

**These charges are only allegations which
may be contested by the licensee in an
Administrative hearing.**

IN THE MATTER
OF
SIMON SANTOS-ARIAS, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Simon Santos-Arias, 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 February 13, 2019, 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 and at such other adjourned dates, times and places as the committee may direct.

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.

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

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
January 2, 2019


TIMOTHY J. MAHAR
Acting Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

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

IN THE MATTER
OF
SIMON B. SANTOS-ARIAS, M.D.

STATEMENT
OF
CHARGES

Simon B. Santos-Arias, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 28, 1978, by the issuance of license number 135356 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about April 13, 2015, in the Superior Court of New Jersey, County of Morris, State of New Jersey, Respondent was convicted upon a plea of guilty of Commercial Bribery, a third degree felony, in violation of NJSA 2C:21-10a(3). From on or about January 1, 2008 to June 17, 2014, Respondent solicited, accepted, or agreed to accept \$30,000.00 in payments in the form of cash and gifts from Diagnostic Imaging Associates in exchange for referring patients for diagnostic testing.
- B. On or about August 18, 2016, Respondent was sentenced to four years of probation, 100 hours of community service, a \$5,000.00 fine, and \$30,000.00 in restitution. Respondent was given credit for one day spent in jail and probation was transferred to the State of Florida.
- C. The crime of which Respondent was convicted in New Jersey would have constituted a crime if committed in New York State pursuant to New York State Penal Law §180.05 Commercial Bribe Receiving in the Second Degree.

D. On or about April 28, 2015, by a Consent Order, the New Jersey State Board of Medical Examiners suspended Respondent's license to practice medicine for a period of three years with two years active suspension and one year of probation.

Respondent was required to attend and successfully complete an ethics course. The suspension was based upon Respondent's conviction of Commercial Bribery.

E. The conduct that resulted in the disciplinary action by the New Jersey Board would have constituted professional misconduct under New York State law pursuant to the following sections of New York State law:

1. Education Law §6530(9)(a)(iii) Being 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.

F. On or about December 16, 2016, the Florida Board of Medicine following a hearing at which Respondent appeared with counsel, by a Final Order, revoked Respondent's license to practice medicine based upon Respondent's conviction for Commercial Bribery, the suspension of Respondent's medical license in New Jersey, Respondent's failure to report his conviction and suspension to the Florida Board of Medicine, in writing, within thirty days, and Respondent's failure to update his Florida physician profile.

G. The conduct that resulted in the disciplinary action by the Florida Board would have constituted professional misconduct under New York State law pursuant to the following sections of New York State law:

1. Education Law §6530(9)(a)(iii) Being 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; and/or

2. Education Law §6530(9)(d) Having his license to practice medicine revoked, suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license would, if committed in New York state, constitute professional misconduct under the laws of New York State; and/or
3. Education Law §6530(16) A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine; and/or
4. Education Law §6530(21) Willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, or willfully impeding or obstructing such filing, or inducing another person to do so.

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 §180.05 Commercial Bribe Receiving in the Second Degree) as alleged in the facts of the following:

1. The facts in Paragraphs A, B and C.

SECOND SPECIFICATION

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §§ 6530[9][a][iii], [9][d],[16] and/or [21]) as alleged in the facts of the following:

2. The facts in Paragraphs F and G and G1, G and G2, G and G3, and/or G and G4.

THIRD THROUGH FOURTH SPECIFICATIONS


HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or

suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530[9][a][iii],[9][d],[16] and/or [21]) as alleged in the facts of the following:

3. The facts in Paragraphs D and E and E1.
4. The facts in Paragraphs F and G and G1, G and G2, G and G3, and/or G and G4.

DATE: January 2, 2019
Albany, New York


TIMOTHY J. MAHAR
Acting Deputy Counsel
Bureau of Professional Medical Conduct