



Department of Health

ANDREW M. CUOMO
Governor

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

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

June 11, 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Marc S. Nash, Esq.
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

Nicholas Roussis, M.D.
[REDACTED]
USP Lewisburg
2400 Robert F. Miller Drive
Lewisburg, Pennsylvania 17837

Marvin S. Robbins, Esq.
666 Old Country Road
Suite 101
Garden City, New York 11530

RE: In the Matter of Nicholas Roussis, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.18-136) 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. 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 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,

A solid black rectangular redaction box covering the signature of James F. Horan.

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: cac
Enclosure

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

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IN THE MATTER :
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OF :
:
NICHOLAS ROUSSIS, M.D. :
:
-----x

DETERMINATION
AND
ORDER

BPMC-18-136

A hearing was held on May 16, 2018, at the offices of the New York State Department of Health (Department), 150 Broadway, Menands, New York. Pursuant to § 230(10)(e) of the Public Health Law (PHL), **ANDREW J. MERRITT, M.D.**, Chairperson, **STEVEN I. SHERMAN, D.O., M.S.** and **DAVID F. IRVINE, DHSc, P.A.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **DAWN MacKILLOP-SOLLER, ADMINISTRATIVE LAW JUDGE (ALJ)**, served as the Administrative Officer.

The Department appeared by Marc S. Nash, Senior Attorney. A Commissioner's Order of Summary Action, Notice of Referral Proceeding and Statement of Charges, all dated December 26, 2017, were duly served pursuant to PHL 230(10)(d)(i) upon Nicholas Roussis, M.D. (Respondent), who testified by telephone from USP Lewisburg, a federal prison, on his own behalf. (Exhibit 2.) Marvin S. Robbins, Esq. appeared on behalf of the Respondent. Also testifying by telephone on behalf of the Respondent were Simon Kokkinakis, M.D. and Michael Moretti, M.D. The Hearing Committee received and examined documents from the Department (Exhibits 1-6) and the Respondent (Exhibits A, B) 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), and that pursuant to PHL §

230-a, the penalty of a whole period of suspension of the Respondent's medical license with probation and conditions 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, specifically 18 U.S.C. §§ 2 and 1952(a)(3). 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 March 9, 2004, the Respondent was authorized to practice medicine in New York by the Education Department and was issued license number 231555. (Exhibit 3.)
2. On or about June 21, 2017, in the United States District Court, District of New Jersey, the Respondent was adjudicated guilty, following his plea of guilty, to the felony crime of Racketeering-Transporting in Aid of Travel Act – Acceptance of Bribes, in violation of 18 U.S.C. §§ 2 and 1952(a)(3). The Respondent was sentenced to 24 months of imprisonment and one year of supervised release. He was also ordered to pay a \$100 special assessment, a fine totaling \$5,000 and a \$175,000 forfeiture, of which a co-defendant is also responsible. (Exhibit 4.)

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

In the United States District Court, District of New Jersey, a federal court, the Respondent was adjudicated guilty, following his plea of guilty, to the federal crime of Racketeering-Transporting in Aid of Travel Act-Acceptance of Bribes, in violation of 18 U.S.C. §§ 2 and 1952(a)(3). Based on this conviction, the Hearing Committee determined 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 disagreed with the Department's recommendation of revocation of the Respondent's medical license and determined a lesser penalty was warranted. They based this on the Respondent's acknowledgment of his poor judgment in accepting bribes between October 2010 and April 2013 for the referral of his patients' blood to Biodiagnostic Laboratory Services, LLC, a clinical laboratory that used the specimens to submit claims to insurers. The Respondent also offered as mitigating evidence his personal statement expressing remorse for his criminal wrongdoing and the testimony of Dr. Kokkinakis and Dr. Moretti and patients' letters in support of his commitment to his obstetrics and gynecological practice. The Hearing Committee also considered the Respondent's remedial efforts in lecturing about learning from his misdeeds to physician residents at Richmond University Medical Center.

For these reasons, the Hearing Committee concluded that the appropriate penalty in this case is a suspension wholly of the Respondent's New York medical license until he completes his term of incarceration, followed by a period of five years of probation, the first two years of which shall include a practice monitor.

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 wholly SUSPENDED until he completes his term of incarceration at which time he is placed on probation for a period of five years subject to the terms of probation (Appendix II); and
3. This Order shall be effective upon service on the Respondent in accordance with the Requirements of PHL § 230(10)(h).


DATED: Albany, New York
6/8, 2018


Andrew J. Merritt, M.D.
Chairperson

Steven I. Sherman, D.O., M.S.
David F. Irvine, DHSc, P.A.

To: Marvin S. Robbins, Esq.
666 Old Country Road
Suite 101
Garden City, New York 11530

Nicholas Roussis, M.D.


USP Lewisburg
2400 Robert F. Miller Drive
Lewisburg, Pennsylvania 17837

Marc S. Nash, Esq.
Senior Attorney
New York State Department of Health
Bureau of Professional Medical Conduct
Coming Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX I

Terms of Probation

1. The Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by the Respondent as defined by Educ. Law 6530 or 6531 shall constitute a violation of probation and may subject the Respondent to an action pursuant to PHL § 230(19).
2. The Respondent shall maintain active registration of his license with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. The Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204 with the following information, in writing, and ensure that this information is kept current: a full description of his employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. The Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. The Respondent shall cooperate fully with and respond in a timely manner to OPMC requests to provide written periodic verification of his compliance with these terms. Upon the Director of OPMC's request, the Respondent shall meet in person with the Director's designee.
5. The probation period shall toll when the Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. The Respondent shall notify the Director of OPMC, in writing, if he is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30-day period. The Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon the Respondent's return to active practice in New York State, the probation period shall resume and the Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in the Determination and Order or as are necessary to protect the public health.
6. The Director of OPMC may review the Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with the Respondent and staff at practice locations or OPMC offices.
7. For the first two years of probation, the Respondent shall practice medicine in New York State 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. The 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 be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - d. 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 § 230(18)(b) of the PHL. Proof of coverage shall be submitted to the Director of OPMC prior to the Respondent commencing practice within the State of New York.
8. 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.
 9. The Respondent shall comply with these probationary terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against the Respondent.

APPENDIX II

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

IN THE MATTER
OF
NICHOLAS ROUSSIS, M.D.

COMMISSIONER'S
ORDER OF
SUMMARY
ACTION

TO: NICHOLAS ROUSSIS, M.D.

[REDACTED]
USP Lewisburg
2400 Robert F. Miller Drive
Lewisburg, PA 17837

The undersigned, Sally R. Dreslin, M.S., R.N., Executive Deputy Commissioner, 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 NICHOLAS ROUSSIS, M.D. (henceforth "Respondent"), New York license number 231555, 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
December 26, 2017



Sally R. Dreslin, M.S., R.N.
Executive Deputy Commissioner
New York State Department of Health

Inquiries should be directed to:

Pooja Rawal
Senior Attorney
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, 2512
Empire State Plaza
Albany, New York 12237

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

IN THE MATTER
OF
NICHOLAS ROUSSIS, M.D.

STATEMENT
OF
CHARGES

NICHOLAS ROUSSIS, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 9, 2004, by the issuance of license number 231555 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 21, 2017, the Respondent pled guilty to one count of Racketeering- Transporting in Aid of Travel Act- Acceptance of Bribes [18 U.S.C. § 1952(a)(3) & 18 U.S.C. § 2], a felony. On or about October 16, 2017, the Respondent was convicted and sentenced to twenty-four months in prison, \$100.00 assessment fee, a fine of \$5,000.00 and was issued one year of supervised release. He was also ordered to pay with his co-defendant, a forfeiture of \$175,000.00 or the forfeiture of substitute assets equal to the value of the proceeds obtained, in an amount not to exceed \$175,000.00.

SPECIFICATION OF CHARGES

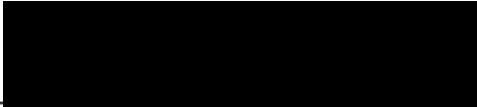
CRIMINAL CONVICTION (Federal)

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 in Paragraph A.

DATE:

December 26, 2017
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct