



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

November 14, 2016

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Ian H. Silverman, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2512  
Albany, New York 12237-0032

Catherine A. Gale, Esq.  
Gale, Gale, Hunt, LLC  
P.O. Box 6527  
Syracuse, New York 13217

Thomas Stavola, M.D.  
Suffolk County Correctional Facility  
200 Suffolk Avenue  
Yaphank, New York 11980

**RE: In the Matter of Thomas Stavola, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 16-370) 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 (l), (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**

C-1-Y

In the matter of

**Thomas Stavola, M.D.**  
NYS license # 178562

**Determination  
and Order**

BPMC #16-370

A notice of referral proceeding and statement of charges, both dated July 5, 2016, were served on Respondent **Thomas Stavola, M.D.** The statement of charges alleged violation of New York State Education Law 6530. A hearing was held at offices of the New York State Department of Health, 259 Monroe Avenue, Rochester, New York, on September 15, 2016.

Pursuant to Public Health Law 230(10)(e), **Gail S. Homick Herrling**, Chairperson, **Jagdish M. Trivedi, M.D.**, and **Christopher L. Hamill, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee. **John Harris Terepka**, Administrative Law Judge, served as the administrative officer.

The Department of Health (the Petitioner) was represented by **Ian H. Silverman, Esq.** **Thomas Stavola, M.D.** (the Respondent), appeared by telephone and was represented by **Catherine A. Gale, Esq.** 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.

**JURISDICTION**

As is set forth in Public Health Law 230(1)&(7) and Education Law 6530, the legislature created the State Board for Professional Medical Conduct in the Department of Health (the Department), and authorized it to conduct disciplinary proceedings in matters of professional medical conduct. In this case, the Respondent, a physician, has been charged with misconduct pursuant to Ed.L 6530(9)(a)(i).

Pursuant to PHL 230(10)(p), a hearing on circumscribed issues, or "direct referral proceeding" is authorized when a licensee is charged solely with a violation of Ed.L 6530(9). Charges of misconduct under Ed.L 6530(9) are based upon a criminal conviction or an administrative violation, in New York State or another jurisdiction, establishing conduct that would constitute a crime or professional misconduct if committed in New York. The scope of the hearing is limited to whether there is a relevant conviction or administrative determination and if so, to a determination of the nature and severity of the penalty to be imposed. PHL 230(10)(p). Hearing procedures are set forth in Department of Health regulations at 10 NYCRR Part 51.

**EVIDENCE**

Witnesses for the Petitioner:	None
Petitioner exhibits:	1-4
Witnesses for the Respondent:	Pamela Granda (by telephone) Thomas Ribaudó, M.D. (by telephone) Nicholas Seberger Barbara Stavola Thomas Stavola, M.D. Stephen Stavola
Respondent exhibits:	A-H

A transcript of the hearing was made. (Transcript, pages 1-97.)

### **FINDINGS OF FACT**

An opportunity to be heard having been afforded the parties and evidence having been considered, it is hereby found:

1. Respondent Thomas Stavola, M.D. was authorized to practice medicine in New York State on June 29, 1989 under license number 178562. (Exhibit 3.)
2. On October 22, 2015, after entering a plea of guilty, the Respondent was convicted in the Suffolk County Court, New York, of one count of Manslaughter in the Second Degree, in violation of NY Penal Law 125.15, a class C felony; one count of Leaving the Scene of an Incident without Reporting, in violation of Vehicle and Traffic Law 600.2A, a class D felony; and Driving While Intoxicated in violation of Vehicle and Traffic Law 1192.2, an unclassified misdemeanor. (Exhibit 4.) The Respondent was sentenced to two years imprisonment.

### **HEARING COMMITTEE DETERMINATION**

After reviewing records obtained from the Suffolk County Court, (Exhibit 4), the hearing committee unanimously determined that, as alleged in the statement of charges, the Respondent violated Ed.L 6530(9)(a)(i) which defines professional misconduct, in pertinent part, as:

9. (a) Being convicted of committing an act constituting a crime under... New York state law.

The conviction in this case arose from the Respondent's involvement in a motor vehicle accident. The Respondent was driving while intoxicated, and killed another motorist in a collision. The Petitioner recommended revocation of the Respondent's license. (Transcript, page 96.)

The Respondent presented several witnesses and extensive documentation in support of his desire to be allowed to practice medicine. The hearing committee agreed that he should have the opportunity continue to do so. The committee was concerned, however, that he was evasive, less than completely candid, and in denial about the role of alcohol in the events that occurred. (Transcript, pages 61-64, 73-81.) The hearing committee unanimously determined that a two year suspension of the Respondent's license, to run approximately concurrently with his imprisonment, a five year term of probation with a sobriety monitor, and significant community service are the appropriate penalties.

The hearing committee's vote sustaining the charge and imposing the following penalties was unanimous (3-0).

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Respondent's license to practice medicine in New York State is suspended for a period of two years commencing January 1, 2016.
2. A five year term of probation, with a sobriety monitor, the terms of which are set forth in the appendix attached hereto, is imposed. The probationary term shall commence upon completion of the two year suspension.
3. The Respondent shall serve 200 hours per year of community service during the term of probation, the nature of which is set forth in the appendix attached hereto.

This order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required under PHL 230(10)(h).

Dated: Albany, New York

Nov 10, 2014

By:

  
Gail S. Homick Herrling  
Chairperson

Jagdish M. Trivedi, M.D.  
Christopher L. Hamill, M.D.

To: Ian H. Silverman, Esq.  
Bureau of Professional Medical Conduct  
Corning Tower, Empire State Plaza  
Albany, New York 12237-0032

Catherine A. Gale, Esq.  
Gale Gale & Hunt, LLC  
P.O. Box 6527  
Syracuse, New York 13217

Thomas Stavola, M.D.  
Suffolk County Correctional Facility  
200 Suffolk Avenue  
Yaphank, New York 11980

**TERMS OF PROBATION**

1. Respondent's conduct shall conform to moral and professional standards of conduct and to governing law. Any act of professional misconduct by Respondent as defined by New York Education Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York Public Health Law § 230 (10) or (19), or both.
2. Respondent shall remain in continuous compliance with all requirements of New York Education Law § 6502, including, but not limited to, the requirements that licensee register and continue to be registered with the New York State Education Department and that licensee pay all registration fees. Respondent shall not exercise the option provided in New York Education Law § 6502(4) to avoid registration and payment of fees.
3. Respondent shall provide to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, Suite 355, 150 Broadway, Albany, New York, 12204, at least every six months and as otherwise requested, or within thirty days of any change in the information, the following information in writing:
  - a. A full description of the Respondent's employment and practice;
  - b. All professional and residential addresses and telephone numbers within and outside of New York State;
  - c. Any and all information concerning investigations, arrests, charges, convictions or disciplinary actions by any local, state, or federal agency; and
  - d. Any and all information concerning investigations, terminations, or disciplinary matters by any institution or facility.
4. Respondent shall provide to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, Suite 355, 150 Broadway, Albany, New York, 12204, copies of all applications relating to practice as a physician, including but not limited to, insurance and licensure, in any jurisdiction, concurrent with their submission.
5. Respondent shall practice only when monitored by a qualified health care professional (sobriety monitor) proposed by the Respondent and approved, in writing, by the Director of the Office of Professional Medical Conduct (OPMC.) The monitor



shall not be a family member or personal friend, or be in professional relationships which would pose a conflict with monitoring responsibilities.

Respondent shall ensure that the monitor is familiar with Respondent's drug/alcohol history and with the terms of this Order. Respondent shall cause the monitor to report any deviation from compliance with the terms of this order to OPMC. Respondent shall cause the monitor to submit reports on a timely basis.

Respondent shall submit, at the request of the monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random, seven-days a week, twenty-four hours a day basis. Respondent shall report for a drug screen within four hours of being contacted by the monitor. Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by Respondent or a test is positive for any unauthorized substance.

Respondent shall meet with the sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying Respondent's sobriety. These reports are to include a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than four per month for the first 12 months of the period of probation, then at a frequency to be proposed by the sobriety monitor and approved by OPMC and b) an assessment of self-help group attendance (e.g. AA/NA/Caduceus, etc.), 12 step progress, etc.

Respondent shall avoid all substances which may cause positive urines such as herbal tea, poppy seeds, mouthwash, cough medicine. Any positive result will be considered a violation of this Order.

6. Respondent shall perform 200 hours of community service in each year of the five year probationary term. The service must be medical in nature, and delivered in a facility or with an organization equipped to provide medical services and serving a needy or medically underserved population. A written proposal for community service must be submitted to, and is subject to written approval of the Director of OPMC. Community service performed prior to the written approval shall not be credited toward compliance with this Order.
7. Respondent shall cooperate fully with, and will respond within two weeks to, OPMC requests to provide written periodic verification of Respondent's compliance with these terms of probation. Upon the Director of OPMC's request, Respondent shall meet personally with a person designated by the Director.

8. Respondent shall comply with these Terms of Probation, 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 for Professional Medical Conduct may initiate a violation of probation proceeding, and/or any other proceeding authorized by law, against the Respondent.

# APPENDIX I

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

IN THE MATTER  
OF  
THOMAS STAVOLA, M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Thomas Stavola, M.D. Thomas Stavola, M.D.

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 September 15, 2016 at 10:30 a.m., at the offices of the New York State Department of Health, 259 Monroe Ave, Rochester, NY 14607.

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 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 \_\_\_\_\_

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  
July 5, 2016



MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Ian Silverman  
Assistant Counsel  
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

THOMAS STAVOLA, M.D.

STATEMENT

OF

CHARGES

THOMAS STAVOLA, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 29, 1989 by the issuance of license number 178562 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about October 22, 2015 the Respondent pled guilty to one count of Manslaughter in the Second Degree, in violation of N.Y. Penal Law §125.15 (1), a class C felony; one count of Leaving the Scene of an Incident without Reporting, in violation of Vehicle and Traffic Law §600 (2), a class D felony; and Driving While Intoxicated in violation of Vehicle and Traffic Law §1192 (2), an unclassified misdemeanor in Suffolk County Court. The Respondent was sentenced to two years imprisonment.

**SPECIFICATION OF CHARGES**  
**FIRST SPECIFICATION**  
**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: July 5, 2016  
Albany, New York

  
Michael A. Hiser  
Deputy Counsel  
Bureau of Professional Medical Conduct