



## 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 17, 2019

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Hannah E.C. Moore, Assistant Counsel  
NYS Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
Albany, New York 12237

Frank C. Purpera, Jr., M.D.  
[REDACTED]  
Western Virginia Regional Jail  
5885 West River Road  
Salam, Virginia 24153

**RE: In the Matter of Frank C. Purpera, Jr., M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 19-307) 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.

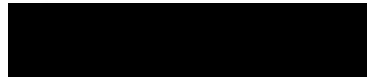
The notice of review served on the Administrative Review Board should be forwarded to:

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

FRANK C. PURPERA, Jr., M.D.

DETERMINATION

AND

ORDER  
19-307

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("the Department"). A Commissioner's Order of Summary Action ("COSA"), Notice of Referral Proceeding ("NORP") and Statement of Charges ("SOC"), all dated August 21, 2019, were served upon Frank C. Purpera, Jr., M.D. ("Respondent"). The COSA, NORP and SOC are attached to this Determination and Order as Appendix 1. A hearing, pursuant to N.Y. Public Health Law ("PHL") §230 and New York State Admin. Proc. Act §§301-307 and 401, was held on October 23, 2019, at the Department's offices at 90 Church Street, New York, New York.

C. Deborah Cross, M.D., Chair, David M. Kirshy, M.D., and Michael Colon, Esq., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee ("Committee") in this matter. Ann H. Gayle, Administrative Law Judge, served as the administrative officer. The Department appeared by Hannah E.C. Moore, Assistant Counsel. Respondent, having been duly served with the COSA, NORP and SOC in conformity with the requirements of PHL §230.10(d), did not appear (Exhibit 1). Evidence was received and a transcript (pages 1-25) of this hearing was made.

After consideration of the entire record, the Committee issues this Determination and Order. All findings, conclusions, determinations and orders herein are unanimous.

## STATEMENT OF CASE

This case was brought pursuant to PHL §230(10)(p) which provides for a hearing with circumscribed issues when a licensee is charged with misconduct based upon a criminal conviction under federal or state law and/or upon an administrative adjudication in another state regarding conduct that would amount to a crime and/or professional misconduct if committed in New York. N.Y. Education Law ("Educ. Law") §6530(9). The scope of the hearing is limited to a determination of the penalty, if any, to be imposed upon the licensee. In the instant case, Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(a)(ii) for having been convicted of a crime under federal law and §6530(9)(d) for having disciplinary action taken by another state.

## FINDINGS OF FACT

Citations in parentheses refer to transcript page numbers ("T") and exhibits ("Ex") that were accepted into evidence.

1. On September 11, 2019, Respondent was personally served with a COSA, NORP and SOC; he did not appear at the hearing in person or by a representative. (Ex 1; T 7-10)
2. Respondent was authorized by the New York State Education Department to practice medicine in New York State on October 13, 2010, by the issuance of license number 259054. (Ex 5)
3. On February 12, 2019, in the United States District Court for the Western District of Virginia ("Federal Court"), Respondent was found guilty by a jury verdict of 66 counts of obtaining a controlled substance by fraud in violation of Title 21 United States Code ("21 USC") §§843(a)(3) and (d)(1), one count of omitting material information required to be kept in violation of 21 USC §§ 843(a)(4)(a) and (d)(1), and one count of false statement in

violation of 18 USC §1001(a)(2), all felonies. Respondent was sentenced to a period of 20 months of incarceration followed by two years of post-release supervision, a fine of \$34,000.00, and an assessment of \$6,800.00. (Ex 4)

4. On February 27, 2019, the Commonwealth of Virginia Department of Health Professions by an Order of mandatory suspension, suspended Respondent's license to practice medicine and surgery in the Commonwealth of Virginia based upon Respondent's Federal Court conviction. (Ex 3)

### **CONCLUSIONS OF LAW**

The Department charged Respondent with two Specifications of professional misconduct pursuant to Educ. Law §§6530(9)(a)(ii) for having been convicted of a crime under federal law, and (9)(d) for having disciplinary action taken by another state where the conduct, if committed in New York state, would have constituted professional misconduct under the laws of New York state, namely N.Y. Educ. Law §6530(9)(a)(ii) (having been convicted of a crime under federal law).

Both Specifications are sustained.

### **DETERMINATION AS TO PENALTY**

The Committee, in considering the full range of penalties available pursuant to PHL Law §230-a, including: (1) censure and reprimand; (2) suspension of the license, wholly or partially; (3) limitation on practice; (4) revocation of the license; (5) annulment of the license or registration; (6) limitation on registration or further licensure; (7) monetary penalties; (8) a course of education or training; (9) performance of public service; and, (10) probation, concludes that the only appropriate penalty is a revocation of Respondent's license.

Following a jury trial, Respondent was convicted of sixty-eight of the seventy counts in

the December 14, 2017 Indictment in the Federal Court matter including: knowingly and intentionally acquiring and obtaining possession of controlled substances by misrepresentation, fraud, forgery, deception and subterfuge; making material false statements about their intended use to the supplier of those controlled substances; falsely denying that any of those controlled substances were used by Respondent personally or to treat a spouse, family or friends; falsely asserting that the controlled substances were dispensed to his patients; knowingly and intentionally omitting material information about the disposition of controlled substances in required documents; and falsely stating that he recorded the dispensed controlled substances in the recipient patients' files and that he maintained a required controlled substance dispensing log when he did not make those entries in patient files or maintain such dispensing log. All the charges upon which Respondent was convicted related to healthcare and the practice of medicine. (Ex 4; T 16-17)

The Committee finds that Respondent's acts which constituted the felonies for which he was convicted, all of which were committed by virtue of Respondent's (Virginia) medical license, demand a revocation of his New York license as it is the only appropriate penalty to address Respondent's very serious misconduct and to protect the public.

### **ORDER**


#### **IT IS HEREBY ORDERED THAT:**

1. The charge of misconduct under Educ. Law §6530(9)(a)(ii) for having been convicted of a crime under federal law is SUSTAINED.
2. The charge of misconduct under Educ. Law §6530(9)(d) for having disciplinary action taken by another state where the conduct, if committed in New York state, would have constituted professional misconduct under the laws of New York state is SUSTAINED.
3. Pursuant to PHL §230-a(4) Respondent's license to practice medicine shall be REVOKED.

4. This order shall be effective upon service on the Respondent by personal service or by certified mail as required under PHL §230(10)(h)

DATED: \_\_\_\_\_, New York

December 16, 2019

  
C. DEBORAH CROSS, M.D., Chair  
DAVID M. KIRSHY, M.D.  
MICHAEL COLON, ESQ.

# APPENDIX 1

Matter of Frank C. Purpera, Jr., M.D.



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

IN THE MATTER  
OF  
FRANK C. PURPERA, JR., M.D.

COMMISSIONER'S  
ORDER OF  
SUMMARY  
ACTION

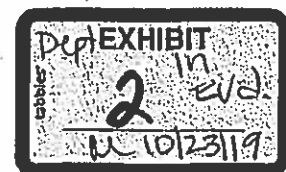
TO: Frank Purpera, Jr., M.D.  
[REDACTED]  
Western Virginia Regional Jail  
5885 West River Road  
Salem, VA 24153

The undersigned, Sally Dreslin, M.S., R.N., Executive Deputy Commissioner, pursuant to N.Y. Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that Frank Purpera, Jr., M.D. (henceforth "Respondent"), New York license number 259054, has pleaded or been found guilty or convicted of committing an act constituting a felony under New York State law, federal law, or the law of another jurisdiction which, if committed within this state, would have constituted a felony under New York State law, as is more fully set forth in the Statement of Charges attached to the Notice of Referral Proceeding or Notice of Hearing and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York, or practice in any setting under the authority of Respondent's New York license.


Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.



This Order shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the service of this order and shall end within ninety days thereafter. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding provided to the Respondent contemporaneously with this Order.

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 FORTH 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  
August 21, 2019

  
Sally Dreslin, M.S., R.N.  
Executive Deputy Commissioner  
New York State Department of Health

Inquiries should be directed to:

Hannah E.C. Moore  
Assistant Counsel  
NYS Department of Health,  
Bureau of Professional Medical Conduct  
Division of Legal Affairs  
2512 Corning Tower  
Empire State Plaza  
Albany, New York 12237-0032  
518.473.4282

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

IN THE MATTER  
OF  
FRANK C. PURPERA, JR., M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Frank Purpera, Jr., M.D.  
[REDACTED]  
Western Virginia Regional Jail  
5885 West River Road  
Salem, VA 24153

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 October 23, 2019, at 10:30 a.m., at the offices of the New York State Department of Health, 90 Church Street, 4<sup>th</sup> Floor, New York, NY 10007, 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.

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: [REDACTED]

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  
August 21 2019

[REDACTED]  
TIMOTHY J. MAHAR  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

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

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

IN THE MATTER

OF

FRANK C. PURPERA, JR., M.D.

STATEMENT  
OF  
CHARGES

FRANK C. PURPERA, JR., M.D., the Respondent, was authorized to practice medicine in New York State on or about October 13, 2010, by the issuance of license number 259054 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 12, 2019, in the United States District Court, Western District of Virginia, Respondent was found guilty by a jury verdict of 66 counts of obtaining a controlled substance by fraud in violation of Title 21 United States Code §§843(a)(3) and 843(d)(1), one count of omitting material information required to be kept in violation of Title 21 United States Code §§843(a)(4)(a) and (d)(1), and one count of false statement in violation of Title 18 United States Code §1001(a)(2); all felonies. Respondent was sentenced to a period of 20 months of incarceration followed by two years of post-release supervision, a fine of \$34,000.00, and an assessment of \$6,800.00

B. On or about February 27, 2019, the Virginia Department of Health Professions (hereinafter, "Virginia Department"), by an Order of Mandatory Suspension (hereinafter, "Virginia Order"), suspended Respondent's license to practice medicine and surgery in the Commonwealth of Virginia based upon Respondent's conviction in the United States District Court, Western District of Virginia.



**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 of Paragraph A.

**SECOND SPECIFICATION**  
**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)(2)) as alleged in the facts of the following:


2. The facts of Paragraph B.

DATE: August 21, 2019  
Albany, New York

  
TIMOTHY J. MAHAR  
Deputy Counsel  
Bureau of Professional Medical Conduct

To: Hannah E.C. Moore, Assistant Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
Albany, New York 12237-0032

Frank C. Purpera, Jr., M.D.

  
Western Virginia Regional Jail  
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Matter of Frank C. Purpera, Jr., M.D.