

Public

**NEW YORK**  
state department of  
**HEALTH**

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

July 25, 2012

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

D. Amarasinghe, M.D.  
6204 North Military Highway  
Norfolk, Virginia 23518

D. Amarasinghe, M.D.

REDACTED

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

**RE: In the Matter of D. Amarasinghe, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 12-147) 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. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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,

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

---

IN THE MATTER

OF

D. AMARASINGHE, M.D.  
aka DISAMODHA AMARASINGHE, M.D  
CO- 11-03- 1714-A

DETERMINATION

AND COPY

ORDER

BPMC 12-147

---

A hearing was held on June 14, 2012 at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated February 23, 2012, were served upon the Respondent, D. Amarasinghe, M.D.

Pursuant to Section 230(10)(e) of the Public Health Law, C. Deborah Cross, M.D., Chair, Arlle A.C. Cameron, M.D. and Paul J. Lambiase, 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 Jude B. Mulvey, Esq., of Counsel. The Respondent, D. Amarasinghe, M.D., did not appear, although duly served. 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)(b) by having been found guilty of improper 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. Respondent is also charged with violation New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state. Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

## WITNESSES

For the Petitioner: None  
For the Respondent: None

## 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. All Hearing Committee findings were unanimous.

1. D. Amarasinghe, M.D., the Respondent, did not appear at the hearing and was duly served and notified of the hearing, by personal service of process, on March 3, 2012. (Petitioner's Exhibit 2.)
2. D. Amarasinghe, M.D., the Respondent, was authorized to practice medicine in New York State on June 1, 2007, by the issuance of license number 244372 by the New York State Education Department. (Petitioner's Ex. 3)
3. On or about February 23, 2011, the Virginia Board of Medicine (hereinafter the "Virginia Board"), by Consent Agreement ("Virginia Consent Order"), placed Respondent's medical license on indefinite probation subject to terms including, but not limited to, a prohibition from prescribing, administering or dispensing Schedule II-V controlled

substances, to properly dispose of all Schedule II-V controlled substances and provide verification of such to the Virginia Board within thirty (30) days of entry of the Consent Order and undergo a clinical competency assessment within 120 days of entry of the Consent Order, based on Respondent's redispensing controlled substances returned by patients, failure to maintain inventories and records of controlled substances, failure to properly manage the care of four patients and failure to maintain accurate patient records.

4. On or about July 6, 2011, following a hearing, the Virginia Board indefinitely suspended Respondent's license to practice medicine based on violations of the terms of the Virginia Consent Order by prescribing Vicodin, a Schedule III drug, and Xanax, a Schedule IV drug, after entry of the Consent Order, by participating in a scheme to circumvent the prescribing limitations placed on his medical license, by administering, or authorizing his medical assistants to administer, Demerol, a Schedule II drug, by fraudulently documenting that another physician administered the Demerol or causing such to be fraudulently documented, by failing to properly dispose of all Schedule II-V drugs despite advising the Virginia Board that such was done, and by failing to undergo a clinical competency assessment within 120 days of entry of the Consent Agreement. The Board found that Respondent entered into the Consent Agreement in bad faith. Respondent was also ordered, among others, to surrender his Drug Enforcement Administration ("DEA") certificate and DEA order forms, properly dispose of all Schedule II-V controlled substances, and prohibited from petitioning for reinstatement of his license for at least twenty-four months.

5. The conduct resulting in the Virginia Board disciplinary action set forth in the Consent

Agreement of February 23, 2011, against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(32) (failure to maintain accurate records).

6. The conduct resulting in the Virginia Board disciplinary action culminating in the Virginia Order of July 6, 2011 against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York State Law:

1. New York Education Law §6530(2) (practicing the profession fraudulently or beyond its authorized scope);
2. New York Education Law §6530(20) (moral unfitness);
3. New York Education Law §6530(21) (filing a false report);
4. New York Education Law §6530(29) (violating any term of probation, condition or limitation on license)

### **VOTE OF THE HEARING COMMITTEE**

#### **SPECIFICATIONS**

#### **FIRST SPECIFICATION**

"Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional conduct 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)



## SECOND SPECIFICATION

"Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action 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 not appear at the hearing, either in person or by counsel. The Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Personal Service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Exhibit 2) ruled that the Petitioner had met the requirements of law for service of process, that jurisdiction had been established over the Respondent and that the hearing could proceed on the merits notwithstanding the Respondent's absence.

The record in this case indicates that the Virginia Board of Medicine by a Consent Agreement, dated February 23, 2011, placed Respondent's medical license on indefinite probation subject to terms including, but not limited to, a prohibition from prescribing, administering or dispensing Schedule II-V controlled substances. This Agreement required the Respondent to properly dispose of all Schedule II-V controlled substances and provide verification of such to the Virginia Board within thirty (30) days of entry of the Consent Order and undergo a clinical competency assessment within 120 days of entry of



the Consent Order. This Consent Agreement was based on Respondent's redispensing controlled substances returned by patients, his failure to maintain inventories and records of controlled substances, his failure to properly manage the care of four patients and his failure to maintain accurate patient records.

The documentation submitted by the Department, Exhibit # 5, goes on to show that there was also a subsequent hearing on this matter in Virginia and that on, July 6, 2011, the Virginia Board indefinitely suspended Respondent's license to practice medicine based on a violation of the terms of the February 23, 2011 Consent Order. The July ruling found that the Respondent prescribed Vicodin, a Schedule III drug, and Xanax, a Schedule IV drug, after entry of the Consent Order. The Virginia Board also went on to find that the Respondent participated in a scheme to circumvent the prescribing limitations placed on his medical license, by administering or authorizing his medical assistants to administer Demerol, a Schedule II drug, by fraudulently documenting that another physician administered the Demerol or causing such to be fraudulently documented, by failing to properly dispose of all Schedule II-V drugs despite advising the Virginia Board that such was done, and by failing to undergo a clinical competency assessment within 120 days of entry of the Consent Agreement.

The Virginia Board concluded that the Respondent entered into the Consent Agreement in bad faith. Accordingly, the Virginia Board ordered the Respondent to surrender his Drug Enforcement Administration ("DEA") certificate and DEA order forms, properly dispose of all Schedule II-V controlled substances. Finally, the Virginia Board prohibited Respondent from petitioning for reinstatement of his license for at least twenty-four months.

The record goes on to show that the Respondent appealed the Virginia Order to the Circuit Court of Virginia and the Appellate Court affirmed the above findings on April 9, 2012. (Exhibit # 6)

The Respondent has not appeared by a New York Attorney for the present matter and the Hearing commenced in his absence. The record does not contain any evidence of mitigating circumstances, or remorse. The panel noted that that the Respondent was aware of this proceeding and chose not to appear or be represented by counsel in New York. As to an appropriate penalty, the Hearing Committee considered the full range of penalties available and determined that the people of New York State would be protected by a revocation of the Respondent's license.

**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: Elmsford, New York**

July 20, 2012

REDACTED

**C. Deborah Cross, M.D., Chair**

**Arle A.C. Cameron, M.D.  
Paul J. Lamblase,**

To:

D. Amarasinghe, M.D., Respondent  
6204 North Military Highway  
Norfolk, VA 23518

D. Amarasinghe, M.D., Respondent

REDACTED

Jude B. Muivey, 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 1

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

IN THE MATTER

OF

D. AMARASINGHE, M.D.  
aka DISAMODHA AMARASINGHE, M.D.  
CO-11-03-1714-A

NOTICE OF  
REFERRAL  
PROCEEDING

TO:

D. Amarasinghe, M.D.  
6204 North Military Highway  
Norfolk, VA 23518

D. Amarasinghe, M.D.  
REDACTED Court

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures 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 the 19<sup>th</sup> day of April, 2012, at 10:30 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that 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 and/or sworn testimony on your behalf. Such evidence and/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 that 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.

EXHIBIT

1

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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING 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 ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten (10) 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. You may file a written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney, indicated 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 terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that 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 and/or other evidence that cannot be photocopied.

**YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) 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 (5) 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.

**SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.**

DATED: Albany, New York

*February 23, 2012*

REDACTED

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

Inquiries should be addressed to:

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



IN THE MATTER	STATEMENT
OF	OF
D. AMARASINGHE, M.D. aka DISAMODHA AMARASINGHE, M.D. CO-11-03-1714-A	CHARGES

D. AMARASINGHE, M.D., Respondent, was authorized to practice medicine in New York state on June 1, 2007, by the issuance of license number 244372 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about February 23, 2011, the Virginia Board of Medicine (hereinafter the "Virginia Board"), by Consent Agreement ("Virginia Consent Order"), placed Respondent's medical license on indefinite probation subject to terms including, but not limited to, a prohibition from prescribing, administering or dispensing Schedule II-V controlled substances, to properly dispose of all Schedule II-V controlled substances and provide verification of such to the Virginia Board within thirty (30) days of entry of the Consent Order and undergo a clinical competency assessment within 120 days of entry of the Consent Order, based on Respondent's re-dispensing controlled substances returned by patients, failure to maintain inventories and records of controlled substances, failure to properly manage the care of four patients and failure to maintain accurate patient records.

B. On or about July 6, 2011, following a hearing, the Virginia Board by Order (the "Virginia Order") indefinitely suspended Respondent's license to practice medicine based on violating the terms of the Virginia Consent Order by prescribing Vicodin, a Schedule III drug, and Xanax, a Schedule IV drug, after entry of the Consent Order, by participating in a scheme to circumvent the prescribing limitations placed on his medical license, by administering or authorizing his medical assistants to administer Demerol, a Schedule II drug, by fraudulently documenting that another physician administered the Demerol or causing such to be fraudulently documented, by failing to properly dispose of all Schedule II-V drugs despite advising the Virginia Board that such was done, and by failing to undergo a clinical competency

assessment within 120 days of entry of the Consent Agreement. The Board found that Respondent entered into the Consent Agreement in bad faith. Respondent was also ordered, among others, to surrender his Drug Enforcement Administration ("DEA") certificate and DEA order forms, properly dispose of all Schedule II-V controlled substances, and prohibited from petitioning for reinstatement of his license for at least twenty-four months.

C. The conduct resulting in the Virginia Board disciplinary action via Consent Agreement against Respondent would constitute misconduct under the laws of New York state, pursuant to the following section of New York state Law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(32) (failure to maintain accurate records).

D. The conduct resulting in the Virginia Board disciplinary action via the Virginia Order against Respondent would constitute misconduct under the laws of New York state, pursuant to the following section of New York State Law:

1. New York Education Law §6530(2) (practicing the profession fraudulently or beyond its authorized scope);
2. New York Education Law §6530(20) (moral unfitness);
3. New York Education Law §6530(21) (filing a false report);
4. New York Education Law §6530(29) (violating any term of probation, condition or limitation on license).

### SPECIFICATIONS

#### FIRST 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, in that Petitioner charges:

1. The facts in Paragraphs A, B, C, and/or D.

**SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner alleges:

2. The facts in Paragraphs B and/or D.

DATED: *February 23*, 2012  
Albany, New York

REDACTED

~~\_\_\_\_\_~~  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical Conduct