



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
Commissioner

Dennis P. Whalen  
Executive Deputy Commissioner

February 1, 2006

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Suvarna Shah, M.D.  
5 Pier Way Landing  
Westport, Connecticut 06880

Suvarna Shah, M.D.  
9 Mott Avenue, Suite 304  
Norwalk, Connecticut 06850

Robert Bogan, Esq.  
NYS Department of Health  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180

**RE: In the Matter of Suvarna Shah, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 06-021) 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  
Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

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), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "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.

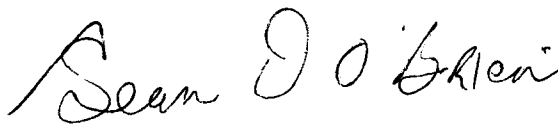
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

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,



Sean D. O'Brien, Director  
Bureau of Adjudication

SDO:djh

Enclosure

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

IN THE MATTER  
OF  
SUVARNA SHAH, M.D.

COPY

DETERMINATION

AND

ORDER

BPMC NO. 06-021

A Notice of "Commissioner's Summary Order and Notice of Referral Proceeding" and a Statement of Charges, both dated December 15, 2005, were served upon the Respondent, **SUVARNA SHAH, M.D.** **SCOTT GROUDINE, M.D.**, Chairperson, **ALEXANDER M. YVARS, M.D.** and **WILLIAM McCAFFERTY, ESQ.**, 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. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on January 19, 2006, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, of Counsel. Although duly served with the Commissioner's Order and Statement of Charges in accordance with statute, the Respondent did not appear at the hearing, file an answer or request an adjournment.

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 where 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 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 Section 6530(9)(a)(ii), based upon her convictions of crimes under Federal law. Copies of the Summary Order and the Statement of Charges are attached to this Determination and Order as Appendix 1.

This case was also brought pursuant to Public Health Law §230(12)(b), which, among other things, authorizes the Commissioner to issue a summary suspension prohibiting a licensee from practicing pending a hearing when the licensee has been convicted of a felony under Federal law, pending a hearing on the misconduct charges.

**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.", or transcript pages, denoted by the prefix "Tr.". 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. **SUVARNA SHAH, M.D.**, the Respondent, was authorized to practice Medicine in New York State on August 1, 1972, by the issuance of license number 113783 by the New York State Education Department (Ex. 4).
2. On June 29, 2005, Respondent was sentenced in the united States District Court, District of Connecticut, pursuant to convictions based upon guilty pleas, to the felony offenses of Health Care Fraud and Income Tax Evasion. She was sentenced to 3 years probation, payment of outstanding debts to the IRS, 600 hours of community service, and payment of a fine and an assessment totaling \$10,200.00. The Health Care Fraud conviction was based upon Respondent's execution of a scheme whereby she billed Medicaid and private insurers for the costs of vaccines she received free from the Vaccines for Children (VFC) Program, in violation of Federal law (Ex. 5)

## HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that the instances of conduct resulting in Respondent's convictions of crimes under Federal law constitute misconduct pursuant to

New York Education Law §6530(9)(a)(ii). The Hearing Committee concludes that the appropriate sanction in this case is revocation of Respondent's New York medical license.

### VOTE OF THE HEARING COMMITTEE

#### SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(ii) by having been convicted of a crime under Federal Law.

**VOTE: SUSTAINED (3-0)**

#### SERVICE AND JURISDICTION

The Department attempted unsuccessfully to serve Respondent personally on December 17, 2005 with the Commissioner's Order and Statement of Charges at 9 Mott Avenue, Ste. 304, Norwalk, CT 06850. This address for Respondent had been obtained through a Lexis-Nexis person search, but the process server's affidavit (Ex. 2(a)) indicates that, "Dr. is no longer practicing medicine, office closed...". The Department also attempted unsuccessfully, on December 16, 2005, to serve Respondent at 5 Pier Way Landing, Westport, CT 06880, an address obtained both through a Lexis search and from the State Education Department as her last known address. The process server's affidavit (Ex. 2(b)) indicates "Home is empty. Realtor's sign on the front lawn". This address was also one to which Respondent's cell phone was registered, and a Department investigator had reached her on this phone on 11/25/05 (representation of Mr. Bogan).

The Department also mailed the Order and Charges to Respondent at both addresses by certified mail, and the receipt from the Mott Ave. address indicates that it was signed for on 12/28/05 by "SHAH [illegible]".

It is concluded that the Department properly served Respondent in accordance with Public Health Law §230(10)(d), which requires personal service or, if personal service cannot be made after due diligence, with service by registered or certified mail sent ...to the licensee's last know address..." (emphasis supplied).

In this case, the documents were sent to the Respondent's last know addresses by certified mail after due diligence failed to effectuate personal service, and the service thereby complied with the statute. It also appears from the evidence that Respondent may well have actually received the documents, but this is not dispositive as to whether service was legally effectuated. It is concluded that the Department did obtain jurisdiction over Respondent, and the Administrative Law Judge ruled that the hearing could proceed in Respondent's absence.

#### **HEARING COMMITTEE DETERMINATION**

The record in this case establishes that Respondent was convicted of the felony offenses of Health Care Fraud and Income Tax Evasion under Federal Law, as detailed above. Accordingly, since misconduct was established, the only issue remaining to be decided is the penalty to be imposed.

The Hearing Committee concludes that Respondent's convictions provide ample basis to impose discipline against her. Inasmuch as Respondent did not appear at the hearing, file an answer or present any evidence on her behalf, it is concluded that there is no reason to consider mitigation of the sanction to be imposed in this case.

Respondent's convictions provide evidence of her disregard for the legal underpinnings of the practice of medicine and for the ethical and moral precepts thereof. It is concluded that the sanction of license revocation is the appropriate one under the circumstances.



**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The New York medical license of **SUVARNA SHAH, M.D.** is hereby **REVOKED**.

This **ORDER** shall be effective upon service on the Respondent pursuant to Public Health Law section 230(10)(h).

**DATED: Latham, New York**  
Jan. 30, 2006

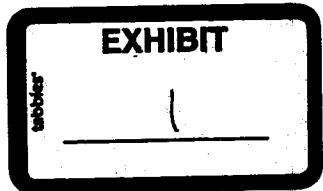
*Scott Groudine, MD*

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**SCOTT GROUDINE, M.D.**  
Chairperson

**ALEXANDER M. YVARS, M.D.**  
**WILLIAM McCAFFERTY, ESQ.**

# **APPENDIX 1**



IN THE MATTER  
OF  
SUVARNA SHAH, M.D.  
CO-05-10-5240-A

COMMISSIONER'S  
SUMMARY  
ORDER  
AND  
NOTICE OF  
HEARING

TO: SUVARNA SHAH, M.D.  
5 Pier Way Landing  
Westport, CT 06880

SUVARNA SHAH, M.D.  
9 Mott Avenue  
Suite 304  
Norwalk, CT 06850

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. P.H., Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached, hereto, and made a part hereof, has determined that **SUVARNA SHAH, M.D.**, Respondent, licensed to practice medicine in New York state on August 1, 1972, by license number 113783, has been found guilty, based on a plea of guilty, of committing an act constituting a felony under federal law, in the United States District Court, District of Connecticut.

It is therefore,

ORDERED, pursuant to New York Public Health Law Section 230(12)(b), that effective immediately, **SUVARNA SHAH, M.D.**, Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine. This order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to New York Public Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law Section 230, and New York State Administrative Procedure Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board of Professional Medical Conduct, on the 19<sup>th</sup> day of January, 2006 at 10:00 am in the forenoon at Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents. 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 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. Respondent has the right cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to Section 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.


The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180 (518-402-0751), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event that any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. 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 MAY BE FINED OR SUBJECT TO OTHER  
SANCTIONS SET FORTH IN NEW YORK PUBLIC  
HEALTH LAW SECTION 230-A. YOU ARE  
URGED TO OBTAIN AN ATTORNEY FOR THIS  
MATTER.**

DATED: Albany, New York

*December 15, 2005*

  
ANTONIA C. NOVELLO, M.D., M.P.H., Dr. P.H.,  
Commissioner

Inquires should be addressed to:

Robert Bogan  
Associate Counsel  
Office of Professional Medical Conduct  
433 River Street - Suite 303  
Troy, New York 12180  
(518) 402-0828

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

IN THE MATTER  
OF  
SUVARNA SHAH, M.D.  
CO-05-10-5240-A

STATEMENT  
OF  
CHARGES

SUVARNA SHAH, M.D., the Respondent, was authorized to practice medicine as a Physician in New York state on August 1, 1972, by the issuance of license number 113783 by the New York State Education Department.

FACTUAL ALLEGATIONS

*July 29 01/05/06*  
A. On or about ~~July~~ 29, 2005, in the United States District Court, District of Connecticut, Respondent was found guilty, based on a plea of guilty, of one (1) count of 18 U.S.C. 1347, Health Care Fraud, and one (1) count of 26 U.S.C. 7201, Income Tax Evasion, felonies, and was sentenced to three (3) years probation, two hundred (200) hours of community service for each year of probation, a \$200.00 assessment, and a \$10,000.00 fine.

SPECIFICATION

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

1. The facts in Paragraph A.

DATED: *Dec. 15*, 2005  
Albany, New York

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