



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

April 5, 2018

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

James Morales, M.D.  
[REDACTED]

Marc S. Nash, Esq.  
Bureau of Professional Medical Conduct  
Corning Tower, Empire State Plaza  
Albany, New York 12237-0032

**HAND DELIVERED**

**RE: In the Matter of James Morales, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No.18-082) 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.

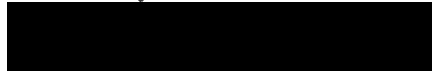
The notice of review served on the Administrative Review Board should be forwarded to:

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: cac  
Enclosure

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

In the matter of

**James Morales, M.D.**  
NYS license # 216774

**Determination  
and Order**

18-082

A commissioners's order of summary action, notice of referral proceeding and statement of charges, all dated December 26, 2017, were served on Respondent **James Morales, M.D.** The statement of charges alleged professional misconduct in 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 March 14, 2018.

Pursuant to Public Health Law 230(10)(e), **Charles J. Vacanti, M.D.**, Chairperson, **Paul C. Harrington, M.D.**, and **Paul J. Lambiase**, 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 **Marc S. Nash, Esq.** **James Morales, M.D.** (the Respondent) did not appear, although duly served with notice of the hearing in conformity with the requirements of PHL 230(10)(d). (Exhibit 2.) 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 sustaining the charges and revoking the Respondent's license to practice medicine.

### 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 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)(ii).

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 - 5

Witnesses for the Respondent:	None
Respondent exhibits:	None

A transcript of the hearing was made.

### FINDINGS OF FACT

1. Respondent James Morales, M.D. was authorized to practice medicine in New York State on February 15, 2000 under license number 216774. (Exhibit 3.)

2. On June 29, 2017, in the United States District Court, District of New Jersey, the Respondent pleaded guilty to one felony count of Conspiracy to Bribery and Commit Health Care Fraud (18 U.S.C. § 371). The Respondent was sentenced to a prison term of twelve months and one day, followed by supervised release for a term of two years. In addition, Respondent was ordered to pay a fine in the amount of \$5,000, restitution in the amount of \$78,018.43, and a forfeiture of \$90,000. (Exhibits 4, 5.)

#### HEARING COMMITTEE DETERMINATION

After reviewing records obtained from the United States District Court, District of New Jersey (Exhibits 4, 5), the hearing committee unanimously determined that, as alleged in the statement of charges, the Respondent violated Ed.L 6530(9)(a)(ii) which defines professional misconduct, in pertinent part, as:

9. (a) Being convicted of committing an act constituting a crime under... (ii) federal law.

The Petitioner recommended revocation of the Respondent's license.

The Respondent was duly served by personal service with notice of the hearing but failed to answer the charges or appear at the hearing. (Exhibit 2.) The Respondent was engaged in a conspiracy in which he fraudulently prescribed medications for patients and referred those prescriptions to another provider that paid him bribes and kickbacks for the referrals. Hundreds of thousands of dollars in fraudulent Medicare and Medicaid reimbursement was obtained in this manner. The hearing committee agreed the evidence amply supported the Petitioner's recommendation that the Respondent's license be revoked.

The hearing committee's vote sustaining the charge and revoking the Respondent's license was unanimous (3-0).

**ORDER**

**IT IS HEREBY ORDERED THAT:**

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

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

5 April 2018

By:

  
Charles J. Vacanti, M.D., Chair

Paul C. Harrington, M.D.  
Paul J. Lambiase

To: Marc S. Nash, Esq.  
Bureau of Professional Medical Conduct  
Corning Tower, Empire State Plaza  
Albany, New York 12237-0032

James Morales, M.D.  


## APPENDIX I

**IN THE MATTER**  
**OF**  
**JAMES MORALES, M.D.**

**STATEMENT**  
**OF**  
**CHARGES**

JAMES MORALES, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 15, 2000, by the issuance of license number 216774 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about June 29, 2015, the Respondent pled guilty in the United States District court, District of New Jersey, to one count of Conspiracy to Bribery and Commit Health Care Fraud [18 U.S.C § 371, 42 U.S.C. § 1320a-7b(b)(1)(A), 18 U.S.C. § 1347], a felony. On or about June 29, 2017, the Respondent was convicted and sentenced to twelve months and one day in prison, supervised release for two years, fined \$5,000.00, ordered to pay restitution of \$78,018.00 and ordered to forfeit \$90,000.00.



**SPECIFICATION OF CHARGES**

**CRIMINAL CONVICTION (Federal)**

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

1. The facts in Paragraph A.

DATE: December 26, 2017  
Albany, New York



MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct