



Department of Health

ANDREW M. CUOMO
Governor

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

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

June 27, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dorothy Nene Ogundu, M.D.
[REDACTED]

Marc S. Nash, Esq.
NYS Department of Health
Corning Tower Room 2438
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Dorothy Nene Ogundu, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 17-184) 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.

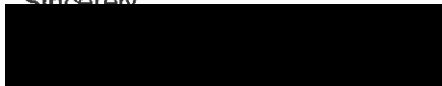
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A black rectangular redaction box covers the signature of James F. Horan.

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: nm
Enclosure

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

**IN THE MATTER
OF
DOROTHY NENE OGUNDU, M.D.**

**DETERMINATION
AND
ORDER**

BPMC-17-184

A hearing was held on May 17, 2017, at the offices of the New York State Department of Health (“the Department”), Bureau of Adjudication, 150 Broadway, Suite 510, Albany, New York 12204. A Commissioner’s Order of Summary Action, a Notice of Referral Proceeding and a Statement of Charges, all dated December 21, 2017, were served upon the Respondent, Dorothy Nene Ogundu, M.D. Samuel F. Bosco, M.D., Chair, Jose M. David, M.D., and Janet M. Miller, R.N., members of the State Board for Professional Medical Conduct, served as the hearing committee in this matter. Denise Lepicier, Administrative Law Judge, served as the administrative officer. The Department appeared by Marc S. Nash, Associate Counsel, Bureau of Professional Medical Conduct. The Respondent, Dorothy Nene Ogundu, M.D., appeared and represented herself at the hearing. Evidence was received and a transcript of the proceeding was 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 (“PHL”) § 230(10)(p). This statute provides for a hearing on limited issues when a licensee is charged based upon a violation of New York Education Law § 6530(9). In such cases, a licensee is charged with misconduct based upon certain convictions or administrative adjudications and the scope of the hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee. PHL § 230(10)(p).

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law § 6530(9)(a)(i), by having been convicted of a crime under New York State law.

Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Exhibits will be referred to in parentheses by an “Ex.” followed by the appropriate exhibit number or letter. These citations refer to evidence found persuasive by the hearing committee in arriving at a particular finding. All hearing committee findings were unanimous.

1. Dorothy Nene Ogundu, M.D., the Respondent, was notified of this hearing by personal service on January 5, 2017, at the Albion Correctional Facility in Albion, New York. (Ex. 2)
2. The Respondent was authorized to practice medicine in New York State on September 5, 1986, by the issuance of license number 167797 by the New York State Education

Department. (Ex. 3)

3. On or about October 22, 2015, Respondent was convicted after a jury trial of twenty-nine felonies in the New York State Supreme Court, Queens County. Respondent was found guilty of three counts of Grand Larceny 2d degree [C felonies]; four counts of Forgery 2d degree [D felonies]; five counts of Falsifying Business Records 1st degree [E felonies]; and seventeen counts of Offering a False Instrument for Filing 1st degree [E felonies] (Ex. 4)¹
4. On or about January 22, 2016, Respondent was sentenced to one to three years imprisonment for each Grand Larceny count, and one year imprisonment on all remaining counts, to be served concurrently. (Ex. 4)

CONCLUSIONS OF LAW

The following determination with respect to the specification charged was unanimous. The specification charges that Respondent violated Education Law § 6530 (9)(a)(i) by having been “convicted of committing an act constituting a crime” under New York State law. The Department has proven that the Respondent was convicted of multiple New York State crimes after a jury trial. The specification of misconduct is sustained.

¹ Count 2 (Offering a False Instrument for Filing 1st degree) of the indictment was withdrawn and Respondent was acquitted of Count 13 (Falsifying Business Records 1st degree).

DETERMINATION AS TO SANCTION

The hearing committee has considered the full range of sanctions available pursuant to PHL § 230-a, including: (1) censure and reprimand; (2) suspension of the license, wholly or partially; (3) limitation on practice; (4) revocation of the license; (5) annulment of the license or registration; (6) limitation on registration or further licensure; (7) monetary penalties; (8) a course of education or training; (9) performance of public service; and, (10) probation. The hearing committee has unanimously concluded that the appropriate sanction is a suspension of Respondent's license for one year.

The committee believes that Respondent's convictions are serious. She was found guilty of using money from twelve separate New York City, New York State, and federal government grants for purposes other than that for which the grants were made. Most of the money was used to pay the mortgages and utilities for two separate commercial properties Respondent owned through a holding company. She engaged in these activities from about April of 2006 to September of 2013 and stole about \$373,000 from these grants in this period. She not only made fraudulent requests for reimbursement, but, among other things, she collected kickbacks from a contractor, and created false lease documents to support her requests for the payment of rent. Her fraud was planned and deliberate.

Respondent presented evidence at hearing of many awards she has received. Unfortunately, many of the awards were presented during the period that Respondent was engaging in the fraud for which she was convicted. This undermines the value of these awards in evidencing anything positive about her character. Some of her letters of support allude to her

being a victim of lack of understanding concerning the rigorous requirements of administering government grants. This committee does not believe that Respondent is naïve. She was awarded at least twelve government grants. She incorporated a non-profit, owns commercial buildings through a holding company, created false lease instruments, collected kickbacks and submitted false statement after false statement concerning requests for and use of grant money. She has brought disgrace to her profession.

Her testimony at hearing concerning her medical practice before her incarceration over one year ago, led the committee to believe that she was practicing well beyond the scope of a specialist in obstetrics and gynecology. The hearing committee is concerned that Respondent is practicing beyond her training and that her skills in her specialty may have declined as she has been out of practice and will be out of practice for an additional period of time.

The hearing committee orders that Respondent should receive a one year actual suspension of her license, followed by three years of probation (as per the terms of probation attached as Appendix II) with a practice monitor in her specialty. Mindful of the fact that Respondent's license has been suspended pursuant to a Commissioner's Summary Order of Suspension, the hearing committee orders that the one year of suspension began retroactively on January 19, 2017, on or about the day Respondent was released from incarceration. The hearing committee also orders that a permanent limitation be placed on Respondent's license limiting her practice to obstetrics and gynecology and that, before resuming any practice, Respondent complete fifty (50) category one continuing medical education (CME) credits in obstetrics and gynecology.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is **SUSTAINED**;
2. The license of the Respondent to practice medicine in New York State is **SUSPENDED** for one year, with the date of the suspension having begun retroactively on January 19, 2017;
3. Respondent's license is subject to a permanent limitation, limiting her practice of medicine to obstetrics and gynecology;
4. Following the termination of the period of suspension, the Respondent is placed on three years of probation with a practice monitor, as per the terms of probation attached hereto;
5. Prior to any resumption of practice, Respondent must complete fifty (50) hours of category one continuing medical education (CME) credits in obstetrics and gynecology;
6. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law § 230(10)(h).

DATED: _____, New York

June 20, 2017



Samuel F. Bosco, M.D., Chair

**Jose M. David, M.D.
Janet M. Miller, R.N.**

To:

Dorothy Nene Ogundu, M.D.



Marc S. Nash, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, N.Y. 12237

APPENDIX I

IN THE MATTER
OF
DOROTHY NENE OGUNDU, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Dorothy Nene Ogundu, M.D.
Albion Correctional Facility
3595 State School Road
Albion, New York 14411

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 February 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 Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150

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

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
December 27, 2016



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Nathaniel White
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

IN THE MATTER
OF
DOROTHY NENE OGUNDU, M.D.

STATEMENT
OF
CHARGES

DOROTHY NENE OGUNDU, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 5, 1986, by the issuance of license number 167797 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 22, 2015, Respondent was convicted of twenty-nine felonies in the New York State Supreme Court, Queens County, including three counts of Grand Larceny in the second degree, a "C" felony; four counts of Forgery in the second degree, a "D" felony; five counts of Falsifying Business Records in the first degree, an "E" felony; and seventeen counts of Offering a False Instrument for Filing in the first degree, an "E" felony. On or about January 22, 2016, Respondent was sentenced to one to three years imprisonment for each Grand Larceny count and one year imprisonment on all remaining counts, to run concurrently.

SPECIFICATION OF CHARGES

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: December 21, 2016
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

APPENDIX II

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 a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall 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;
 - 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 the practice of medicine, including but not limited to, applications for privileges, insurance, and licensure, in any jurisdiction, concurrent with their submission.
5. 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.

6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty day period. Respondent shall then notify the Director again at least fourteen days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose. The Director of OPMC, or his/her designee, may review Respondent's professional performance. This review may include but shall not be limited to:
 - a. A review of office records, patient records, hospital charts, and/or electronic records;
 - b. Interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
7. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients, and contain all information required by State rules and regulations concerning controlled substances.
8. Respondent shall practice only when monitored by a licensed physician board certified in obstetrics and gynecology ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the practice monitor any and all records or access to the practice requested by the practice monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice on a random unannounced basis at least monthly and shall examine a selection (no less than 20) of records maintained by Respondent. Any perceived deviation from accepted standards of medical care or refusal to cooperate with the monitor shall be reported to OPMC within 24 hours.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.

- c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC within 30 days after the effective date of this Determination and Order.
9. Respondent shall enroll in and successfully complete fifty (50) category one (live) continuing medical education (CME) credits in obstetrics and gynecology prior to resuming medical practice. All CME courses are subject to the prior written approval of the Director of OPMC. Courses taken in the past may not be used to fulfill this requirement.
10. 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.