



Department of Health

ANDREW M. CUOMO
Governor

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

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

December 6, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Edwardo Yambo, M.D.
[REDACTED]

Anthony Z. Scher
Attorney at Law
800 Westchester Avenue
Suite N641
Rye Brook, New York 10573

John T. Viti, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, New York 10007

RE: In the Matter of Edwardo Yambo, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 19-302) 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

**IN THE MATTER
OF
EDUARDO YAMBO, M.D.**

**DETERMINATION
AND
ORDER
19-302**

A hearing was held on October 24, 2019, at the offices of the New York State Department of Health (Department), 90 Church Street, New York, New York. Pursuant to § 230(10)(e) of the Public Health Law (PHL), **STEVEN M. LAPIDUS, M.D.**, Chairperson, **AIRLIE A.C. CAMERON, M.D.**, and **RICHARD S. GOLDBERG, ESQ.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **NATALIE J. BORDEAUX, ADMINISTRATIVE LAW JUDGE (ALJ)**, served as the Administrative Officer.

The Department appeared by John Viti, Associate Counsel. A Commissioner's Order of Summary Action, Notice of Referral Proceeding, and Statement of Charges dated May 21, 2019, were duly served upon Eduardo Yambo, M.D. (Respondent). (Exhibits 1 and 2.) The Respondent did not appear for the hearing. The Respondent's attorney, although duly noticed of the hearing, also failed to appear. The Hearing Committee received and examined documents from the Department (Exhibits 1-6), and a stenographic reporter prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustained the charge that the Respondent committed professional misconduct, in violation of Education Law (Educ. Law) 6530(9)(a)(i), and determined that pursuant to PHL § 230-a, the penalty of revocation of the Respondent's medical license is appropriate.

BACKGROUND

The Department commenced this action 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)(i), by having been convicted of an act constituting a crime under state law, specifically New York Penal Law § 155.35(1). Under PHL §230(10), the Department had the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

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

1. On July 29, 1977, the Respondent was authorized to practice medicine in New York by the Education Department and was issued license number 131794. (Exhibit 3.)
2. On or about October 30, 2018, in Suffolk County District Court, the Respondent was adjudicated guilty, following his guilty plea, to the felony crime of Grand Larceny in the Third Degree, in violation of New York Penal Law § 155.35(1). On March 4, 2019, the Respondent was sentenced to 31 days in prison, to be served as 150 hours of community service in lieu of incarceration. He was also ordered to pay assessed charges of \$375. (Exhibit 4.)

VOTE OF THE HEARING COMMITTEE

The Respondent violated New York Educ. Law §6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law.

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Respondent failed to appear at the hearing, despite being duly served with a Notice of Referral Proceeding and Statement of Charges. (Exhibits 1-2.) Although this hearing was originally scheduled for July 18, 2019 in Menands, NY, in emails dated July 1 and July 2, 2019, the Respondent's attorney requested a change of venue for the Respondent's convenience and agreed to waive the statutory requirement set forth in PHL § 230(12)(b) that the hearing commence within 90 days of the date of service of the Commissioner's Order to allow the hearing to be held in New York City in October 2019. (ALJ Exhibit I.) In response to the Respondent's attorney's request, the parties were advised on July 3, 2019 (using the same email addresses from which the parties initiated their communication with the Bureau of Adjudication) that the hearing would be held at the Department's Metropolitan Regional Office in New York City on October 24, 2019. (ALJ Exhibit I.)

On October 24, after the scheduled hearing start time had passed, the Department's attorney unsuccessfully attempted to reach the Respondent's attorney by telephone and email to ascertain the Respondent's intention to appear. (Exhibit 6.) In deference to possible last-minute difficulties that the Respondent or his attorney might have encountered, the hearing commenced 50 minutes after the originally-scheduled time, after the Department's attorney confirmed that he had not received a response to the messages sent to the Respondent's attorney. The Department having established jurisdiction and proper notice, the ALJ determined that the hearing could proceed on the merits despite the Respondent's absence.

In consideration of the full spectrum of penalties under PHL 230-a, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties, the Hearing Committee agreed with the Department's recommendation that revocation of the Respondent's medical license was warranted. The Committee considered the Respondent's conduct that led to his criminal conviction, including the submission of multiple false claims to the Medicaid Program over a four-year period, for which he received nearly one million dollars. His crime was directly related to his practice of medicine. From these actions, the Committee concluded that the Respondent showed clear disregard for the law, for the gravity of receiving substantial monetary sums to which he was not entitled from a publicly-funded program, and for the integrity of his medical license. Due to the Respondent's failure to appear for the hearing, the Committee found no justification for varying from the Department's recommendation.

Therefore, the Hearing Committee concluded that the appropriate penalty in this case is the revocation of the Respondent's medical license.

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: New York, New York
Nov. 12, 2019


Steven M. Lapidus, M.D.

To: Edwardo Yambo, M.D.



Anthony Z. Scher
Attorney at Law
800 Westchester Avenue
Suite N641
Rye Brook, New York 10573

John T. Viti, Esq.
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, New York 10007

APPENDIX I

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

IN THE MATTER
OF
EDUARDO YAMBO, M.D.

STATEMENT
OF
CHARGES

EDUARDO YAMBO, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 29, 1977, by the issuance of license number 131794 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 30, 2018, in the State of New York, Suffolk County, First District Court, Respondent pled guilty and was convicted of Grand Larceny in the Third Degree [New York Penal Law § 155.35(1)], a Class D felony. On March 4, 2019, Respondent was sentenced to 31 days incarceration, to be served as 150 hours of community service in lieu of incarceration, and assessed fee and surcharges totaling \$375.00.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

CRIMINAL CONVICTION (N.Y.S.)

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

1. The facts in Paragraph A.

DATE: May 21, 2019
Albany, New York



TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct