

LAURETTA GRZEGORCZYK, M.D.

**STATEMENT
OF
CHARGES**

LAURETTA GRZEGORCZYK, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 20, 1987 by the issuance of license number 172740 by the New York State Education Department.

FACTUAL ALLEGATIONS

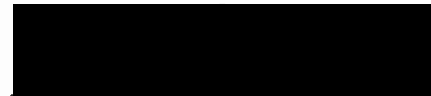
A. On or about on April 2, 2016 in the US District Court Southern District of New York, the Respondent plead guilty to one felony count of Conspiracy to Commit Health Care Fraud, in violation of Title 18 United States Code, Section 1347 and one count of Conspiracy to Commit Mail Fraud, in violation of Title 18 United States Code, Section 1341. Respondent was sentenced on April 8, 2016 to three years probation for each count to run concurrently. Respondent was ordered to pay \$3,777,083.81 at the rate of 10% of her gross monthly income.

SPECIFICATION OF MISCONDUCT

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: July, 5th 2016
Albany, New York



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

APPENDIX II

TERMS OF PROBATION

1. Respondent's conduct shall conform to moral and professional standards of conduct and to governing law. Any act of professional misconduct by Respondent as defined by New York Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to PHL § 230 (10) or (19), or both.
2. Respondent shall remain in continuous compliance with all requirements of New York Educ. Law § 6502, including, but not limited to, the requirements that licensee register and continue to be registered with the New York State Education Department and that licensee pay all registration fees. Respondent shall not exercise the option provided in New York Educ. Law § 6502(4) to avoid registration and payment of fees.
3. Respondent shall provide to the Director of the OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, New York, 12204, at least every six months and as otherwise requested, or within thirty days of any change in the information, the following information in writing:
 - a. A full description of the Respondent's employment and practice;
 - b. All professional and residential addresses and telephone numbers within and outside of New York State;
 - c. Any and all information concerning investigations, arrests, charges, convictions or disciplinary actions by any local, state, or federal agency; and
 - d. Any and all information concerning investigations, terminations, or disciplinary matters by any institution or facility.
4. Respondent shall remain on probation for a period of three years, during which the terms of probation shall remain in effect.
5. At the time that the suspension period ends, the Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty ("practice monitor"), who is proposed by the Respondent and subject to the written approval of the Director of the OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit the Respondent's medical practice at each and every location, on a random, unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by the Respondent, including patient records, prescribing

information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to the OPMC.

- b. The Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of the OPMC.
 - c. The Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with PHL § 230(18)(b). Proof of coverage shall be submitted to the Director of the OPMC prior to the Respondent's practice, after the suspension period ends.
6. The terms set forth in the paragraphs above are the minimum probation terms to be imposed on the Respondent, and other terms may be added by the Director of the OPMC. All compliance costs, including expenses and fees associated with the practice monitor, shall be the Respondent's responsibility.
 7. Respondent shall cooperate fully with, and will respond within two weeks to, OPMC requests to provide written periodic verification of Respondent's compliance with these terms of probation. Upon the Director of the OPMC's request, the Respondent shall meet personally with a person designated by the Director.
 8. The Respondent shall comply with these Terms of Probation. Upon receiving evidence of noncompliance with or a violation of these terms, the Director of the OPMC and/or the BPMC may initiate a violation of probation proceeding, and/or any other proceeding authorized by law, against the Respondent.