



Department of Health

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

March 18, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Muhammad Cheema, M.D.
[REDACTED]
FCI McKean
Federal Correctional Institute
P.O. Box 8000
Bradford, Pennsylvania 16701

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

RE: In the Matter of Muhammad Cheema, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-053) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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to deliver to the Board of Professional Medical Conduct your license to practice medicine **if said license has been revoked, annulled, suspended or surrendered**, together with the registration certificate.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
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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,



Dawn MacKillop-Soller
Acting Chief Administrative Law Judge
Bureau of Adjudication

DXM: cmg
Enclosure

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

In the Matter of

Muhammad Cheema, M.D. (Respondent)

A proceeding to review a Determination by
a Committee (Committee) from the Board
for Professional Medical Conduct (BPMC)

Administrative Review Board (ARB)

Determination and Order No. 22- 053

COPY

Before ARB Members Torrelli, Rabin, Wilson and Milone
Administrative Law Judge Jean T. Carney drafted the Determination

For the Department of Health (Petitioner): Hannah Moore, Esq.
For the Respondent: *Pro se*

Following the Respondent's conviction of Health Care Fraud in the United States District Court, Western District of New York, a BPMC Hearing Committee determined that the Respondent's conduct amounted to professional misconduct and voted to revoke his license to practice medicine in New York State (license). In this proceeding pursuant to New York Public Health Law (PHL) § 230-c(4)(a), the Respondent asked the ARB to review that Determination. After reviewing the hearing record and the parties' review submissions, the ARB affirms the hearing committee's determination to revoke the Respondent's license.

Committee Determination on the Charges

Pursuant to PHL § 230 *et seq*, BPMC and its Committees function as a duly authorized professional disciplinary agency of the State of New York. The BPMC Committee in this case conducted a hearing under the expedited hearing procedures (Direct Referral Hearing) in PHL § 230(10)(p). The Petitioner's Statement of Charges alleged that the Respondent committed professional misconduct under New York

Education Law (Educ. Law) § 6530(9)(a)(ii) by having been convicted of a crime under federal law; specifically, one count of Health Care Fraud under 18 USC § 1347.

In the Direct Referral Hearing, the statute limits the Committee to determining the nature and severity for the penalty to impose against the licensee, In the Matter of Wolkoff v. Chassin, 89 N.Y.2d 250 (1996). Following the Direct Referral Hearing, the Committee rendered the Determination now on review.

The evidence before the Committee demonstrated that on December 10, 2020, the Respondent pled guilty to one count of Health Care Fraud for filing approximately 5,000 false claims with health insurance companies for psychotherapy services he did not render. The Respondent was sentenced to 18 months incarceration, and ordered to pay \$813,495.48 in restitution.

The Committee determined that the Respondent's conduct made him liable for action against his license pursuant to Educ. Law § 6530(9)(a)(ii), based on the Respondent's conviction of a federal crime.

The Committee determined to revoke the Respondent's License, citing the Respondent's conduct of submitting approximately 5,000 false claims within 4 ½ years, falsifying documents, including a board certification in psychiatry. The Committee found that the Respondent had not accepted responsibility for his actions, and was not persuaded by the Respondent's arguments that his billing methods were common among psychiatrists, and the restitution he had paid exceeded the amount he received for the fraudulent claims. Finally, the Committee rejected the Respondent's assertion that limiting his practice to private pay patients would protect them from fraudulent billing practices.

Review History and Issues

The Hearing Committee rendered their Determination on September 22, 2021. This proceeding commenced on October 6, 2021, when the ARB received the Respondent's Notice requesting a Review. The record for review contained the

Committee's Determination, the hearing record, the Respondent's brief, and the Petitioner's reply brief. The record closed when the ARB received the reply brief on January 5, 2022.

The Respondent asked the ARB for the opportunity to keep his license and atone for his actions. He noted that while in prison he had started writing a book on prison psychology and would like to work with ex-felons upon his release.

The Petitioner replied that the Committee's determination and penalty were consistent with the facts and prevailing law. The Petitioner argued that the Respondent's numerous fraudulent acts over a sustained period of time, and his testimony regarding his proposed future billing practices was sufficient evidence to warrant revocation of his license.

ARB Authority

Under PHL §§ 230(10)(i), 230-c(1) and 230-c(4)(b), the ARB may review Determinations by Hearing Committees to determine whether the Determination and Penalty are consistent with the Committee's findings of fact and conclusions of law and whether the Penalty is appropriate and within the scope of penalties which PHL § 230-a permits. The ARB may substitute our judgment for that of the Committee in deciding upon a penalty, *Matter of Bogdan v. Med. Conduct Bd.*, 195 A.D.2d 86, 606 N.Y.S.2d 381 (3rd Dept. 1993); in determining guilt on the charges, *Matter of Spartalis v. State Bd. for Prof. Med. Conduct*, 205 A.D.2d 940, 613 NYS 2d 759 (3rd Dept. 1994); and in determining credibility, *Matter of Minielly v. Comm. of Health*, 222 A.D.2d 750, 634 N.Y.S.2d 856 (3rd Dept. 1995). The ARB may choose to impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate. (*Matter of Kabnick v. Chassin*, 89 N.Y.2d 828 [1996]). In determining the appropriate penalty in a case, the ARB may consider both aggravating and mitigating circumstances, as well as considering the protection of society, rehabilitation and deterrence. (*Matter of Brigham v. DeBuono*, 228 A.D.2d 870, 644 N.Y.S.2d 413 [1996]).

The statute provides no rules as to the form for briefs, but the statute limits the review to only the record below and the briefs [PHL § 230-c(4)(a)], so the ARB will consider no evidence from outside the hearing record. (*Matter of Ramos v. DeBuono*, 243 A.D.2d 847, 663 N.Y.S.2d 361 [3rd Dept. 1997]).

A party aggrieved by an administrative decision holds no inherent right to an administrative appeal from that decision, and that party may seek administrative review only pursuant to statute or agency rules. (*Rooney v. New York State Department of Civil Service*, 124 Misc. 2d 866, 477 N.Y.S.2d 939 [Westchester Co. Sup. Ct. 1984]). The provisions in PHL §230-c provide the only rules on ARB reviews.

Determination

The ARB has considered the record and the parties' briefs. We agree with the Committee that the Respondent's conduct resulting in his conviction of Health Care Fraud constitutes professional misconduct. We affirm the Committee's Determination to revoke the Respondent's License.

We agree with the Committee that the Respondent failed to accept or grasp the significance of his conduct in filing approximately 5,000 false claims, as well as falsifying laboratory reports and a board certification. We also agree with the Committee that the Respondent's plan to limit his practice to private pay patients upon his release from prison will not provide adequate protection to the public. The Respondent expressed some remorse in his brief, but raised no persuasive issue of fact or law that would warrant modifying the Committee's determination.

Order

NOW, with this Determination as our basis, the ARB renders the following ORDER:

1. The ARB affirms the Committee's Determination that the Respondent committed professional misconduct.

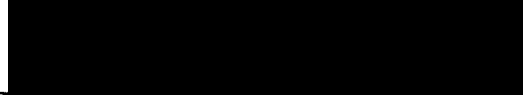
2. The ARB affirms the Committee's determination to revoke the Respondent's License.

Linda Prescott Wilson
Jill Rabin, M.D.
Richard D. Milone, M.D.
Carmela Torrelli

In the Matter of Muhammad Cheema, M.D.

Linda Prescott Wilson, an ARB Member concurs in the Determination and Order
in the Matter of Dr. Cheema.

Dated: 17 March, 2022

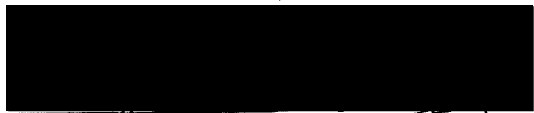
A large black rectangular redaction box covering the signature of Linda Prescott Wilson.

Linda Prescott Wilson

In the Matter of Muhammad Cheema, M.D.

Jill M. Rabin, M.D., an ARB Member concurs in the Determination and Order in
the Matter of Dr. Cheema.

Dated: March 17, 2022



Jill M. Rabin, M.D.

In the Matter of Muhammad Cheema, M.D.

Richard D. Milone, M.D., an ARB Member concurs in the Determination and
Order in the Matter of Dr. Cheema.

Dated: March 16, 2022




Richard D. Milone, M.D.

In the Matter of Muhammad Cheema, M.D.

Carmela Torrelli, an ARB Member concurs in the Determination and Order in the

Matter of Dr. Cheema.

Dated: March 17, 2022


Carmela Torrelli