



**Department  
of Health**

**KATHY HOCHUL**  
Governor

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

**KRISTIN M. PROUD**  
Acting Executive Deputy Commissioner

June 13, 2022

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Gerald Abraham, MD  
[REDACTED]

FCI Coleman Low  
846 NE 54<sup>th</sup> Terrace  
Sumterville, Florida 33521

Marc S. Nash, Associate Counsel  
NYS Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Gerald Abraham, MD**

Dear Parties:

Enclosed please find the Determination and Order (No. 22-144) 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

-----x  
: IN THE MATTER :  
: OF :  
: GERALD ABRAHAM, MD :  
: :  
-----x

DETERMINATION  
AND  
ORDER

BPMC-22-144

A Commissioner's Order of Summary Action dated March 30, 2022 and Notice of Referral Proceeding and Statement of Charges dated March 24, 2022, were duly served pursuant to Public Health Law §230(10)(d)(i) upon **Gerald Abraham, MD** (Respondent). (Exhibit 2.) **James M. Leonardo, MD**, Chairperson, **David E. Kaplan, MD**, and **David F. Irvine, DHSc, PA**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. **Dawn MacKillop-Soller** served as the Administrative Law Judge. PHL §230(10)(e). The Department of Health, Bureau of Professional Medical Conduct (Department), appeared by **Marc S. Nash, Esq.** The Respondent, although duly served with notice of the hearing, failed to appear. At the hearing held on June 8, 2022 by videoconference, the Hearing Committee heard arguments from the Department and examined documents from the Department (Exhibits 1-5). A transcript of the proceeding was made.

The Hearing Committee voted 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**

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. The Commissioner of Health has also summarily suspended the Respondent's medical license pursuant to PHL §230(12)(b). 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. 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 by the Education Department on May 31, 1972 to practice medicine in New York, and was issued license number 112237. (Exhibit 3.)
2. By Judgment in a Criminal Case dated December 7, 2021, in the United States District Court, Middle District of Florida, Fort Myers Division, the Respondent was adjudicated guilty following his plea of guilty to three felony counts of dispensing a controlled substance not for a legitimate medical purpose and outside the usual course of professional practice, in violation of 21 USC §841(a)(1) and §841(b)(1)(C). The Respondent was sentenced to 36-months' imprisonment for each count to run concurrently and payment of a \$300 assessment. (Exhibit 4.)

### DISCUSSION

The Hearing Committee unanimously agreed the Respondent's felony convictions under federal law establish he violated Education 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 and agreed with the Department's recommendation to revoke the Respondent's medical license. On three

separate occasions between December 2019 and May 2020, the Respondent knowingly dispensed Schedule II controlled substances — drugs containing oxycodone and amphetamine — outside his medical practice and without any legitimate medical purpose. The Hearing Committee views the Respondent's use of his medical license to engage in such illicit drug practices in Florida, which resulted in his guilty plea to three felony counts and 36-months' imprisonment, grounds for revocation of his New York State medical license. (Exhibits 4, 5.)

**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

08 June, 2022

[REDACTED]

James M. Leonardo, MD  
Chairperson

David E. Kaplan, MD  
David F. Irvine, DHSc, PA

To: Gerald Abraham, MD

[REDACTED]

FCI Coleman Low  
846 NE 54<sup>th</sup> Terrace  
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New York State Department of Health  
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NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

GERALD ABRAHAM, M.D.

STATEMENT  
OF  
CHARGES

GERALD ABRAHAM, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 31, 1972, by the issuance of license number 112237 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about December 6, 2021, in the United States District Court, Middle District of Florida, Fort Myers Division, Respondent was convicted of three felony counts of Dispensing a Controlled Substance not for a Legitimate Medical Purpose and Outside the Usual Course of Professional Practice [21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C)]. Respondent was sentenced to a total of 36 months' imprisonment followed by three years of supervised release and assessed \$300.

**SPECIFICATION OF CHARGES**

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. Paragraph A.

DATE: March 24, 2022  
Albany, New York

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