



## Department of Health

KATHY HOCHUL  
Governor

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

KRISTIN M. PROUD  
Acting Executive Deputy Commissioner

June 8, 2022

### CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Samirkumar J. Shah, MD  
[REDACTED]

5756 Hartford & Pointville Road  
Joint Base MDL, NJ 08640

Paul Tsui, Esq.  
NYS Department of Health  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Samirkumar J. Shah, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 22-137) 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,

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

DXM: nm  
Enclosure

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

COPY

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IN THE MATTER :  
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OF :  
:  
SAMIRKUMAR J. SHAH, MD :  
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DETERMINATION  
AND  
ORDER

BPMC-22-137

A Commissioner's Order of Summary Action dated November 17, 2021, and Notice of Referral Proceeding and Statement of Charges dated November 29, 2021, were duly served pursuant to Public Health Law §230(10)(d)(i) upon Samirkumar Shah, MD (Respondent), for a hearing held on May 26, 2022 by videoconference. (Exhibits 1-3.) The hearing had been previously scheduled for February 17, April 27, and May 11 but was adjourned at the Respondent's request. **Jose M. David, MD**, Chairperson, **Joseph S. Baler, MD**, and **Paul J. Lambiase**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. PHL §230(10)(e). The Department of Health, Bureau of Professional Medical Conduct (Department), appeared by Paul Tsui, Esq. The Respondent appeared by telephone at the hearing and represented himself. Dawn MacKillop-Soller, Administrative Law Judge, served as the Administrative Law Judge. The Hearing Committee examined documents from the Department (Exhibits 1-7). The record remained open for the Respondent to submit affidavits from character witnesses on or before June 3, but instead he submitted written requests by letter and email correspondence for a rehearing, which the Hearing Committee denies. A transcript of the proceeding was made.

The Hearing Committee votes 3-0 to sustain the charge that the Respondent committed professional misconduct as defined in Education Law §6530(9)(a)(ii) and determined, pursuant to PHL §230-a, to revoke the Respondent's medical license.

## JURISDICTION

By Order dated November 17, 2021, the Commissioner of Health, Mary T. Bassett, MD, MPH, summarily suspended the Respondent's medical license pursuant to PHL §230(12)(b). The Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(a)(ii) by having been convicted of committing acts constituting felony crimes under federal law, specifically 18 U.S.C. §1347. A licensee charged solely with a violation of Educ. Law §6530(9) is entitled to a hearing, the scope of which is limited to whether there is a relevant conviction or administrative determination and if so, the nature and severity of the penalty to be imposed. PHL §230(10)(p). Hearing procedures are set forth in Department regulations at 10 NYCRR Part 51. 10 NYCRR 51.11(d). The Department had the burden of proving its case by a preponderance of the evidence. PHL §230(10)(f).

## FINDINGS OF FACT

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

1. The Respondent was authorized to practice medicine in New York on February 11, 2009, by the Education Department and was issued license number 251960. (Exhibit 4.)
2. On June 14, 2019, in the United States District Court, Western District of Pennsylvania, the Respondent was adjudicated guilty following a jury trial of two felony counts of Health Care Fraud, in violation of 18 USC §1347. On August 5, 2021, the Respondent was sentenced to imprisonment for 78 months per count to run concurrently followed by three years of supervised release, and ordered to pay a \$200 assessment and restitution totaling \$1,234,983.60 as to the following payees: (1) \$556,109.97 to Medicare Part B; (2) \$24,395.08 to Gateway Medicare; (3) \$451,429.28 to Highmark Blue Cross and Blue Shield; (4) \$186,098.49 to UPMC Fraud, Waste, and Abuse Unit; and (5) \$16,950.78 to Gateway Medicaid. (Exhibit 5-7.)

## DISCUSSION

The Hearing Committee unanimously decided that the Respondent's convictions of two counts of Health Care Fraud, felonies under federal law, establishes he violated Educ. Law §6530(9)(a)(ii), which defines professional misconduct as:

9. (a) Being convicted of committing an act constituting a crime under... (ii) federal law.

The Hearing Committee considered the full spectrum of penalties under PHL §230-a, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties, and agreed with the Department's recommendation to revoke the Respondent's medical license. The Respondent was found guilty after trial of engaging in a scheme from January 2008 until about December 2014 to defraud health care benefit programs, including Medicare and Medicaid, by submitting billing for external counter pulsation therapy (ECP) treatments, medical procedures, for patients he falsely diagnosed and recorded in their medical records as suffering from Class III or IV angina or disabling angina. The Hearing Committee noted the Respondent's conduct also involved disregarding important rules that applied to such procedures, such as ensuring they are performed under physician supervision and that reasonable efforts are made to collect co-payments from patients. (Exhibit 5.)

The Hearing Committee considered the Respondent's request to delay imposing a penalty due to his pending appeal of his felony convictions but concludes that this charge is not dependent upon the outcome of any criminal matter. The Hearing Committee's purpose in this proceeding is to determine the nature and severity of the penalty considering his convictions under federal law. PHL §230(10)(p). The Respondent's explanation that these procedures were performed on "a lot of sick, poor patients" did not address the importance of ensuring accurate documentation, particularly relating to diagnoses, when submitting billings to Medicaid and Medicare health care benefit

programs. This process is essential both to prevent subjecting patients to unnecessary procedures and to protect the integrity of Medicaid and Medicare — insurance coverage programs with limited funds.

The Hearing Committee viewed the Respondent's mention of medical diagnoses for these patients to include brain tumor, diabetes, and stroke but not angina and that he did not collect co-payments as raising questions regarding his understanding of the billing requirements that applied to these procedures. The Hearing Committee also did not credit his claim that he did not make "a single dollar out of this program" considering he performed these procedures on over 1,000 patients at a cost of \$130-\$140 each for 35-50 one-hour sessions at 25 different medical offices. His aggregate amount of these billings over a period of six years resulted in an order for restitution payments totaling \$1,234,983.60. (Exhibit 7.) The Hearing Committee determined that the penalty of revocation is necessary to prevent similar medical and treatment practices moving forward.

#### **ORDER**


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

1. The specification of professional misconduct set forth in the Statement of Charges is **SUSTAINED**.
2. The Respondent's license to practice medicine in New York State is **REVOKED** under PHL §230-a(4).
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL §230(10)(h).

**DATED:** Albany, New York  
*June 7, 2022*

  
**Jose M. David, MD**  
**Chairperson**

**Joseph S. Baler, MD**  
**Paul J. Lambiase**

**To:** Samirkumar J. Shah, MD  
  
5756 Hartford & Pointville Road  
Joint Base MDL, NJ 08640

Paul Tsui, Associate Counsel  
New York State Department of Health  
Division of Legal Affairs  
Bureau of Professional Medical Conduct  
Corning Tower Building – 25<sup>th</sup>  
Albany, New York 12237

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

IN THE MATTER  
OF  
SAMIRKUMAR J. SHAH, M.D.

STATEMENT  
OF  
CHARGES

Samirkumar J. Shah, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 11, 2009, by the issuance of license number 251960 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about May 17, 2016, in the United States District Court for the Western District of Pennsylvania, Respondent was indicted on two counts of a felony of knowingly and willfully executing and attempting to execute a scheme to defraud health care benefit programs from January 2008 and continuing thereafter to December 2014, in violation of Title 18 of the United States Code, Section 1347.
- B. On or about June 14, 2019, in the United States District Court for the Western District of Pennsylvania, Respondent was found guilty of both counts based upon a jury verdict of guilt following a trial.
- C. On or about August 5, 2021, Respondent was convicted upon being sentenced to a period of incarceration of 78 months followed by three years of post-release supervision. Respondent was ordered to pay restitution in the amount of \$1,234,983.60 and a \$200.00 assessment.



**SPECIFICATION OF CHARGES**

**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 Paragraphs A, B and C.

DATE: November 17, 2021  
Albany, New York

  
JEFFREY J. CONKLIN, ESQ.  
Acting Deputy Counsel  
Bureau of Professional Medical Conduct