



Department of Health

ANDREW M. CUOMO
Governor

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

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

October 15, 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Pooja Rawal, Esq.
Bureau of Professional Medical Conduct
Empire State Plaza
Corning Tower Building, Room 2512
Albany, New York 12237

Nisar Piracha, MD
[REDACTED]
USP Canaan
3057 Eric J. Williams Memorial Drive
Waymart, Pennsylvania 18472

RE: In the Matter of Nisar Piracha, MD

Dear Parties:

Enclosed please find the Determination and Order (No. 18-223) 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: cmg
Enclosure

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

In the matter of

Nisar Piracha, MD
NYS license # 173856

:
:
: **Determination**
: **and Order**
: **18-223**
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:

A commissioner's order of summary action, notice of referral proceeding and statement of charges, all dated June 20, 2018, were served on Respondent **Nisar Piracha, MD**. The statement of charges alleged professional misconduct in violation of New York State Education Law 6530. A hearing was held at offices of the New York State Department of Health, 259 Monroe Avenue, Rochester, New York, on September 5, 2018.

Pursuant to Public Health Law 230(10)(e), **Richard F. Kasulke, MD**, Chair, **Heidi B. Miller, PA-C, MPH**, and **Ashwani Chhibber, MD**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee. **John Harris Terepka**, Administrative Law Judge, served as the administrative officer.

The Department of Health (the Petitioner) was represented by **Pooja Rawal, Esq.** **Nisar Piracha, MD** (the Respondent) did not appear, although duly served with notice of the hearing in conformity with the requirements of PHL 230(10)(d). (Exhibit 1.) At his request and with the consent of the Department and the hearing committee, the Respondent did participate in the hearing by conference telephone call. Evidence was received and a transcript of the proceedings was made. After consideration of the entire record, the hearing committee issues this determination and order sustaining the charges and revoking the Respondent's license to practice medicine.

JURISDICTION

As is set forth in Public Health Law 230(1)&(7) and Education Law 6530, the legislature created the State Board for Professional Medical Conduct in the Department of Health and authorized it to conduct disciplinary proceedings in matters of professional medical conduct. In this case, the Respondent, a physician, has been charged with misconduct pursuant to Ed.L 6530(9)(a)(ii).

Pursuant to PHL 230(10)(p), a hearing on limited issues, or "direct referral proceeding," is authorized when a licensee is charged solely with a violation of Ed.L 6530(9). Charges of misconduct under Ed.L 6530(9) are based upon a criminal conviction or an administrative violation, in New York State or another jurisdiction, establishing conduct that would constitute a crime or professional misconduct if committed in New York. The scope of the hearing is limited to whether there is a relevant conviction or administrative determination and if so, to a determination of the nature and severity of the penalty to be imposed. PHL 230(10)(p). Hearing procedures are set forth in Department of Health regulations at 10 NYCRR Part 51.

EVIDENCE

Witnesses for the Petitioner:	None
Petitioner exhibits:	1 - 4
Witnesses for the Respondent:	Respondent Nisar Piracha (unsworn, by telephone conference call)
Respondent exhibits:	None

A transcript of the hearing was made. (Transcript, pages 1-25.)

FINDINGS OF FACT

1. Respondent Nisar Piracha, MD was authorized to practice medicine in New York State on March 4, 1988 under license number 173856. (Exhibit 2.)

2. On December 21, 2016, in the United States District Court, Northern District of Georgia, Atlanta Division, the Respondent pleaded guilty to one felony count of Conspiracy to Distribute Oxycodone, Methadone and Alprazolam, in violation of 21 U.S.C. § 841(b)(1)(C) and 846. On March 9, 2017, he was ordered to forfeit a total of \$436,521.83 in funds and currency. On March 28, 2017, he was sentenced to 87 months of imprisonment, to be followed by three years of supervised release. (Exhibit 4.)

HEARING COMMITTEE DETERMINATION

After reviewing records obtained from the United States District Court in Georgia, (Exhibit 4), the hearing committee unanimously determined that, as alleged in the statement of charges, the Respondent violated Ed.L 6530(9)(a)(ii) which defines professional misconduct, in pertinent part, as:

9. (a) Being convicted of committing an act constituting a crime under... (ii) federal law.

The Petitioner recommended revocation of the Respondent's license.

The Respondent operated a pain clinic in Atlanta, Georgia. He pleaded guilty to a felony for conspiring to knowingly and intentionally dispense, for no legitimate medical purpose and in an effort to generate significant profits, the controlled substances oxycodone (schedule II), methadone (schedule II) and alprazolam (schedule IV). He was given a lengthy prison sentence and ordered to forfeit over \$436 thousand seized by the government in connection with this conspiracy.

The Respondent was duly served with notice of the hearing but failed to answer the charges or appear at the hearing. (Exhibit 1.) With the consent of the Department and the hearing committee, he did participate in the hearing by telephone conference call. (Transcript, page 4.) His unsworn testimony by telephone consisted mainly of a claim that

his medical recordkeeping was not as bad as described in the federal charges, and a request that his license not be revoked. (Transcript, pages 20-23.) He did not address or even mention the gravamen of the charge for which he was convicted, which was engaging in conspiracy to distribute controlled substances for profit. The hearing committee agreed that the evidence amply supported the Petitioner's recommendation that the Respondent's license be revoked.

The hearing committee's vote sustaining the charge and revoking the Respondent's license was unanimous (3-0).

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in New York State is revoked.

This order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required under PHL 230(10)(h).

Dated: Albany, New York

By:


Richard F. Kasulke, MD, Chair

Heidi B. Miller, PA-C, MPH
Ashwani Chhibber, MD

To: Pooja Rawal, Esq.
Bureau of Professional Medical Conduct
Corning Tower, Empire State Plaza
Albany, New York 12237

Nisar Piracha


USP Canaan
3057 Eric J. Williams Memorial Drive
Waymart, Pennsylvania 18472

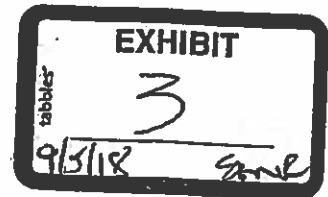
APPENDIX I

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

IN THE MATTER
OF
NISAR PIRACHA, M.D.

COMMISSIONER'S
ORDER OF
SUMMARY
ACTION

TO: NISAR PIRACHA
[REDACTED]
USP Canaan
3057 Eric J. Williams Memorial Drive
Waymart, PA 18472



The undersigned, Howard A. Zucker, M.D., J.D., Commissioner of Health, pursuant to N.Y. 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 NISAR PIRACHA, M.D. (henceforth "Respondent") New York license number 173856, has pleaded or been found guilty or convicted of committing an act constituting a felony under New York State law, federal law, or the law of another jurisdiction which, if committed within this state, would have constituted a felony under New York State law, as is more fully set forth in the Statement of Charges attached to the Notice of Referral Proceeding or Notice of Hearing and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York, or practice in any setting under the authority of Respondent's New York license.


Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the service of this order and shall end within ninety days

thereafter. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. 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 a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding provided to the Respondent contemporaneously with this Order.

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
June 20 2018


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

Inquiries should be directed to:
Pooja A. Rawal
Senior Attorney
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

**IN THE MATTER
OF
NISAR PIRACHA, M.D.**

**NOTICE OF
REFERRAL
PROCEEDING**

TO: NISAR PIRACHA


USP Canaan
3057 Eric J. Williams Memorial Drive
Waymart, PA 18472

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 5, 2018, at 10:30 a.m., at the offices of the New York State Department of Health, 259 Monroe Avenue, Rochester NY 14607, and at such other adjourned dates, times and places as the committee may direct.

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 

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
June 20, 2018


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Pooja A. Rawal
Senior Attorney
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

IN THE MATTER
OF
NISAR PIRACHA, M.D.

STATEMENT
OF
CHARGES

NISAR PIRACHA, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 4, 1988, by the issuance of license number 173856 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about December 21, 2016, the Respondent pled guilty in the U.S. District Court, Northern District of Georgia, Atlanta Division, to one felony count of Conspiracy to Distribute Oxycodone, Methadone, and Alprazolam in violation of 21 U.S.C. §§ 841(b)(1)(C) and 846 and a Consent Preliminary Order of Forfeiture ("CPOF") was issued. On or about March 9, 2017, the CPOF was accepted and the Respondent was ordered to forfeit \$378,527.42 of the \$425,055.42 in funds seized from an United Central Bank account, \$13,482.42 in funds seized from a Bank of America account, \$41,465.00 seized from an apartment, and \$3,407.00 seized from Piracha Wellness, the Respondent's pain clinic. On or about March 29, 2017, the Respondent was adjudicated guilty to one felony count of conspiracy to distribute Oxycodone, Methadone, and Alprazolam, and issued a special assessment of \$100.00. The Respondent was convicted and sentenced to 87 months of imprisonment, to be followed by three years of supervised release.

SPECIFICATION OF CHARGES

CRIMINAL CONVICTION (Federal)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. The facts as alleged in Paragraph A.

DATE: June 27, 2018
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct