



Department of Health

ANDREW M. CUOMO
Governor

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

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

December 28, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Hisham Shawish, M.D.
[REDACTED]

Marc S. Nash, Esq.
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Hisham Shawish, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 20-319) 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.

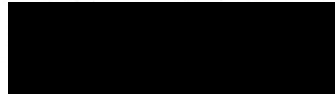
The notice of review served on the Administrative Review Board should be forwarded to:

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: cmg
Enclosure

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

COPY

-----X
IN THE MATTER :
OF : DETERMINATION
HISHAM SHAWISH, M.D. : AND
: ORDER
: BPMC-20-319
-----X

In accordance with Public Health Law (PHL) § 230, and the New York State Administrative Procedure Act (SAPA) Article 3, a hearing was held by videoconference on November 19, 2020. Pursuant to PHL § 230(10)(e), Janet R. Axelrod, Esq., Chairperson, David Kaplan, M.D., and Elaine L. Wilk, D.O., duly designated members of the State Board for Professional Medical Conduct (BPMC), served as the Hearing Committee in this matter. Jean T. Carney, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by Associate Counsel Marc S. Nash. The Respondent failed to appear¹. Jurisdiction over the Respondent was obtained by substituted service of the Commissioner's Order of Summary Action, Notice of Referral Proceeding, and Statement of Charges. (PHL § 230[10][d]). The Hearing Committee received and examined documents from the Department (Exhibits 1-7). A stenographic reporter

¹ Information on how to participate at the hearing remotely was included with the Notice of Hearing; but the Respondent failed to make any attempt to participate. The hearing proceeded in his absence. (Exhibits 1-4).

prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustains the charges that the Respondent committed professional misconduct in violation of Educ. Law § 6530(9)(a)(iii); and that pursuant to PHL § 230-a, the penalty of revocation is appropriate.

BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Educ. Law § 6530(9).

The Respondent is charged with professional misconduct pursuant to Educ. Law § 6530(9)(a)(iii), having been convicted of an act constituting a crime under the law of another jurisdiction, which would constitute a crime under New York law if committed in New York State.

Under PHL § 230(10), the Department has the burden of proving its case by a preponderance of the evidence. Any licensee found guilty of professional misconduct under the procedures prescribed in PHL § 230 "shall be subject to penalties as prescribed in [PHL § 230-a] except that the charges may be dismissed in the interest of justice." (Educ. Law § 6530).

FINDINGS OF FACT

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. The Respondent was authorized to practice medicine in New York State on January 3, 2018, by the issuance of license number 292095. (Exhibit 5).

2. On June 18, 2019, the Respondent was convicted after a trial of Pennsylvania Crimes Code § 3126(a)(7), indecent assault; and § 6301(a)(1)(i), corruption of minors. The jury found that the Respondent subjected two children under 13 years of age to sexual contact. (Exhibits 6 and 7).

3. The Respondent was released on bond after his conviction, but failed to appear for his sentencing after having purchased an airline ticket to his home country of Jordan. (Exhibit 4).

VOTE OF THE HEARING COMMITTEE

The Hearing Committee concludes that the evidence supports sustaining the charge of having committed misconduct as defined in Educ. Law §6530(9)(a)(iii).

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATIONS

The Department met its burden of proving by a preponderance of the evidence that the Respondent was convicted of crimes which, if committed in New York, would constitute the crime of sexual abuse in the first degree. (Penal Law § 130.65[4]). A person is guilty of sexual abuse in the first degree when he or she is over the age of 21 and subjects a person younger than 13 years of age to sexual contact. (*Id.*) The committee

concludes that the Respondent's actions constitute professional misconduct as defined in Educ. Law §6530(9)(a)(iii).

In considering the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties; the Hearing Committee noted that the Respondent failed to respond to the charges, despite being given the opportunity to do so. The Hearing Committee considered the serious nature of the criminal conviction, and the Respondent's subsequent flight prior to sentencing, all of which placed the public at risk of harm. The Hearing Committee agrees with the Department's recommendation that the Respondent's medical license in New York State be revoked pursuant to PHL §230-a.


ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct as set forth in the Statement of Charges is sustained;
2. The Respondent's license to practice medicine is revoked; and
3. This Order shall be effective upon service on the Respondent in accordance with the Requirements of PHL §230(10)(h).

DATED: Albany, New York

December 16, 2020


Janet R. Axelrod, Esq, Chairperson

David Kaplan, M.D.
Elaine L. Wilk, D.O.

To: Hisham Shawish, M.D.



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

APPENDIX A

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

IN THE MATTER

OF

HISHAM SHAWISH, M.D.

STATEMENT

OF

CHARGES

HISHAM SHAWISH, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 3, 2018, by the issuance of license number 292095 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 18, 2019, in the Court of Common Pleas of Mercer County, Pennsylvania Criminal Division, Respondent was found guilty and convicted of Indecent Assault in violation of Pennsylvania Statute 18 § 3126(a)(7).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION


CRIMINAL CONVICTION (Other Jurisdiction)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would

have constituted a crime under New York state law (namely N.Y. Penal Law § 130.65) as alleged in the facts of the following:

1. The facts in Paragraph A.

DATE: September 17, 2020
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct