



Department of Health

ANDREW M. CUOMO
Governor

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

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

May 30, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Pooja A. Rawal
Senior Attorney
New York State Department of Health
Bureau of Professional Medical Conduct
ESP, Corning Tower, Room 2512
Albany, New York 12237

Ewald Antoine, M.D.
[REDACTED]
FCI Otisville
Two Mile Drive
Otisville, New York 10963

RE: In the Matter of Ewald Antoine, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 19-131) 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

-----X	:	
IN THE MATTER	:	DETERMINATION
	:	
OF	:	AND
	:	
EWALD ANTOINE, M.D.	:	ORDER
	:	19-131
-----X		

A hearing was held on May 15, 2019, at the offices of the New York State Department of Health (Department), 150 Broadway, Menands, New York. Pursuant to Public Health Law (PHL) § 230(10)(e), Andrew Merritt, M.D., Chairperson, Reid Muller, M.D., and Jeffrey Fudin, Pharm.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Tina M. Champion, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by Pooja A. Rawal, Senior Attorney. A Commissioner's Order of Summary Action, Notice of Referral Proceeding, and Statement of Charges, all dated February 27, 2019, were duly served upon Ewald Antoine, M.D., (Respondent), who was incarcerated in Otisville, New York. The Respondent participated in the hearing by telephone and was assisted by his daughter, Alexandra Huffman, who also participated by telephone from Edgewater, New Jersey.

The Hearing Committee received and examined documents from the Department (Exhibits 1-4). A stenographic reporter prepared a transcript of the proceeding.

After consideration of the entire record, the Hearing Committee unanimously votes 3-0 to sustain the charges that the Respondent committed professional misconduct in violation of Education Law (Educ. Law) § 6530(9), and that the penalty of revocation of his medical license is appropriate.

BACKGROUND

The Department brought this 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)(ii) for “[h]aving been convicted of committing an act constituting a crime under federal law.” Pursuant to 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.”

FINDINGS OF FACT

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

1. Ewald Antoine, M.D., the Respondent, was licensed by the New York State Education Department to practice medicine on July 22, 1986, by the issuance of license number 167153. (Ex. 2.)
2. On or about August 21, 2018, in the United States District Court for the Southern District of New York, the Respondent was convicted of two counts of federal felonies. Specifically, the Respondent was convicted of one count of Conspiracy to Commit Health Care Fraud, Mail Fraud, and Wire Fraud (18 USC § 1349) and one count of Health Care Fraud (18 USC § 1347). (Ex. 4.)
3. The Respondent was sentenced to one year and one day of imprisonment on each count to run concurrently, three years of supervised release, an assessment of \$200.00, and joint and severable restitution with co-defendants in the amount of \$1,825,544.00. (Ex. 4.)

VOTE OF THE HEARING COMMITTEE

The Hearing Committee decided, by a vote of 3-0, that the evidence supports sustaining the charges of the Respondent having committed professional misconduct as defined in Educ. Law § 6530(9)(a)(ii).

HEARING COMMITTEE DETERMINATIONS

The Department charged the Respondent with professional misconduct pursuant to Educ. Law § 6530(9)(a)(ii). The charge contains one specification pertaining to Respondent's conviction of two counts of federal felonies on or about August 21, 2018, in the United States District Court for the Southern District of New York -- one count of Conspiracy to Commit Health Care Fraud, Mail Fraud, and Wire Fraud (18 USC § 1349) and one count of Health Care Fraud (18 USC § 1347). The Department alleges, and the Hearing Committee concludes, that the conviction constitutes professional misconduct under the laws of New York State as defined in Educ. Law § 6530(9)(a)(ii).

The Department has recommended that the Respondent's license to practice medicine in New York State be revoked. The Hearing Committee acknowledges the remorse expressed by the Respondent and considered the lengthy statement Respondent provided at the hearing. While the Respondent's statement was heartfelt, it was centered on his concerns over regaining his earning power for his family and restoring his personal image. The Hearing Committee found that the Respondent's aspiration to return to the practice of medicine was motivated solely by self-interest and lacked a desire to contribute to and serve the community. Based on the severity of the crimes for which he was convicted and Respondent's self-focused remorse, the Hearing Committee unanimously agrees with the Department's recommendation for revocation.

ORDER

Now, after reviewing the evidence from the hearing, 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 in the State of New York 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: May 25 2019
Syracuse, New York



Andrew Merritt, M.D., Chairperson
Reid Muller, M.D.
Jeffrey Fudin, Pharm.D.

Pooja A. Rawal
Senior Attorney
New York State Department of Health
Bureau of Professional Medical Conduct
Room 2512, Corning Tower, ESP
Albany, New York 12237

Ewald Antoine, M.D.

FCI Otisville
Two Mile Drive
Otisville, New York 10963

APPENDIX I

IN THE MATTER
OF
EWALD ANTOINE, M.D.

STATEMENT
OF
CHARGES

EWALD ANTOINE, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 22, 1986, by the issuance of license number 167153 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about August 21, 2018 in the U.S. District Court for the Southern District of New York, the Respondent was convicted of one count of Conspiracy to Commit Health Care Fraud, Mail Fraud, and Wire Fraud (18 USC § 1349); and one count of Health Care Fraud (18 USC § 1347), both federal felonies. The Respondent was sentenced to one year and one-day imprisonment to run concurrently on both counts, three years of supervised release, an assessment of \$200.00 and along with co-defendants, held jointly and severally liable for restitution for \$1,825,544.00.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

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: February 27, 2019
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct