



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 12, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Andrea Keesee, Esq.
1360 Peachtree Street
One Midtown Plaza, Suite 910
Atlanta, Georgia 30309

RE: In the Matter of Robert Windsor, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 17-347) 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: ISM
Enclosure

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

IN THE MATTER
OF
ROBERT WINDSOR, M.D.

DETERMINATION
AND
ORDER

17-347

A hearing was held on August 16, 2017, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Order of Summary Action, Notice of Referral Proceeding and Statement of Charges dated May 1, 2017, were served upon ROBERT WINDSOR, M.D., the Respondent. Pursuant to § 230(10)(e) of the Public Health Law, Peter B. Kane, M.D., Chairperson, Ronald Uva, M.D., and Janet M. Miller, R.N., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Jude Mulvey, Esq., Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by Richard J. Zahnleuter, Esq., General Counsel, by Pooja Rawal, Esq., of Counsel. The Respondent did not appear at the hearing, either in person or by counsel. The Administrative Law Judge, after considering the documentary evidence concerning personal service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Ex. 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 despite the Respondent's absence. Evidence was received and a transcript of the proceedings was made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

BACKGROUND

This case was brought pursuant to Public Health Law § 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of New York Education Law § 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.

In the instant case, the Respondent is charged with professional misconduct pursuant to New York Education Law § 6530(9)(a)(ii). Based on the Respondent's felony conviction, the Commissioner of Health summarily suspended the Respondent's license to practice medicine until the conclusion of this hearing. A copy of the Statement of Charges is 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. Robert Windsor, M.D., the Respondent, was authorized to practice medicine in New York State on April 21, 2010, by the New York State Education Department's issuance of license number 256871. (Petitioner's Ex. 3).

2. On October 24, 2016, in the United States District Court for the Northern District of Georgia, the Respondent was convicted of two counts of health care fraud, 18 U.S.C. § 1347, a felony. (Petitioner's Ex. 7).

3. The Respondent was sentenced to imprisonment for a term of 38 months, per count, to run concurrently with each other, restitution of \$1,169,580.00, 3 years supervised release, and \$200.00 special assessment, among other penalties. (Petitioner's Ex. 4).

HEARING COMMITTEE CONCLUSIONS

The Petitioner offered into evidence copies of the documents from the United States District Court which established the Respondent's federal criminal conviction. Therefore, the Hearing Committee concluded that the Respondent has committed misconduct as defined in New York Education Law § 6530(9)(a)(ii).

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: (3-0) Sustained

HEARING COMMITTEE DETERMINATION

The Respondent pleaded guilty to fraudulently obtaining at least \$1.1 million from health insurance benefits programs, from January 2010 through July 2013 for intra-operative monitoring (IOM) services. IOM is medical procedure in which a physician monitors nerve and spinal cord activity during a surgical procedure in order to minimize potential adverse effects to a patient's nervous system during surgery. The Respondent was the owner and operator of a medical practice in Georgia, which entered into a contract agreeing to provide IOM services as an independent contractor. Beginning in approximately January 2010, Respondent's employee, a medical assistant who was not a doctor, began providing IOM services in the Respondent's place. The Respondent or someone with his authorization then signed the final monitoring report indicating that the Respondent had actually performed the monitoring.

The record of the criminal charges indicates that the Respondent used his medical license for unlawful financial gain and potentially placed patients at risk for adverse effects to their nervous system during surgery. The Hearing Committee considered the full spectrum of penalties available pursuant to statute, including revocation, suspension, probation, censure, and the imposition of civil penalties. Based on the Respondent's professional misconduct and absent any evidence of remorse or rehabilitation, the Hearing Committee accepts the Petitioner's recommendation that the Respondent's license be revoked.

ORDER

IT IS HEREBY ORDERED THAT:

The Respondent's license to practice medicine in the State of New York is revoked.

This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Albany, New York
12/12, 2017

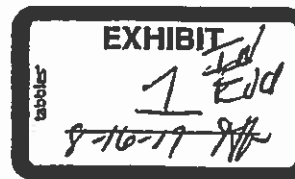


Peter B. Kane, M.D.
Chairperson

Ronald Uva, M.D.
Janet M. Miller, R.N.

APPENDIX I

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



IN THE MATTER
OF
ROBERT WINDSOR, M.D.

COMMISSIONER'S
ORDER OF
SUMMARY
ACTION

TO: ROBERT WINDSOR, M.D.
FCI Edgefield
[REDACTED]
501 Gary Hill Road
Edgefield, SC 29824

The undersigned, Howard A. Zucker, M.D., J.D., Commissioner of Health, 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 Robert Windsor, M.D. (henceforth "Respondent"), 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
May / , 2017


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

Inquiries should be directed to:

Pooja Rawal
Senior Attorney
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

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

IN THE MATTER
OF
ROBERT WINDSOR, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: ROBERT WINDSOR, M.D.


501 Gary Hill Road
Edgefield, SC 29824

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. 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 August 16, 2017 at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Menands (Albany), NY 12204-2719.¹

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

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

¹ For GPS purposes, enter "Menands", not "Albany".

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 (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least 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. You may also file a written brief and affidavits with the Committee. All such documents 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, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

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 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.

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

Department attorney: Initial here [REDACTED]

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 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.

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.

DATED: Albany, New York
May. 1, 2017



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Pooja Rawal
Senior Attorney
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

cc: Andrea Keese, Esq.
1360 Peachtree Street
One Midtown Plaza, Suite 910
Atlanta, Georgia 30309

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

IN THE MATTER

OF

ROBERT WINDSOR, M.D.

STATEMENT

OF

CHARGES

ROBERT WINDSOR, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 21, 2010, by the issuance of license number 256871 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 24, 2016, the United States District Court, Northern District of Georgia, Atlanta Division, convicted Respondent on one Count of Health Care Fraud (18 U.S.C. § 1847) based upon an Information filed in the United States District Court, Eastern District of Kentucky, Central Division (which was transferred to the Georgia Court with Respondent's consent) and one count of Health Care Fraud (18 U.S.C. § 1847) related to the Criminal Information filed in the United States District Court, Northern District of Georgia, Atlanta Division. On or about October 25, 2016, the Respondent was sentenced to 38 months imprisonment, per count, to run concurrently, restitution of \$1,169,580.00, 3 years supervised release and \$100 assessment.

SPECIFICATION OF CHARGES

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law 6350(9)(a)(ii) by having been convicted of an act constituting a crime (felony) under federal law as alleged in the facts of the following:

1. The facts as alleged in paragraph A.

DATE: May / , 2017
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct