



Department of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

October 28, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Delagente, D.O.
[REDACTED]
Fort Dix Federal Correctional Institution
P.O. Box 2000
Joint Base MDL, New Jersey 08640

Pooja A. Rawal, Esq.
New York State Department of Health
Division of Legal Affairs
Bureau of Professional Medical Conduct
Corning Tower Building, 25th Floor
Albany, New York 12237

RE: In the Matter of Robert Delagente, D.O.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-223) 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:

Jean T. Carney, 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 Ms. Carney 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 solid black rectangular redaction box covering the signature of the Chief Administrative Law Judge.

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
Enclosure

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

COPY

-----X
IN THE MATTER :
OF :
ROBERT DELAGENTE, D.O. :
-----X

DETERMINATION
AND
ORDER
BPMC-22-223

A Notice of Referral Proceeding and Statement of Charges dated August 25, 2022 were duly served upon Robert Delagente, D.O. (Respondent). (Exhibits 1, 3.) A hearing was held on October 20, 2022 via WebEx videoconference. Pursuant to § 230(10)(e) of the Public Health Law (PHL), ROBERT A. DRACKER, M.D., Chairperson, LINDA A. BRADY, M.D., and SUSAN KSIAZEK, B.S., PHARM., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. NATALIE J. BORDEAUX, ADMINISTRATIVE LAW JUDGE (ALJ), served as the Administrative Officer.

The Department appeared by Pooja A. Rawal, Senior Attorney. The Respondent did not appear. The Hearing Committee received and examined documents from the Department (Exhibits 1-4). A transcript of the proceeding was made.

After consideration of the entire hearing record, the Hearing Committee hereby issues this determination. All findings, conclusions, and determinations are unanimous.

JURISDICTION

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 Education Law § 6530(9). The Respondent is charged with professional misconduct pursuant to Education Law § 6530(9)(a)(ii), by having been convicted of committing an act constituting a crime under federal law. Hearing procedures are set

forth in Department regulations at 10 NYCRR Part 51. Under PHL §230(10), the Department had the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

1. On March 29, 2019, the Respondent was authorized to practice medicine in New York and was issued license number 298346. (Exhibit 2.)
2. On May 10, 2022, the Respondent was convicted in the United States District Court for the District of New Jersey, following his guilty plea to one count of Conspiracy to Distribute Controlled Substances in violation of 21 U.S.C. § 846, three counts of Distribution of Controlled Substances in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C), and one count of Falsification of Records in violation of 18 U.S.C. § 1519 and §2. The Respondent knowingly and intentionally conspired to, and distributed and dispensed, oxycontin to Patient 1, and oxycodone to Patients 2 and 3 outside the usual course of professional practice and without a legitimate medical purpose. In addition, he materially altered and falsified patient records to conceal the fact that he had not seen certain patients for an office visit before prescribing them controlled substances. He was sentenced to 72 months' imprisonment as to each count to be served concurrently, followed by three years of supervised release as to each count to be served concurrently, during which he is required to refrain from any employment as a doctor or physician in any state and is restricted from any employment involving the prescription of any Schedule II through Schedule V controlled substances listed under the Controlled Substances Act. A special assessment of \$500 was also issued. (Exhibit 4.)

CONCLUSIONS OF LAW

Although the Respondent was duly served by personal service with notice of the hearing, he failed to respond or appear at the hearing to contest the Department's charge. The Department

having established jurisdiction and proper notice, the ALJ determined that the hearing could proceed on the merits despite the Respondent's absence.

The Hearing Committee reviewed the Department's evidence showing the Respondent's conviction in the United States District Court for the District of New Jersey of the federal crimes of Conspiracy to Distribute Controlled Substances, Distribution of Controlled Substances, and Falsification of Records. Based on this conviction, the Hearing Committee determined that the Respondent violated Education Law § 6530(9)(a)(ii).

In considering the full spectrum of penalties under PHL § 230-a, the Hearing Committee agreed with the Department that revocation of the Respondent's medical license was warranted. The Respondent used his medical license to dispense controlled substances outside the course of his professional practice and without a legitimate medical purpose, which poses a serious danger to New York patients. Furthermore, given his history of falsifying patient records, a more lenient penalty involving practice monitoring would be futile and unnecessarily risky to the public. The Respondent's actions showed disregard for patient safety, for the integrity of his medical license, and for the law. For these reasons, the Hearing Committee concluded that revocation of the Respondent's license was the only appropriate penalty.

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 in the state of New York is revoked pursuant to PHL § 230-a(4).
3. This Order shall be effective upon service on the Respondent in compliance with PHL § 230(10)(h).

DATED: Oct 27, 2022
_____, New York



Robert A. Dracker, M.D., Chairperson
Linda A. Brady, M.D.
Susan Ksiazek, B.S. Pharm.

To: Robert Delagente, D.O.

Fort Dix Federal Correctional Institution
P.O. Box 2000
Joint Base MDL, New Jersey 08640

Pooja A. Rawal
Senior Attorney
New York State Health Department
Division of Legal Affairs
Bureau of Professional Medical Conduct
Corning Tower Building -- 25th Floor
Albany, New York 12237

IN THE MATTER

OF

ROBERT DELAGENTE, D.O.

STATEMENT

OF

CHARGES

ROBERT DELAGENTE, D.O., the Respondent, was authorized to practice medicine in New York State on or about March 29, 2019, by the issuance of license number 298346 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 10, 2022, in the United States District Court, District of New Jersey ("NJ Court") the Respondent was convicted and found guilty of one count of Conspiracy to Distribute Controlled Substances (21 U.S.C. § 846), three counts of Distribution of Controlled Substances (21 U.S.C. 841 §§ (a)(1) & (b)(1)(C)), and one count of Falsification of Records (18 U.S.C. §§ 1519 & 2). The Respondent was sentenced to seventy-two months as to each count to be served concurrently, supervised release for thirty-six months as to each count to be served concurrently with special conditions on occupational restrictions and self-employment/business disclosure. A special assessment of \$500.00 was also issued.


SPECIFICATION OF LAW

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: August 25 , 2022
Albany, New York



HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct