



ANDREW M. CUOMO
Governor

Department
of Health

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

Public

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

May 29, 2015

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Grigory Kliger, M.D.
17150 Collins Avenue
Suite 101-315
North Miami, Florida 33160

Grigory Kliger, M.D.


Victor A. Worms, Esq.
65 Broadway – Suite 750
New York, New York 10006

Michael G. Bass, Esq.
NYS Department of Health
ESP – Coming Tower – Room 2512
Albany, New York 12237

RE: In the Matter of Grigory Kliger, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 15-140) 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 (l), (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.

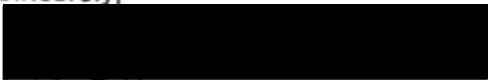
The notice of review served on the Administrative Review Board should be forwarded to:

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,


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

IN THE MATTER
OF
GRIGORY KLIGER, M.D.
CO-13-08-4548-A

DETERMINATION
AND
ORDER
BPMC #15-140

COPY

A hearing was held on April 23, 2015, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Hearing and Statement of Charges, both dated February 25, 2014, were served upon the Respondent, **Grigory Kliger, M.D.** An Amended Statement of Charges, dated September 9, 2014 was served on the Respondent on September 9, 2014.

Pursuant to Section 230(10)(e) of the Public Health Law, **Mohammad-Reza Ghazi-Moghadam, M.D.**, Chair, **Eleanor C. Kane, M.D.**, and **Richard H. Edmonds, Ph.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **James E. Dering, Esq.**, General Counsel, by **Michael G. Bass, Esq.**, of Counsel. The Respondent, **Grigory Kliger, M.D.**, did appear with his attorney, **Victor A. Worms, Esq.** of New York City.

Evidence was received and transcripts of these proceedings were made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10) (p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct 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 scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(a)(ii) – by having been convicted of committing an act constituting a crime under federal law.

Respondent is also charged with committing professional misconduct as defined in N.Y. Education Law §6530(9)(b) and (d) by having been found guilty and having his license revoked for 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 addition, Respondent is charged with committing professional misconduct as defined in N.Y. Education Law §6530(9)(2) – by practicing the profession fraudulently.

Copies of the Notice of Referral Proceeding and the Amended Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None

For the Respondent: Mark Pomeranz, Pharmacist
Grigory Kliger, M.D.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

1. **Grigory Kliger, M.D.**, the Respondent, did appear at the hearing and was duly served and notified of the hearing by personal service on March 19, 2014. (Petitioner's Exhibit 2)
2. **Grigory Kliger, M.D.**, the Respondent, was authorized to practice medicine in New York State on September 2, 1993, by the issuance of license number 193593 by the New York State Education Department. (Petitioner's Ex. 3)
3. On or about February 1, 2005, in the United States District Court, Eastern District of New York, Respondent entered a plea of guilty to Conspiracy to Commit Health Care Fraud, a felony, in violation of 18 USC §1349 and §1347. (Petitioner's Ex. 4)
4. Respondent was sentenced on August 1, 2008 to, among others, eighteen (18) months incarceration, followed by three years supervised release, 200 hours community service, six months home detention and \$2,500,756.00 restitution. (Petitioner's Ex. 4)
5. On or about June 27, 2006, with intent to deceive, Respondent answered "no" to

the question, since your last registration period, "Have you been found guilty after trial, or pleaded guilty, no contest, or *nolo contendere* to a crime (felony or misdemeanor) in any court?" on his New York State medical license Registration Renewal for the period October 1, 2006 through September 30, 2008 when, in fact, Respondent entered a plea of guilty on or about February 1, 2005 in United States District Court, Eastern District of New York, to Conspiracy to Commit Health Care Fraud, a felony, in violation of 18 USC § 1349 and §1347, and Respondent was aware of such facts.

6. On or about August 13, 2013, the State of Florida Board of Medicine (hereinafter "Florida Board") revoked Respondent's license to practice medicine and fined him \$10,000 by Final Order ("Florida Order") after adopting and approving the State of Florida Division of Administrative Hearings Recommended Order, which found, among others, that Respondent had been found guilty of Conspiracy to Commit Health Care Fraud in violation of 18 USC §1347 and §1349, and that his crime and/or conduct was directly related to the practice of medicine. (Petitioner's Ex 5)

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

- a. Education Law §6530 (2) (practicing the profession fraudulently);
- b. Education Law §6530 (20) (moral unfitness), and/or
- c. Education Law §6530 (21) (willfully making or filing a false report).

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"Respondent violated New York State Education Law §6530 (9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law.."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law §6530(2) by practicing the profession fraudulently..."

VOTE: Sustained (2-1)

THIRD SPECIFICATION

"Respondent violated New York 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..."

VOTE: Sustained (3-0)

FOURTH SPECIFICATION

"Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked by a duly authorized professional disciplinary agency of another state where the conduct resulting in the revocation would, if committed in New York State, constitute professional misconduct under the laws of New York State..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, with counsel. There was no dispute about jurisdiction. The record and the documentation submitted at the hearing herein shows that, on or about February 1, 2005, in the United States District Court, Eastern District of New York, Respondent entered a plea of guilty to Conspiracy to Commit Health Care Fraud, a felony, in violation of 18 USC §1349 and §1347. For this crime, the Respondent was sentenced on August 1, 2008 to, among others, eighteen (18) months incarceration, followed by three years supervised release, 200 hours community service, six months home detention and \$2,500,756.00 in restitution. Finally, the documentary record shows that, on August 13, 2013, the State of Florida Board of Medicine revoked Respondent's license to practice medicine and fined him \$10,000.00.

This case is one of large scale fraud, the magnitude of which is reflected in the two and half million dollar restitution levied by the federal court in Brooklyn. To his credit, the

Respondent did cooperate with the Justice Department and did go undercover for several years to assist in federal prosecutions of fraudulent no-fault and Medicaid billing. At the hearing, the Respondent testified that, as part of his agreement with the F.B.I., he had to continue practicing medicine so as to be able to make his undercover work believable. In addition, he needed to go to prison to further establish his credibility to the criminal world.

One of the charges in this case is the fraudulent practice of medicine stemming from the false answer on his New York registration renewal form. The Respondent testified that he answered "no" to the question about a criminal conviction so as to continue practicing and be believable as an undercover operative. According to the Respondent this false answer was given with the advice of his lawyer and was pursuant to his Cooperation Agreement with the U.S. Attorney's Office (Respondent's Exhibit B)

Respondent testified that secrecy was critical in this undercover work and that if his undercover work were to be discovered his life, and the safety of his family, would be in jeopardy. This fear of reprisal was not disputed by the Department. One of the panel members accepted the Respondent's testimony on this point and voted not to sustain the charge of fraudulent practice. However, the two other panel members found the Respondent to be dishonest in this answer and voted to sustain the charge and thus that charge was sustained as were the other three specifications of misconduct.

As for a penalty, the Department asked for a revocation of the Respondent's license. The Respondent's attorney suggested a suspension as an appropriate penalty. (T. 83) The panel considered the full range of penalties available and determined that revocation would be the proper penalty in view of the magnitude of the underlying crime and the dishonesty and poor character that it revealed. While the panel did appreciate the

undercover work of the Respondent in helping the Justice Department get other convictions, they realized that this good work was only for the purpose of diminishing his federal punishment and did not at all exonerate the Respondent from his reprehensible behavior. As to the penalty, therefore, the Hearing Committee determined that the people of New York State would be protected by a revocation of the Respondent's license and thus the unanimous determination of the panel was that the license of the Respondent to practice medicine in New York State should be revoked.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**
2. The license of the Respondent to practice medicine in New York State is revoked.
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Amsterdam, New York

Mog 28, 2015


Mohammad-Reza Ghazi-Moghadam, M.D.

Eleanor C. Kane, M.D.
Richard H. Edmonds, Ph.D.,

To: Grigory Kliger, M.D.
Suite 101-315
17150 Collins Ave.
North Miami, FL 33160

Grigory Kliger, M.D.



Victor A. Worms, Esq.
Attorney for Respondent
65 Broadway, Suite 750
New York, New York 10006

Michael G. Bass, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Coming Tower, Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX I

IN THE MATTER
OF
GRIGORY KLIGER, M.D.

NOTICE
OF
HEARING

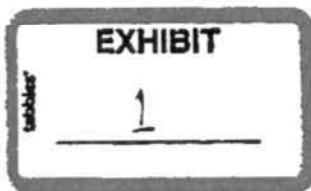
TO: Grigory Kliger, M.D.
Suite 101-315
17150 Collins Ave
North Miami, FL 33160

Grigory Kliger, M.D.


PLEASE TAKE NOTICE:

A 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 April 24, 2014, at 10:30 a.m., at the Offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Albany, NY 12204-719, and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You 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. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.



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

Department attorney: Initial here Qm

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone 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, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than 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. The answer 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. 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 provisions 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.

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 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 OUT IN NEW YORK PUBLIC HEALTH LAW §§230 a.
YOU ARE URGED TO OBTAIN AN ATTORNEY TO
REPRESENT YOU IN THIS MATTER.

DATE FEB. 25, 2014

Albany, NY


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be directed to:
Jude B. Mulvey - Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower - Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

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

IN THE MATTER
OF
GRIGORY KLIGER, M.D.
CO-13-08-4548-A

STATEMENT
OF
CHARGES

GRIGORY KLIGER, M.D., Respondent, was authorized to practice medicine in New York State on September 2, 1993, by the issuance of license number 193593 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 1, 2005, in the United States District Court, Eastern District of New York, Respondent entered a plea of guilty to Conspiracy To Commit Health Care Fraud, a felony, in violation of 18 USC § 1349 and § 1347. Respondent was sentenced on August 1, 2008 to, among others, eighteen (18) months incarceration, followed by three years supervised release, 200 hours community service, six months home detention and \$2,500,756.00 restitution.

B. On or about June 27, 2006 Respondent answered "no" to the question, since your last registration period, "Have you been found guilty after trial, or pleaded guilty, no contest, or nolo contendere to a crime (felony or misdemeanor) in any court?" on his New York State medical license Registration Renewal for the period October 1, 2006 through September 30, 2008 when, in fact, Respondent entered a plea of guilty on or about February 1, 2005 in United States District Court, Eastern District of New York, to Conspiracy to Commit Health Care Fraud, a felony, in violation of 18 USC §§ 1349 and 1347, and Respondent was aware of such facts.

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530 (2) by practicing the profession fraudulently, in that Petitioner charges:

2. The facts in Paragraphs A and B.

DATED: *Feb. 25*, 2014
Albany, New York



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

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

IN THE MATTER
OF
GRIGORY KLIGER, M.D.
CO-13-08-4548-A

AMENDED
STATEMENT
OF
CHARGES

GRIGORY KLIGER, M.D., Respondent, was authorized to practice medicine in New York State on September 2, 1993, by the issuance of license number 193593 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 1, 2005, in the United States District Court, Eastern District of New York, Respondent entered a plea of guilty to Conspiracy To Commit Health Care Fraud, a felony, in violation of 18 USC § 1349 and § 1347. Respondent was sentenced on August 1, 2008 to, among others, eighteen (18) months incarceration, followed by three years supervised release, 200 hours community service, six months home detention and \$2,500,756.00 restitution.

B. On or about June 27, 2006, with intent to deceive, Respondent answered "no" to the question, since your last registration period, "Have you been found guilty after trial, or pleaded guilty, no contest, or nolo contendere to a crime (felony or misdemeanor) in any court?" on his New York State medical license Registration Renewal for the period October 1, 2006 through September 30, 2008 when, in fact, Respondent entered a plea of guilty on or about February 1, 2005 in United States District Court, Eastern District of New York, to Conspiracy to Commit Health Care Fraud, a felony, in violation of 18 USC §§ 1349 and 1347, and Respondent was aware of such facts.

C. On or about August 13, 2013, the State of Florida Board of Medicine (hereinafter "Florida Board") revoked Respondent's license to practice medicine and fined him \$10,000 by Final Order ("Florida Order") after adopting and approving the State of Florida Division of Administrative Hearings Recommended Order ("Florida ALJ Recommended Order"), which

found, among others, that Respondent had been found guilty of Conspiracy to Commit Health Care Fraud in violation of 18 USC 1347 and 1349, and that his crime and/or conduct was directly related to the practice of medicine.

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

1. Education Law §6530 (2) (practicing the profession fraudulently);
2. Education Law §6530 (20) (moral unfitness), and/or
3. Education Law §6530 (21) (willfully making or filing a false report).

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530 (2) by practicing the profession fraudulently, in that Petitioner charges:

2. The facts in Paragraphs A and B.

THIRD SPECIFICATION

Respondent violated New York State Education Law §6530 (8)(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:

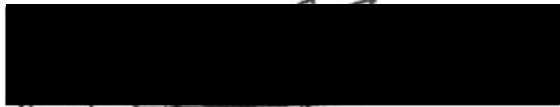
3. The facts in Paragraphs C and D.

FOURTH SPECIFICATION

Respondent violated New York State Education Law §8530 (9)(d) by having his license to practice medicine revoked by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

4. The facts in Paragraphs C and D.

DATED: *Sept. 9*, 2014
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct