



**Department
of Health**

ANDREW M. CUOMO
Governor

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

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

September 13, 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Benjamin Doscher, Esq.
52 North Franklin Street
Hempstead, New York 11550

Mohammad Jaghory, M.D.



Uptown Healthcare Management, Inc.
d/b/a East Tremont Medical Center
930 East Tremont Avenue
Bronx, New York 10480

Ian H. Silverman, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

RE: In the Matter of Mohammad Jaghory, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 16-311) 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 (1), (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:cah
Enclosure

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

COPY

**IN THE MATTER
OF
MOHAMMAD JAGHORY, M.D.**

**DETERMINATION
AND
ORDER**

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BPMC#16-311

A hearing was held on August 18, 2016, at the offices of the New York State Department of Health ("Department").¹ Pursuant to § 230(10)(e) of the Public Health Law ("PHL"), **KENDRICK A. SEARS, M.D.**, Chairperson, **DEBORAH WHITFIELD, M.A., Ph.D.**, and **ELEANOR KANE, M.D.**, 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 Ian H. Silverman, Esq. A Notice of Referral Proceeding and Statement of Charges dated June 29, 2016 and June 30, 2016, respectively, were served upon Mohammad Jaghory, M.D. ("Respondent"). Benjamin Doscher, Esq. appeared on behalf of the Respondent.² There were no witnesses at the hearing. The Hearing Committee received and examined documents from the Department 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") §

¹ The location of the hearing was 150 Broadway, Suite 510, Menands, New York.

² The hearing was scheduled for 10:30 a.m. The Respondent's attorney appeared at the scheduled time, but the Respondent had not yet arrived. The Hearing Committee delayed the commencement of the hearing, but the Respondent had still not arrived at 12:45 p.m., so the hearing was held. The Respondent came to the building after the hearing was completed. At the hearing, the Respondent's attorney had an opportunity to explain the factors which the Hearing Committee could consider in mitigation of the Respondent's professional misconduct.

6530(9)(a)(i), by having been convicted of committing an act constituting a crime under New York state law in his plea of guilty to one count of Assault in the Second Degree, in violation of New York Penal Law § 120.05(2), a felony. The Hearing Committee unanimously votes 3-0 to revoke the Respondent's license to practice medicine in New York.

BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for an expedited hearing when a registered provider or licensee is charged solely with a violation of Educ. Law § 6530(9). In such cases, the charge of misconduct is 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 Respondent is charged here with one specification of professional misconduct pursuant to Educ. Law § 6530(9)(a)(i) by having been convicted, on February 26, 2015, of committing an act constituting a crime under New York state law, in violation of Penal Law § 120.05(2). A copy of the Notice of Hearing and Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

These Findings of Fact were made by the Hearing Committee after a review of the record in this matter. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence. The references in brackets refer to exhibits ["Ex."]. The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. Mohammad Jaghory, M.D., the Respondent, was licensed to practice as a physician on April 25, 1995, by the issuance of license number 199059 by the Education Department. [Ex. 3].
2. On February 26, 2015, the Respondent was convicted, in Queens County Supreme Court,

following his plea of guilty to Assault in the Second Degree, a felony, in violation of Penal Law § 120.05(2). Sentencing on the felony charge included incarceration, a five-year probationary term, a fine and surcharge totaling \$375.00, and the issuance of an order of protection for a period of eight years. [Ex. 4].

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

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

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

Although the Respondent's attorney appeared to participate at the hearing, the Respondent did not attend. The Department submitted the Affidavit of Service, which states that on July 9, 2016, the Respondent was personally served with the Notice of Referral Proceeding and Statement of Charges at his last known address in [REDACTED], New York, establishing personal service pursuant to PHL § 230(10)(d)(i). After considering the documentary evidence concerning service of the Notice of Referral Proceeding and the Statement of Charges, the ALJ ruled that all requirements for proper notice were satisfied and the Board obtained jurisdiction over the Respondent. [Ex. 2].

The Respondent's conduct involved the use of a knife to stab a victim, which resulted in a felony assault in the second degree conviction. Because the Respondent was convicted of committing an act constituting a crime under New York state law, he has committed professional misconduct as defined in New York Educ. Law § 6530(9)(a)(i). As such, the specification of misconduct contained in the Statement of Charges of this proceeding is sustained. [Ex. 1, 4].

The Hearing Committee considered the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties and found that the sustained specification involved the Respondent's use of a dangerous weapon to cause injury to the victim. The Respondent's counsel argued the presence of mitigating circumstances to include Respondent's satisfactory compliance with the criminal court's conditions and probationary terms and the Respondent's history, which does not involve malpractice claims or disciplinary actions. The Hearing Committee also noted the discrepancy between the Certificate of Conviction [Ex. 4], which reflected a jail term of one year, and the statement by the Respondent's attorney at the hearing that the jail term consisted of one day. Despite these factors, concerning to the Hearing Committee was the nature of the Respondent's violent conduct and his judgment to commit such an egregious offense against another person. As such, the Hearing Committee concluded that the Respondent's license to practice as physician must be revoked.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is **SUSTAINED;**
2. Respondent's license to practice as a physician in the State of New York is hereby **REVOKED;**
3. This Determination and Order shall be effective upon service on the Respondent. Service shall be either by certified mail or upon the Respondent at his last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

Syracuse
DATED: Albany, New York
September 12, 2016


Kendrick A. Sears, M.D.
Chairperson

Deborah Whitfield, M.A., Ph.D.
Eleanor C. Kane, M.D.

TO: Benjamin Doscher, Esq.
52 North Franklin Street
Hempstead, New York 11550

Mohammad Jaghory, M.D.


Uptown HealthCare Management, Inc.
DBA East Tremont Medical Center
930 East Tremont Avenue
Bronx, New York 10460

Ian H. Silverman, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX I

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

IN THE MATTER
OF
MOHAMMAD JAGHORY, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Mohammad Jaghory, M.D. [REDACTED] Mohammad Jaghory, M.D.
Uptown HealthCare Management, Inc.
DBA East Tremont Medical Center
930 East Tremont Ave
Bronx, NY 10460

PLEASE TAKE NOTICE THAT:

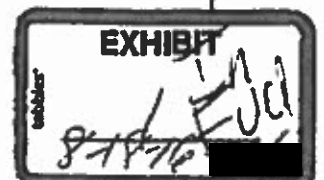
An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on August 18, 2016, 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,

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 

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
June 29, 2016


/MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

**Ian H. Silverman
Assistant Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282**

IN THE MATTER
OF
MOHAMMAD JAGHORY, M.D.

STATEMENT
OF
CHARGES

Mohammad Jaghory, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 25, 1995 by the issuance of license number 199059 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 26, 2015 the Respondent pled guilty to one count of Assault in the Second Degree, in violation of N.Y. Penal Law §120.05 (2), a class D felony, in Queens County. The conviction stems from an altercation in which the Respondent stabbed a man with a knife. The Respondent was sentenced to one year imprisonment, five years of probation, a fine of \$375 and an order of protection was issued.

SPECIFICATION OF CHARGES

CRIMINAL CONVICTION (N.Y.S.)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

1. The facts in Paragraph A.

DATE: June 30, 2016
Albany, New York


Michael A. Hiser
Deputy Counsel
Bureau of Professional Medical Conduct