



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., Dr.P.H.
Commissioner

Public

Dennis P. Whalen
Executive Deputy Commissioner

August 29, 2006

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
433 River Street – 1st Floor Annex
Troy, New York 12180

Mark L. Furman, Esq.
Hoffman, Polland & Furman, PLLC
220 East 42nd Street, Suite 435
New York, New York 10017

Meeyapillai Zawahir, M.D.
91 Knickerbocker Road
Tenafly, New Jersey 07670

RE: In the Matter of Meeyapillai Zawahir, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 06-209) 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.

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 Respondent or the Department may seek a review of a committee determination.

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.

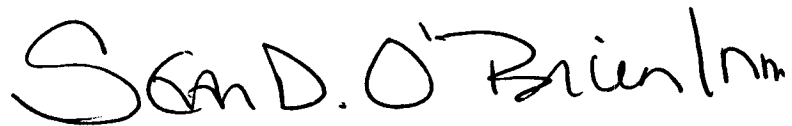
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in black ink that reads "Sean D. O'Brien". The signature is written in a cursive, slightly slanted style.

Sean D. O'Brien, Director
Bureau of Adjudication

SDO:nm

Enclosure

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

COPY

DETERMINATION

AND

ORDER

IN THE MATTER
OF
MEEYAPILLAI ZAWAHIR, M.D.

BPMC No. : 06-209

A hearing was held on August 17, 2006, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding dated July 21, 2006, and a Statement of Charges, dated July 17, 2006, were served upon the Respondent, **Meeyapillai Zawahir, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Mohammad-Reza Ghazi-Moghadam, M.D.**, Chairperson, **Philip Florio, M.D.**, and **Richard H. Edmonds, Ph.D.**, duly designated members of the State Board for Professional Medical Conduct ("Board"), served as the Hearing Committee in this matter. **Christine C. Traskos, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent appeared in person and was represented by **Hoffman, Polland and Furman, PLLC, Mark L. Furman, Esq.**, of counsel.

Evidence was received and transcripts of these proceedings were made.

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

BACKGROUND

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that 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). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:

None

For the Respondent:

Meeyapillai Zawahir, M.D.
Sean Keyes, FBI
Anthony Cartessio
Joseph Puma
Kathy Puma
Charles F. Barbiere, M.D, F.A..C.C.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." or transcript pages "T". These citations refer to 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.

1. Meeyapillai Zawahir, M.D., the Respondent, was authorized to practice medicine in New York State on September 6, 1973, by the issuance of license number 117999 by the New York State Education Department (Petitioner's Ex. 3).

2. On January 13, 2006, in the United States District Court, Eastern District of New York, the Respondent was found guilty, based on a plea of guilty of Health Care Fraud in violation of 18 U.S.C. §1347, a felony and was sentenced to three (3) months imprisonment, three (3) years supervised release upon release from imprisonment, an \$80,000.00 fine, and a \$100.00 assessment. (Petitioner's Ex. 4).

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under Federal law..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent pled guilty to and was convicted of one count of the crime of Health Care Fraud, a felony. A physician who has been convicted of a crime of this nature must convince the Hearing Committee that his crime does not prove that he is morally unfit to practice medicine and that he can be trusted to continue treating patients and billing for his services.

In this instance, Respondent testified that it was a "grave " mistake to be involved as a consultant to the union while making referrals of union patients to diagnostic facilities in which he had a pecuniary interest. Respondent also stated that he would not seek an intermediary role again and wishes only to have a low key general office practice. (T. 22, 29) Special Agent Sean Keyes of the FBI appeared personally to attest to Respondent's cooperation in past and ongoing health fraud investigations. He stated that Respondent is an "exemplary asset" who makes himself available as a consultant, even though he is no longer under any government obligation to do so.

(T. 41-43) Three long time patients, as well as a physician who practiced near Respondent's office, all testified that it would be a great loss to the community if Respondent's license was revoked. (T. 45-59)

The Hearing Committee finds that the Respondent was extremely honest about his conviction. Respondent expressed remorse for his criminal actions and the Hearing Committee believes that he has learned his lesson. The Hearing Committee was most impressed by the willingness of FBI Special Agent Keyes to travel from out of state and appear in person on Respondent's behalf. They note that Respondent has already served three months in prison and that he voluntarily agreed not to practice medicine pending the outcome of this hearing. The Hearing Committee believes that Respondent shows further good faith by continuing to volunteer his consultant services to the FBI for ongoing health fraud matters .

The Hearing Committee believes that revocation is too strong of measure in this instance. They have determined by unanimous vote that Respondent's license to practice medicine in New York State shall be suspended for a period of three years. The suspension period shall be stayed in its entirety and Respondent shall be placed on probation with bills and accounts monitoring by OPMC. The complete terms of probation are attached to this Determination and Order in Appendix II. Respondent's practice of medicine shall also be permanently restricted from having any financial interest in any health care related diagnostic facility. The Hearing Committee believes that the above penalty adequately protects the public and is the appropriate sanction under the circumstances presented.

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent's license to practice medicine in New York State is **SUSPENDED** for a period of **THREE (3) YEARS**, said suspension to be **STAYED in its ENTIRETY;**
and
2. Respondent's license shall be placed on **PROBATION** during the period of suspension, and he shall comply with all Terms of Probation as set forth in Appendix II, attached hereto and made a part of this Order; and
3. Respondent's practice of medicine is permanently restricted from having any financial interest in any health care related diagnostic facility; and
4. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Amsterdam, New York
Aug 28th, 2006



Mohammad-Reza Ghazi-Moghadam, M.D.
Chairperson

Philip Florio, M.D.
Richard H. Edmonds, PhD

Robert Bogan, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
433 River Street- 1st Fl. Annex
Troy, New York 12180

Mark L. Furman, Esq.
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220 East 42nd Street, Suite 435
New York, New York 10017

Meeyapillai Zawahir, M.D.
91 Knickerbocker Rd.
Tenafly, New Jersey 07670

APPENDIX I

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



IN THE MATTER
OF
MEEYAPILLAI ZAWAHIR, M.D.
CO-06-01-0465-A

NOTICE OF
REFERRAL
PROCEEDING

TO: MEEYAPILLAI ZAWAHIR, M.D.
91 Knickerbocker Road
Tenafly, NJ 07670

MEEYAPILLAI ZAWAHIR, M.D.
233 W 72nd Street
New York, NY 10023

MEEYAPILLAI ZAWAHIR, M.D.
656 72nd Street
Brooklyn, NY 11209

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 17th day of August, 2006, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

July 21, 2006



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

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

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

IN THE MATTER
OF
MEEYAPILLAI ZAWAHIR, M.D.
CO-06-01-0465-A

STATEMENT
OF
CHARGES

MEEYAPILLAI ZAWAHIR, M.D., Respondent, was authorized to practice medicine as a Physician in New York state on September 6, 1973, by the issuance of license number 117999 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 13, 2006, in the United States District Court, Eastern District of New York, Respondent was found guilty, based on a plea of guilty, of Health Care Fraud, in violation of 18 U.S.C. §1347, a felony, and was sentenced to three (3) months imprisonment, three (3) years supervised release upon release from imprisonment, an \$80,000.00 fine, and a \$100.00 assessment.

SPECIFICATION

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

1. The facts in Paragraph A.

DATED: *July 17*, 2006
Albany, New York


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

APPENDIX II

Terms of Probation

- 1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession. Respondent acknowledges that if s/he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19).**
- 2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.**
- 3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.**
- 4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.**
- 5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.**

6. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.

7. Respondent shall make available for quarterly review by a third party proposed by Respondent and approved, in writing, by the Director of OPMC, any and all office billing and accounts records selected by OPMC. Respondent shall fully cooperate in the review process.

8. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance 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 such other proceeding against Respondent as may be authorized pursuant to the law.