



Department of Health

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

January 11, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Gautam Arora, MD
65 Lawrence Bell Drive
Suite 102
Williamsville, New York 14221

Ian H. Silverman, Esq.
Bureau of Professional Medical Conduct
New York State Department of Health
Corning Tower Building, Room 2512
Albany, New York 12237

RE: In the Matter of Gautam Arora, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-006) 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: cmg
Enclosure

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

COPY

**IN THE MATTER
OF
GAUTAM ARORA, MD**

DETERMINATION

AND

ORDER

BPMC-22-006

A Notice of Referral Proceeding and Statement of Charges dated October 19, 2021 were duly served upon Gautam Arora, MD (Respondent). (Exhibits 1 and 2.) A hearing was held on December 16, 2021 via WebEx videoconference. Pursuant to § 230(10)(e) of the Public Health Law (PHL), **JAMES M. LEONARDO, MD**, Chairperson, **JOSEPH S. BALER, MD**, and **EILEEN PASQUINI, BS, AAS**, 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 Ian H. Silverman, Associate Counsel. The Respondent did not appear for the hearing. The Hearing Committee received and examined documents from the Department (Exhibits 1-2, 4-7). 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 herein 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 Educ. Law § 6530(9). The Respondent is charged with professional misconduct pursuant to Educ. Law § 6530(9)(a)(ii), by having been convicted of committing an act constituting a crime under federal law, specifically, 21 U.S.C. §

843(a)(3) and 18 U.S.C. § 1347. 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 July 23, 2010, the Respondent was authorized to practice medicine in New York by the Education Department and was issued license number 258047. (Exhibit 5.)

2. On or about January 26, 2021, the Respondent was convicted in the United States District Court for the Western District of New York, following his guilty plea, to one count of Obtaining Controlled Substances by Fraud, in violation of 21 U.S.C. § 843(a)(3), and one count of Health Care Fraud, in violation of 18 U.S.C. § 1347. From on or about April 17, 2013 through May 12, 2017, the Respondent wrote approximately sixty prescriptions for controlled substances for patients who filled those prescriptions at one pharmacy in Buffalo, New York and gave the Respondent all or some of the pills for his own use. From January 1, 2016 through March 31, 2016, the Respondent billed Medicare for patient office visits totaling \$92,209.50 when he did not perform the medical services required for payment. On June 18, 2021, the Respondent was sentenced to time served on each count, followed by three years of supervised release, which included conditions that the Respondent participate in a program for substance abuse and a mental health treatment program. He was also ordered to pay restitution in the amount of \$92,209.50 and a \$200 fine. (Exhibit 6.)

CONCLUSIONS OF LAW

After due diligence, as certified under oath, the Department was unable to effectuate personal service of the Notice of Referral Proceeding and Statement of Charges. The Department then served the Notice of Referral Proceeding and Statement of Charges by certified mail to the Respondent's last known address, pursuant to PHL § 230(10)(d). (Exhibit 2.) 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 Western District of New York to one count of Obtaining Controlled Substances by Fraud (21 U.S.C. § 843(a)(3)), and one count of Health Care Fraud (18 U.S.C. § 1347). Based on this conviction, the Hearing Committee determined that the Respondent violated Educ. Law § 6530(9)(a)(ii), which defines professional misconduct to include:

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

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 Hearing Committee considered the Respondent's conduct that led to his criminal conviction included using his medical license to issue approximately sixty prescriptions to patients for controlled substances over the course of four years, for which he received at least some pills from each prescription filled, and his submission of multiple false claims in under three months to the Medicare Program totaling \$92,209.50. These crimes were directly related to his practice of medicine. From these actions, the Hearing 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. The Hearing Committee is troubled by the extent of the Respondent's unsound judgment, which also includes threats of bodily harm against a grand jury witness (a former employee of his medical practice), and his wife's concerns that he is dangerous to himself and others because he was not taking necessary medication. (Exhibit 6.)

Finally, the Hearing Committee considered the Respondent's prior disciplinary history. Effective December 12, 2017, the Respondent entered into a Consent Agreement with the Department, whereby he agreed to the indefinite suspension of his medical license to resolve charges that he was a habitual abuser of alcohol which impaired the Respondent's ability to practice medicine, in violation of Educ. Law § 6530(8). (Exhibit 7.) The Respondent's subsequent behavior, as documented in the criminal complaint and in his plea agreement, demonstrates that the Respondent's addictions have only worsened over time, posing a danger to the public and rendering him unfit to interact with and treat patients.

Therefore, the Hearing Committee concluded that the appropriate penalty in this case is 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 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: January 5, 2022
Cooperstown, New York


James M. Leonardo, MD
Chairperson

Joseph S. Baler, MD
Eileen Paquini, BS, AAS

To: Gautam Arora, MD
65 Lawrence Bell Drive, Suite 102
Williamsville, NY 14221

Ian H. Silverman
Associate Counsel
Bureau of Professional Medical Conduct
New York State Department of Health
Corning Tower – Room 2512
Albany, NY 12237

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

IN THE MATTER
OF
GAUTAM ARORA, M.D.

STATEMENT
OF
CHARGES

GAUTAM ARORA, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 23, 2010, by the issuance of license number 258047 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about on January 26, 2021 in the US District Court Western District of New York the Respondent plead guilty to one count of unlawfully acquiring controlled prescriptions by misrepresentation and fraud, in violation of Title 21, United States Code, Section 843 (a)(3) and Title 18, United States Code, Section 2 and one count of scheming to defraud a health care benefit program, in violation of Title 18, United States Code, Section 1347 and 2. Respondent was sentenced on June 18, 2021 to time served on each count to run concurrently, followed by a total of three years of supervised release, to include substance abuse and mental health treatment. Respondent was ordered to pay a \$200 assessment and \$92,209.50 in restitution. From about April 7, 2013 and continuing to May 12, 2017, Respondent knowingly, intentionally and unlawfully acquired and possessed controlled substances by misrepresentation, fraud, forgery, deception and subterfuge. During a part of the same

time period Respondent engaged in a scheme to defraud Medicare in connection with the delivery of and payment for healthcare benefits, items and services.

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 in paragraph A.

DATE: October 19, 2021
Albany, New York



Jeffrey Conklin
Acting Deputy Counsel
Bureau of Professional Medical Conduct