



# STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

August 26, 1999

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Robert Bogan, Esq.  
New York State Department of Health  
Corning Tower – Room 2503  
Empire State Plaza  
Albany, New York 12237-0032

Henry Gerberth, Jr, Esq.  
101 State Street  
Springfield, Massachusetts 01103-2006

Laxmikant K. Rathi, M.D.  
186 Tanglewood Drive  
Longmeadow, Massachusetts 01105

Laxmikant K. Rathi, M.D.  
435 Porter Lake Drive  
Longmeadow, Massachusetts 01106

Mr. Paul Maher, Esq.  
New York State Department of Health  
Corning Tower – Room 2503  
Empire State Plaza  
Albany, New York 12237-0032

### **RE: In the Matter of Laxmikant K. Rathi, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 99-217) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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  
Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

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), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "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.

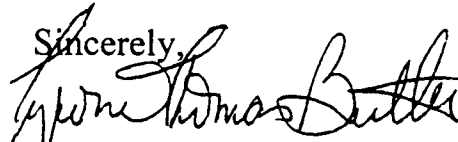
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

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 Mr. Horan 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,  
  
Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:mla

Enclosure

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

**COPY**

**DETERMINATION**

**AND**

**ORDER**

ORDER #99-217

**IN THE MATTER**  
**OF**  
**LAXMIKANT K. RATHI, M.D.**

A Notice of Referral Proceedings and Statement of Charges, both dated July 8, 1999, were served upon the Respondent, **LAXMIKANT K. RATHI, M.D.**

**JOHN H. MORTON, M.D.**, Chairperson, **ALBERT ELLMAN, M.D.** and **HEIDI B. MILLER, R.P.A.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on August 18, 1999, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, and **PAUL R. MAHER, ESQ.**, of Counsel. The Respondent failed to appear.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

## STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such case, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(ii), (b) and (d). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix I.

## FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous unless otherwise stated.

1. **LAXIMKANT K. RATHI, M.D.**, the Respondent was authorized to practice medicine in New York State on September 28, 1971 by the issuance of license number 110286 by the New York State Education Department (Pet's.Ex. 5).

2. On January 9, 1998, in the Superior Court, State of New Hampshire, the Respondent entered a plea of guilty to a class A misdemeanor, theft by deception from the State of New Hampshire, and was sentenced to twelve (12) months confinement, said confinement suspended for two (2) years on condition that the Respondent fully comply with all terms of his sentence. The court further ordered the Respondent to pay restitution and \$2,500.00 in costs, and to surrender his New Hampshire medical license (Pet's. Ex. 7).
3. On May 18, 1998, the New Hampshire Board of Medicine (hereinafter "New Hampshire Board") entered a Settlement Agreement (hereinafter New Hampshire Agreement) wherein the Respondent voluntarily surrendered his license to practice medicine based on the Respondent's office having submitted claims to Medicaid for office visits and allergy shots regardless of the services (or lack thereof) actually received by the patients, that the Respondent was aware of his office's billing and coding procedures, that as a result of these claims he obtained \$5,761 to which he was not entitled, and as a result of this conduct, he entered a plea of guilty to a Class A misdemeanor in the Superior Court, State of New Hampshire (Pet's, Ex 6).

### **HEARING COMMITTEE CONCLUSIONS**

The Hearing Committee concludes that conduct which resulted in the New Hampshire Board's disciplinary action against the Respondent would, if committed in New York, constitute misconduct under the laws of New York state.

**VOTE OF THE HEARING COMMITTEE**

(All votes were unanimous unless otherwise specified)

**FIRST SPECIFICATION**

The Respondent violated New York Education Law §6530(9)(a)(iii) by reason of having been convicted of an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law.

**VOTE: SUSTAINED (3-0)**

**SECOND SPECIFICATION**

The Respondent violated New York Education Law §6530 (9)(b) by reason of having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state.

**VOTE: SUSTAINED (3-0)**

### THIRD SPECIFICATION

The Respondent is guilty of professional misconduct under New York Education Law §6530 (9)(d) by reason of his having had disciplinary action taken against him by a duly authorized professional disciplinary agency of another state, when the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State.

**VOTE: SUSTAINED (3-0)**

### HEARING COMMITTEE DETERMINATION

The Respondent pleaded guilty in the Superior Court, State of New Hampshire, to a crime of "Theft by Deception from the State of New Hampshire," relating to the Medicaid Program. The Respondent subsequently entered into an agreement with the New Hampshire Board of Medicine to voluntarily surrender his New Hampshire medical license as ordered by the Superior Court.

The Respondent did not appear at the present hearing nor did he submit any evidence in mitigation of the charges.

The Hearing Committee determines that the Respondent's license to practice medicine in the State of New York should be REVOKED.



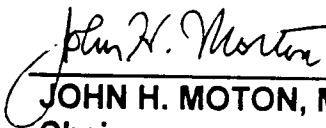
ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is hereby REVOKED.
2. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATE: 8/21/09 Rochester, New York

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JOHN H. MOTON, M.D.  
Chairperson

ALBERT ELLMAN, M.D.  
HEIDI B. MILLER, R.P.A.

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
LAXMIKANT K. RATHI, M.D. : CHARGES

-----X

LAXMIKANT K. RATHI, M.D., the Respondent, was authorized to practice medicine in New York State on September 28, 1971 by the issuance of license number 110286 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about January 1998, in the State of New Hampshire, Superior Court, the Respondent entered a plea of guilty to a class A misdemeanor, theft by deception from the State of New Hampshire and was sentenced to twelve (12) months confinement, said confinement suspended for two (2) years, \$2,500.00 in costs, and voluntary surrender his New Hampshire license to practice medicine.

B. On or about May 18, 1998, the New Hampshire Board of Medicine (hereinafter "New Hampshire Board") entered a Settlement Agreement (hereinafter New Hampshire Agreement) wherein the Respondent voluntarily surrendered his license to practice medicine based on the Respondent's office having submitted claims

to Medicaid for office visits and allergy shots regardless of the services (or lack thereof) actually received by the patients, that the Respondent was aware of his office's billing and coding procedures, that as a result of these claims, he obtained \$5,761 to which he was not entitled, and as a result of this conduct, he entered a plea of guilty to a Class A misdemeanor in the state of New Hampshire.

C. The conduct resulting in the New Hampshire Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(2) (practicing the profession fraudulently);
2. New York Education Law §6530(9)(a)(i) (having been convicted of committing a crime under state law);
3. New York Education Law §6530(16) (failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine);
4. New York Education Law §6530(20) (moral unfitness);  
and/or
5. New York Education Law §6530(21) (making or filing a false report).

**FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(iii) by reason of having been convicted of an act constituting a crime under the law of another jurisdiction and which, it committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in paragraph A.

**SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(b) by reason of having been found guilty of improper professional practice or professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct committed in New York state, in that the Petitioner charges;


2. The facts in paragraph A, B, and/or C.

**THIRD SPECIFICATION**

Respondent is guilty of professional misconduct under New York Education Law §6530(9)(d) by reason of his having had disciplinary action taken against him by a duly authorized professional disciplinary agency of another state, when the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that the Petitioner charges:

3. The facts in paragraph A, B, and or C.

DATED: *July 8* 1999  
Albany, New York

  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct