



Department of Health

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

October 28, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John Cosby, M.D.
[REDACTED]

Marc S. Nash, 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 John Cosby, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-225) 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,

A solid black rectangular box redacting the signature of the Chief Administrative Law Judge.

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
Enclosure

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

COPY

-----X
IN THE MATTER

OF

JOHN COSBY, M.D.
-----X

:
: DETERMINATION

:
: AND

:
: ORDER

:
: BPMC-22-225
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A Notice of Referral Proceeding and Statement of Charges dated August 9, 2022, and a Commissioner's Order of Summary Action dated August 10, 2022 were duly served upon John Cosby, M.D. (Respondent). (Exhibits 1, 2, 4, 5.) A hearing was held on October 19, 2022 via WebEx videoconference. Pursuant to § 230(10)(e) of the Public Health Law (PHL), **STEVEN M. LAPIDUS, M.D.**, Chairperson, **ELISA J. WU, M.D.**, and **JOAN MARTINEZ MCNICHOLAS**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. **NATALIE J. BORDEAUX, ADMINISTRATIVE LAW JUDGE (ALJ)**, served as the Administrative Officer.

The Department appeared by Marc S. Nash, Associate Counsel. The Respondent did not appear. The Hearing Committee received and examined documents from the Department (Exhibits 1-9). 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 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 Education Law § 6530(9). The Respondent is

charged with professional misconduct pursuant to Education Law § 6530(9)(a)(ii), by having been convicted of committing an act constituting a crime under federal law. 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 September 20, 1999, the Respondent was authorized to practice medicine in New York by the Education Department and was issued license number 215852. (Exhibit 9.)

2. On April 6, 2022, the Respondent was convicted in the United States District Court for the Southern District of Florida, following his guilty plea, to one felony count of Conspiracy to Dispense and Distribute Controlled Substances, in violation of 21 U.S.C. § 846. From in or around July 2017 through July 2019, the Respondent conspired to distributed and dispense a mixture containing a detectable amount of oxycodone, a Schedule II controlled substance. He was sentenced to 36 months' imprisonment followed by two years of supervised release and assessed a criminal monetary penalty of \$100. (Exhibit 7.)

DISCUSSION

Although the Respondent was duly served with notice of the hearing, he failed to respond or appear at the hearing to present any evidence to contest the stated charge. 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 Southern District of Florida for the federal

crime of Conspiracy to Dispense and Distribute Controlled Substances, in violation of 21 U.S.C. § 846. Based on this conviction, the Hearing Committee determined that the Respondent violated Education Law § 6530(9)(a)(ii) and sustained the charge.


In consideration of the full spectrum of penalties under PHL § 230-a, the Hearing Committee agreed with the Department's recommendation that revocation of the Respondent's medical license was warranted. The Hearing Committee considered that the Respondent's conduct leading to his criminal conviction involved using his medical license in the conspiracy to dispense and distribute controlled substances. From these actions, the Hearing Committee concluded that the Respondent showed clear disregard for the law, and for the integrity of his medical license. The Respondent's failure to appear for this hearing and address the Hearing Committee only reinforced that conclusion.

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: Oct 27th, 2022
Carmel, New York


Steven M. Lapidus, M.D., Chairperson
Elisa J. Wu, M.D.
Joan Martinez McNicholas

To: John Cosby, M.D.



Marc S. Nash
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
JOHN COSBY, D.O.

STATEMENT
OF
CHARGES

JOHN COSBY D.O., the Respondent, was authorized to practice medicine in New York State on or about September 2, 1999, by the issuance of license number 215852 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 6, 2022, in the United States District Court, Southern District of Florida, Respondent was convicted of one felony count of Conspiracy to Dispense and Distribute Controlled Substances [21 U.S.C. § 846], was sentenced to 36 months' imprisonment followed by two years' supervised release and assessed \$100.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

Respondent violated Education Law § 6530(9)(a)(ii) by having been convicted of an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraph A.

DATE: August 9 , 2022
Albany, New York



HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct