

June 21, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jude B. Mulvey, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

Charles Peralo, M.D.
REDACTED

Wilfred T. Friedman, Esq.
Wilfred T. Friedman, P.C.
60 East 42nd Street – 40th Floor
New York, New York 10165

RE: In the Matter of Charles Peralo, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 13-186) 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.

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 Respondent or the Department may seek a review of a committee determination.

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

-----X
IN THE MATTER : DETERMINATION
OF :
CHARLES PERALO, M.D. : AND
CO-12-07-3761-A : ORDER
-----X
X BPMC #13-186

A Notice of Referral Proceeding and Statement of Charges, both dated January 15, 2013, were served upon the Respondent, Charles Peralo, M.D. **THERESE G. LYNCH, M.D. (Chair), PETER B. KANE, M.D., and RANDOLPH H. MANNING, Ph.D.,** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. The Department of Health appeared by Jude B. Mulvey, Esq., Associate Counsel. The Respondent appeared by Wilfred T. Friedman, P.C., Wilfred T. Friedman, Esq., of Counsel. A hearing was held on June 19, 2013. Evidence was received and witnesses sworn and heard 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 where a licensee is charged solely with a violation of Education Law §6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which 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, Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(a)(i) in that he was convicted of committing an act constituting a crime under New York State Law. A copy of the Statement of Charges is attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent 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. Charles Peralo, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on November 1, 1994 by the issuance of license number 197721 by the New York State Education Department. (Exhibit #3).

2. On or about July 16, 2012, in the Justice Court, Town of Clarkstown, County of Rockland, State of New York, Respondent was convicted of Criminal Mischief in the 4th Degree, a class A misdemeanor, in violation of New York Penal Law §145.00.

Respondent was sentenced to a conditional discharge and a \$250.00 surcharge. (Exhibit #4).

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The evidence clearly established that the Respondent was convicted of a crime under the law of New York State. Therefore, the Committee unanimously sustained the specification of professional misconduct set forth in the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that no action shall be taken against Respondent's license to practice medicine in New York State. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

Respondent engaged in immature behavior in a stressful situation. However, the conduct cited (keying a car following a verbal altercation), does not warrant action by this Board. We note that pursuant to an agreement between Respondent and the Board, he has been out of active medical practice for nearly two years as of the date of this hearing. This action alone constitutes a more than harsh sanction for the underlying conduct. We see no evidence which suggests that Respondent poses any future risk to patients, and see no benefit to any additional sanctions.

ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Exhibit # 1) is SUSTAINED;
2. No further action shall be taken against Respondent and his license to practice as a physician in the State of New York be and hereby is RESTORED to a full and unrestricted status;
3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's 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: Pittsford, New York

June 20, 2013

REDACTED

TERESA G. LYNCH, M.D. (CHAIR)

**PETER B. KANE, M.D.
RANDOLPH H. MANNING, Ph.D.**

TO: Jude B. Mulvey, Esq.
Associate Counsel
New York State Department of Health
Corning Tower, Room 2512
Albany, New York 12237

Charles Peralo, M.D.

REDACTED

Wilfred T. Friedman, Esq.
Wilfred T. Friedman, P.C.
60 East 42nd Street - 40th Floor
New York, NY 10165

APPENDIX I

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

IN THE MATTER
OF
CHARLES PERALO, M.D.
CO-12-07-3701-A

STATEMENT
OF
CHARGES

CHARLES PERALO, M.D., Respondent was authorized to practice medicine in New York State on November 1, 1994, by the issuance of license number 197721 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 16, 2012, in the Justice Court, Town of Clarkstown, County of Rockland, State of New York, Respondent was convicted of Criminal Mischief in the 4th Degree, a class A misdemeanor, in violation of New York Penal Law §145.00, [REDACTED]

[REDACTED]

[REDACTED] and was sentenced to a conditional discharge and \$250 surcharge..

SPECIFICATION

Respondent violated Education Law §6530(9)(a)(1) by being convicted of committing an act constituting a crime under New York State law in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *Jan. 15*, 2013
Albany, New York

REDACTED
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct