

Public



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.  
Commissioner

James W. Clyne, Jr.  
Executive Deputy Commissioner

October 28, 2010

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Michael G. Bass, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2505  
Albany, New York 12237-0032

Victor M. Basbus, M.D.  
REDACTED

Victor M. Basbus, M.D.  
203 West Houston Street  
New York, New York 10014-4837

Victor M. Basbus, M.D.  
126 East 10<sup>th</sup> Street  
New York, New York 10003-7507

George Weinbaum, Esq.  
175 Main Street  
White Plains, New York 10601

**RE: In the Matter of Victor M. Basbus, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 10-216) 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  
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), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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,

REDACTED

James F. Horan, Acting Director  
Bureau of Adjudication

JFH:cah  
Enclosure

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

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IN THE MATTER  
OF  
VICTOR M. BASBUS, M.D.

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Determination  
and  
Order

BPMC #10-216

COPY

A notice of referral proceeding and statement of charges, both dated July 14, 2008, were served on Respondent **Victor M. Basbus, M.D.** The statement of charges alleged violation of New York State Education Law 6530. A hearing was held at offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York, on September 23, 2010.

Pursuant to Public Health Law 230(10)(e), **Michael R. Golding, M.D.**, Chairperson, **Therese G. Lynch, M.D.**, and **Irving S. Caplan**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee. **John Harris Terepka**, Administrative Law Judge, served as the administrative officer.

The Department of Health (the Petitioner) was represented by **Thomas G. Conway, Esq.**, General Counsel, and appeared by **Michael G. Bass, Esq.** **Victor M. Basbus, M.D.**, (the Respondent) appeared by his attorney, **George Weinbaum, Esq.** Evidence was received and a transcript of the proceedings was made. After consideration of the entire record, the hearing committee issues this determination and order.

**JURISDICTION**

As is set forth in Public Health Law 230(1)&(7) and Education Law 6530, the legislature created the State Board for Professional Medical Conduct in the Department of Health (the Department), and authorized it to conduct disciplinary proceedings in matters of professional medical conduct.

Definitions of professional misconduct applicable to physicians, physician assistants and specialist assistants are set forth in Ed.L 6530 and 6531. In this case, the Respondent, a physician, has been charged with misconduct pursuant to Ed.L 6530(9)(a)(i).

Pursuant to PHL 230(10)(p), a "direct referral procedure" is authorized when a licensee is charged solely with a violation of Ed.L 6530(9). Charges of misconduct under Ed.L 6530(9) are based upon a criminal conviction or an administrative violation, in New York State or another jurisdiction, establishing conduct that would constitute a crime or professional misconduct if committed in New York. The scope of the hearing is limited to whether there is a relevant conviction or administrative determination and if so, to a determination of the nature and severity of the penalty to be imposed. PHL 230(10)(p). Hearing procedures are set forth in Department of Health regulations at 10 NYCRR Part 51.

**EVIDENCE**

Witnesses for the Petitioner:	None
Petitioner exhibits:	Department Exhibits 1-5.
Witnesses for the Respondent:	None
Respondent exhibits:	None

A transcript of the hearing was made. (Prehearing transcript, pages 1-12. Hearing transcript, pages 1-28.)

**FINDINGS OF FACT**

An opportunity to be heard having been afforded the parties and evidence having been considered, it is hereby found:

1. Respondent Victor M. Basbus, M.D. was authorized to practice medicine in New York State on March 5, 1976 under license number 126413. (Department Exhibit 4.)
2. On November 9, 2007, in the Supreme Court of the State of New York, County of New York, the Respondent was convicted of enterprise corruption, in violation of New York Penal Law 460.20(1)(a), a class B felony; insurance fraud in the third degree, in violation of Penal Law 176.20, a class D felony; grand larceny in the third degree, in violation of Penal Law 155.35, a class D felony; four counts of offering a false instrument for filing in the first degree, in violation of Penal Law 175.35, a class E felony; four counts of falsifying a business record in the first degree, in violation of Penal Law 175.10, a class E felony, and two counts of scheme to defraud in the first degree, in violation of Penal Law 190.65(1), a class E felony. On February 11, 2008, the Respondent was sentenced to two to six years confinement on each count. On April 22, 2008, the Respondent was resentenced to one to three years on the counts of falsifying business records, offering a false instrument for filing and scheme to defraud. (Department Exhibit 5.)

**HEARING COMMITTEE DETERMINATION**

After reviewing records obtained from the New York County Supreme Court, (Department Exhibit 5), the hearing committee unanimously determined that, as alleged in the statement of charges, the Respondent violated Ed.L 6530(9)(a)(i) which defines professional misconduct, in pertinent part, as:

9. (a) Being convicted of committing an act constituting a crime under... New York State law.

The Petitioner recommended revocation of the Respondent's license. (Hearing transcript, page 24.)

The convictions in this case arose from the Respondent's participation, as a physician, in a criminal enterprise that engaged in crimes relating to no-fault insurance claims, including submitting fraudulent medical claims to insurance carriers. The hearing committee agreed that the Respondent's multiple convictions for serious crimes, directly connected with his practice of medicine, established a betrayal of the public trust and supported the Petitioner's recommendation. The Respondent failed to appear personally, and failed to offer any evidence on his behalf that might suggest a different conclusion. (Hearing transcript, pages 4, 20.) The hearing committee determined that revocation of the Respondent's license pursuant to PHL 230-a(4) is an appropriate penalty.

The nature of the misconduct further persuaded the committee that a fine pursuant to PHL 230-a(7) should also be imposed. The statement of charges sets forth one specification, and the committee determined to impose the maximum fine in the amount of \$10,000 on this specification.

The hearing committee's vote sustaining the charge, revoking the Respondent's license, and imposing a fine in the amount of \$10,000 was unanimous (3-0).

ORDER

**IT IS HEREBY ORDERED THAT:**

1. The Respondent's license to practice medicine in New York State is **REVOKED**; and
2. A fine in the amount of \$10,000 is hereby imposed; and
3. This order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required under PHL 230(10)(h).

Dated: Albany, New York

27 Oct 2010

REDACTED

By:

~~Michael R. Golding, M.D.~~  
Chairperson

Therese G. Lynch, M.D.  
Irving S. Caplan

To: Michael G. Bass, Esq., Associate Counsel  
Bureau of Professional Medical Conduct  
Corning Tower, Empire State Plaza  
Albany, New York 12237-0032

Victor M. Basbus, M.D.

REDACTED

Victor M. Basbus, M.D.  
203 West Houston Street  
New York, New York 10014-4837

Victor M. Basbus, M.D.  
126 East 10<sup>th</sup> Street  
New York, New York 10003-7507

George Weinbaum, Esq.  
175 Main Street  
White Plains, New York 10601

# **APPENDIX I**



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



IN THE MATTER  
OF  
VICTOR M. BASBUS, M.D.  
CO-07-11-6622-A

COMMISSIONER'S  
ORDER  
AND  
NOTICE OF  
REFERRAL  
PROCEEDING

TO: VICTOR M. BASBUS, M.D.  
33 Fifth Ave.  
Apt. 1B  
New York, NY 10003

VICTOR M. BASBUS, M.D.  
REDACTED

VICTOR M. BASBUS, M.D.  
REDACTED

The undersigned, Richard F. Daines, M.D., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that **VICTOR M. BASBUS, M.D.**, Respondent, licensed to practice medicine in the State of New York on March 5, 1976, by license number 126413, has been convicted of committing an act constituting a felony under New York State law, as is more fully set forth in the Statement of Charges attached, hereto, and made a part, hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), effective immediately **VICTOR M. BASBUS, M.D.**, Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to New York Public Health Law §230(12).

ANY PRACTICE OF MEDICINE IN THE STATE OF NEW YORK IN  
DEFIANCE OF THIS COMMISSIONER'S ORDER SHALL  
CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE  
MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY  
CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY,  
DEFINED BY NEW YORK EDUCATION LAW §6512.

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230 and New York State Administrative Procedure Act §§301-307 and 401 . The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 21<sup>st</sup> day of August 2008, at 10:00 a.m., at Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180, at the offices of the New York State Health Department and at such other adjourned dates, times, and places as the committee may direct. Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. Respondent shall appear in person at the hearing and may be represented by counsel. Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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.

The hearing will proceed whether or not Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and adjournment requests are not, therefore, routinely granted. Requests for adjournments must be made in writing 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, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

**THESE PROCEEDINGS MAY RESULT IN A DETERMINATION  
THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK  
STATE BE REVOKED OR SUSPENDED AND/OR THAT YOU BE  
FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN  
NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO  
OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.**

DATED: Albany, New York  
*July 14,* 2008

REDACTED

*[Signature]*  
RICHARD F. DAINES, M.D.  
Commissioner of Health  
New York State Department of Health

Inquires should be addressed to:

Robert Bogan  
Associate Counsel  
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

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IN THE MATTER  
OF  
VICTOR M. BASBUS, M.D.  
CO-07-11-6622-A

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STATEMENT  
OF  
CHARGES

VICTOR M. BASBUS, M.D., Respondent, was authorized to practice medicine in New York state on March 5, 1976, by the issuance of license number 126413 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 9, 2007, in the Supreme Court of the State of New York, New York County, New York, Respondent was convicted of enterprise corruption, in violation of New York Penal Law §460.20(1)(a), a class B felony; insurance fraud in the third degree, in violation of New York Penal Law §176.20, a class D felony; grand larceny in the third degree, in violation of New York State Penal Law §155.35, a class D felony; four (4) counts of offering a false instrument for filing in the first degree, in violation of New York State Penal Law §175.35, a class E felony; four (4) counts of falsifying a business record in the first degree, in violation of New York State Penal Law §175.10, a class E felony; and two (2) counts of scheme to defraud, in the first degree, in violation of New York State Penal Law §190.65(1), a class E felony; and on or about February 11, 2008, was sentenced to two (2) to six (6) years confinement on each count, a \$20.00 CVAF, and a \$250.00 surcharge; and on or about April 22, 2008, was resentenced to one (1) to three (3) years imprisonment on each of the four (4) counts of offering a false instrument for filing in the first degree.

SPECIFICATION

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

1. The facts in Paragraph A.

DATED: *July 14*, 2008  
Albany, New York

REDACTED

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