



Department of Health

ANDREW M. CUOMO
Governor

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

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

December 11, 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Amy Kulb, Esq.
Jacobsen, Goldberg & Kulb, LLP
585 Stewart Avenue, Suite 500
Garden City, New York 11530

Thomas Savino, M.D.
FCI Fort Dix
5756 Hartford & Pointville Road
Joint Base MDL, New Jersey 08640

Marc S. Nash
Associate Counsel, Bureau of Professional Medical Conduct
New York State Department of Health
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Thomas Savino, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 18-273) 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

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IN THE MATTER
OF
THOMAS SAVINO, M.D.

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DETERMINATION
AND
ORDER
18-273

A hearing was held on October 25, 2018, at the offices of the New York State Department of Health (Department), 90 Church Street, New York, New York. Pursuant to § 230(10)(e) of the Public Health Law (PHL), CALVIN J. SIMONS, M.D., Chairperson, RAMANATHAN RAJU, M.D., and CONSTANCE GARROW DIAMOND, D.A., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. NATALIE J. BORDEAUX, ADMINISTRATIVE LAW JUDGE (ALJ), served as the Administrative Officer.

The Department appeared by Marc S. Nash, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges dated August 29, 2018, and an Amended Notice of Referral Proceeding dated October 10, 2018, were duly served upon Amy Kulb, Esq., who appeared at the hearing and represented Thomas Savino, M.D. (Respondent). (Exhibits 1-3.) The Respondent testified by telephone. Also testifying on behalf of the Respondent were Charles Fundaro, D.C., Jack D'Angelo, M.D., and F.P.¹ There were no other witnesses at the hearing. The Hearing Committee received and examined documents from the Department (Exhibits 1-7) and the Respondent (Exhibits A, B) and a stenographic reporter prepared a transcript of the proceeding. The Hearing Committee completed its deliberations on November 28, 2018. After consideration of the entire record, the Hearing Committee sustains the charge that the Respondent committed professional misconduct, in

¹ F.P.'s name is withheld to protect her privacy as a patient of the Respondent.

violation of Education Law (Educ. Law) § 6530(9)(a)(ii), and that pursuant to PHL § 230-a, the penalty of revocation of the Respondent's medical license is appropriate.

BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Educ. Law § 6530(9). The Respondent is charged with professional misconduct pursuant to Educ. Law § 6530(9)(a)(ii), by having been convicted of an act constituting a crime under federal law. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. On February 27, 1996, the Respondent was authorized to practice medicine in New York by the Education Department and was issued license number 202245. (Exhibit 4.)
2. On May 31, 2018, in United States District Court, District of New Jersey, the Respondent was adjudicated guilty of one count of Conspiracy to Violate the Federal Anti-Kickback Statute and Travel Act and to Defraud Patients of Honest Services (18 U.S.C. § 371), three counts of Illegal Remuneration in Violation of the Federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)(1)(A)), three counts of Use of the Mail and Facilities in Interstate Commerce and Interstate Travel to Promote, Carry On and Facilitate Commercial Bribery (18 U.S.C. §§ 1952(a)(1)&(3)), and three counts of Honest Services Fraud (18 U.S.C. §§ 1343 and 1346.) The Respondent was sentenced to 48 months' imprisonment, followed by 3 years of supervised release. In addition, the Respondent was fined \$100,000 and ordered to forfeit \$27,500. (Exhibits 5 and 6.)

VOTE OF THE HEARING COMMITTEE

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

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Respondent was adjudicated guilty in United States District Court, District of New Jersey of felony crimes, specifically, Conspiracy to Violate the Federal Anti-Kickback Statute and Travel Act and to Defraud Patients of Honest Services, Illegal Remuneration in Violation of the Federal Anti-Kickback Statute, Use of the Mail and Facilities in Interstate Commerce and Interstate Travel to Promote, Carry On and Facilitate Commercial Bribery, and Honest Services Fraud. Based on these convictions, the Hearing Committee determined that the Respondent violated Educ. Law § 6530(9)(a)(ii), which defines professional misconduct to include:

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

In consideration of the full spectrum of penalties under PHL § 230-a, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties, the Hearing Committee agreed with the Department's recommendation of revocation of the Respondent's medical license. The Hearing Committee found that the Respondent lacked insight as to the harm caused by his actions, as he manifested no remorse and refused to acknowledge that he engaged in criminal activity.

The Hearing Committee considered the imposition of less severe penalties, specifically, requiring the Respondent to engage a practice monitor to review the Respondent's medical practice, or similar probationary terms requested by the Respondent's counsel. However, they deemed such alternatives to be unfeasible due to the Respondent's lack of credibility and integrity. The Committee

did not believe that such measures would prevent the Respondent from engaging in similar conduct in the future. For these reasons, the Hearing Committee concluded that the appropriate penalty in this case is the 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 is REVOKED; and
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

DATED: New York New York
December 7, 2018


Carvin J. Simons, M.D.
Chairperson

Ramanathan Raju, M.D.
Constance Garrow Diamond, D.A.

To: Amy Kulb, Esq.
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APPENDIX I

IN THE MATTER
OF
THOMAS SAVINO, M.D.

STATEMENT
OF
CHARGES

THOMAS SAVINO, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 27, 1996, by the issuance of license number 202245 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 27, 2017, in the United States District Court, District of New Jersey, following a jury trial, Respondent was found guilty of ten felony counts; specifically, one count of Conspiracy to Violate the Federal Anti-Kickback Statute and Travel Act and to Defraud Patients of Honest Services (18 U.S.C. § 371), three counts of Illegal Remuneration in Violation of the Federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)(1)(A)), three counts of Use of the Mail and Facilities in Interstate Commerce and Interstate Travel to Promote, Carry On and Facilitate Commercial Bribery (18 U.S.C. §§ 1952(a)(1) and (3)), and three counts of Scheme to Defraud Patients of Honest Services by Accepting Bribes (18 U.S.C. §§ 1343 and 1346). On May 31, 2018, Respondent was convicted and sentenced to a total term of 48 months' imprisonment followed by three years of supervised release, fined \$100,000.00, and ordered to forfeit a monetary amount of, or substitute assets up to \$27,500.00.

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: August 29, 2018
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct