



**KATHY HOCHUL**  
Governor

## Department of Health

**JAMES V. McDONALD, M.D., M.P.H.**  
Commissioner

**JOHANNE E. MORNE, M.S.**  
Acting Executive Deputy Commissioner

September 14, 2023

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

David W. Quist, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237

Amy T. Kulb, Esq.  
Jacobson Goldberg & Kulb, LLP  
585 Steward Avenue, Suite 500  
Garden City, New York 11530

**RE: In the Matter of Morris Barnard, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 23-191) 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.

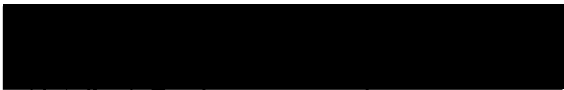
The notice of review served on the Administrative Review Board should be forwarded to:

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,

  
Natalie J. Bordeaux  
Chief Administrative Law Judge  
Bureau of Adjudication

NJB: nm  
Enclosure

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

COPY

-----X  
IN THE MATTER  
OF  
MORRIS BARNARD, M.D.  
-----X

DETERMINATION  
AND  
ORDER

BPMC-23-191

A hearing was held on August 10, 2023, by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), Jose M. David, MD, Chairperson, Jonathan Ecker, MD, and Elena M. Cottone, PA-C, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Tina M. Champion, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by David W. Quist, Esq. A Notice of Referral Proceeding and Statement of Charges, both dated April 6, 2023, were duly served upon Morris Barnard, MD (Respondent), who appeared at the hearing with his attorney, Amy T. Kulb, Esq., and provided testimony.

The Hearing Committee received and examined documents from the Department (Dept. Exs. 1-5) and the Respondent (Resp. Exs. B-D). A stenographic reporter prepared a transcript of the proceeding.

**BACKGROUND**

The Department brought this 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 one specification of professional misconduct pursuant to Educ. Law § 6530(9)(a)(ii) for having been convicted of an act constituting a crime under federal law.

Pursuant to PHL § 230(10), the Department has the burden of proving its case by a preponderance of the evidence. Any licensee found guilty of professional misconduct under the procedures prescribed in PHL § 230 "shall be subject to penalties as prescribed in [PHL § 230-a] except that the charges may be dismissed in the interest of justice."

#### **FINDINGS OF FACT**

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

1. The Respondent was licensed to practice medicine in New York State on March 23, 1994, by issuance of license number 195220. (Dept. Ex. 3.)
2. On January 5, 2023, the Respondent was convicted, in the United States District Court for the Eastern District of New York, of one count of health care fraud, in violation of 18 U.S.C. Section 1347, a felony. The Respondent was sentenced to incarceration for a term of thirty months to be followed by supervised release for a period of one year subject to conditions, payment of a \$100 assessment, and payment of approximately \$1,468,000 in restitution. (Dept. Ex. 5.)
3. The Respondent's conviction relates to charges that, among other things, from approximately October 1, 2015 through February 26, 2020, he submitted and caused the submission of false and fraudulent claims to Medicare for gastroenterological and colonoscopy procedures, other medical procedures and office visits, for services that were not rendered. (Dept. Ex. 4.)

#### **VOTE OF THE HEARING COMMITTEE**

The Hearing Committee, by a vote of 3-0, sustains the charge that the Respondent committed professional misconduct as defined in Educ. Law §§ 6530(9)(a)(ii).

### HEARING COMMITTEE DETERMINATIONS

The Respondent's conviction for an act constituting a crime under federal law constitutes professional misconduct under the laws of New York State. The Respondent did not dispute the charges against him. He testified at length about his "compulsive, pathological" gambling problem, which began in 2015 and centered around the stock market. The Respondent stated that he became "delusional" and "lost everything," and that he eventually sought professional help for his gambling in 2019. The Respondent acknowledged that he criminally defrauded Medicare by submitting false claims totaling approximately 1.4 million dollars to secure funds for his gambling. He testified that he has made restitution of \$410,000 and wants to pay back the rest of the money to the government. The Respondent declared that he has not looked at the stock market in four years, that he has received and continues to receive psychiatric help, which commenced prior to receiving a subpoena in the criminal matter, and that he was attending gamblers anonymous up until three and a half months prior to the hearing. The Respondent stated that he is remorseful, ashamed and embarrassed, and that he wants to practice medicine again as soon as possible.

The Department has recommended that the Respondent's license be revoked, noting that the conviction resulted from a direct abuse of the Respondent's medical license and in the practice of medicine. The Hearing Committee acknowledges the severity of the Respondent's conduct and the impact that it has had on the government and the public.

The majority of the Hearing Committee found the Respondent to be genuinely remorseful, desirous of making amends for his wrongdoing, and unlikely to engage in fraudulent behavior again in the future. That majority felt compelled to allow the Respondent, who is unknown to have any clinical practice concerns, the opportunity to serve the public through the practice of medicine again in the future. It acknowledged the need for skilled physicians in gastroenterology, and felt that the Respondent should be allowed to earn income in his known field so that he can work to make full restitution as ordered in his criminal matter, provided he complies with certain terms and conditions imposed as a safeguard to the public.

Accordingly, by a vote of 2-1, the Hearing Committee imposes a four-year suspension of the Respondent's license to practice medicine followed by five years of probation pursuant to the Terms of Probation attached hereto, which include a provision for oversight by a billing monitor, and that the Respondent take 30 hours of continuing medical education courses on the topic of ethics. The Hearing Committee also imposes a permanent restriction on the Respondent's license such that he may practice only in a group setting, defined as three or more practicing physicians.

#### ORDER

Now, it is hereby ordered that:

1. The charge 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 wholly suspended under PHL § 230-a(2) for a period of four years;
3. The Respondent is subject to probation pursuant to PHL § 230-a(9) for a period of five years, commencing after his four-year suspension is complete, in accordance with the Terms of Probation annexed hereto; and
4. The Respondent's license to practice medicine is permanently limited pursuant to PHL § 230-a(3) such that he may practice medicine only in a group setting of three or more practicing physicians;
5. The Respondent is required, pursuant to PHL § 230-a(8), to complete 30 hours of continuing medical education on the topic of ethics, which hours shall be completed during the four-year term in which his license to practice medicine is suspended; and
6. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

Dated: Albany, New York  
September 14, 2023

[REDACTED]

Jose M. David, MD, Chairperson  
Jonathan Ecker, MD  
Elena M. Cottone, PA-C

David W. Quist  
Associate Attorney  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
Albany, NY 12237  
[REDACTED]

Amy T. Kulb, Esq.  
Jacobson Goldberg & Kulb, LLP  
585 Steward Avenue, Suite 500  
Garden City, NY 11530  
[REDACTED]

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

IN THE MATTER  
OF  
MORRIS BARNARD, M.D.

STATEMENT  
OF  
CHARGES

MORRIS BARNARD, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 23, 1994, by the issuance of license number 195220 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about January 5, 2023, Respondent was convicted, in the United States District Court for the Eastern District of New York, of one count of health care fraud, in violation of 18 U.S.C. Section 1347, a felony. Respondent was sentenced to incarceration for a term of thirty months, to be followed by supervised release for a period of one year subject to conditions, payment of a \$100 assessment, and payment of approximately \$1,468,000 in restitution.

**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 Paragraph A.

DATE: April 6, 2023  
Albany, New York

  
JEFFREY J. CONKLIN  
Deputy Director  
Bureau of Professional Medical Conduct

### TERMS OF PROBATION

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by Educ. Law § 6530 or § 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to PHL § 230(19).
2. Respondent shall maintain active registration of his license with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204 with the following information, in writing, and ensure that this information is kept current: a full description of his employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall cooperate fully with and respond in a timely manner to OPMC requests to provide written periodic verification of his compliance with these terms. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if he is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30-day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in the Determination and Order or as are necessary to protect the public health.
6. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
7. The Respondent shall practice medicine only when his billing practices are monitored by a certified billing and coding specialist, proposed by the Respondent and subject to the written approval of the Director of the OPMC. The billing and coding specialist shall visit the Respondent's medical practice at every practice location, on a random unannounced basis at least monthly and shall examine the records maintained by the Respondent. The review will determine whether the Respondent's billing practices are conducted in accordance with generally accepted standards of practice. Any perceived deviation of accepted standards of billing practices or refusal to cooperate with the monitor shall be reported within 24 hours to the OPMC. The Respondent shall remain solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring billing and coding specialist. The Respondent shall cause the billing and coding specialist to report quarterly, in writing, to the Director of the OPMC.

8. The Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with PHL § 230(18)(b). Proof of coverage shall be submitted to the Director of OPMC prior to the Respondent's practice after the effective date of this Order.
9. The Respondent shall comply with all terms, conditions, restrictions, requirements, and penalties to which he is subject pursuant to the Order, and shall assume and bear all costs related to compliance. Upon receipt of evidence of non-compliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding against the Respondent as may be authorized by law.