

Public

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

June 29, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Fahim Nadir Kashif, R.P.A.

Michael G. Bass, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

REDACTED

NYS Department of Health
Bureau of Accounts Management
ESP-Corning Tower-Room 1717
Albany, New York 12237

RE: In the Matter of Fahim Nadir Kashif, R.P.A.

Dear Parties:

Enclosed please find the Determination and Order (No. 11-162) 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), (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 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,

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

IN THE MATTER
OF
FAHIM NADIR KASHIF, R.P.A.

DETERMINATION
AND **COPY**
ORDER
BPMC #11-162

A hearing was held on May 19, 2011, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated March 15, 2011, were served upon the Respondent, Fahim Nadir Kashif, R.P.A.

Pursuant to Section 230(10)(e) of the Public Health Law, Thea Graves Pellman, Chair, Arsenio G. Agopovich, M.D., and Jill M. Rabin, M.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. David A. Lenihan, Esq., Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by James E. Dering, Esq., General Counsel, by Michael G. Bass, Esq., of Counsel. The Respondent, Fahim Nadir Kashif, R.P.A., did appear, *pro se*, and was duly served. 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 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 §6530(9)(b) and §6530(9)(d) by having been disciplined after being found guilty, through a Consent Order, of improper 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. Specifically, the Respondent was found guilty of professional misconduct in the State of Maryland and in the District of Columbia for several enumerated charges as set forth in findings of fact below. 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:

Fahim Nadir Kashif, R.P.A.

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." 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. The Respondent, Fahim Nadir Kashif, R.P.A., did appear, *pro se*, and was duly served. (Petitioner's Exhibit 2.)
2. The Respondent, Fahim Nadir Kashif, R.P.A., was authorized to practice as a physician assistant in New York State on December 15, 2006, by the issuance of license number 011674 by the New York State Education Department. (Petitioner's Ex. 3)
3. On or about November 15, 2006, the Maryland Board of Physicians, (hereinafter "Maryland Board"), by a Consent Order (hereinafter "Maryland Order"), *inter alia*, GRANTED Respondent's Application for Initial Certification Physician Assistant, provided that a certificate would not be issued until the Maryland Board had

completed a review of Respondent's qualifications and had determined that Respondent met all current requirements for initial certification required under the Maryland Physician Assistants Act, and ORDERED that beginning on the date the Board issued Respondent a certificate to practice as a physician assistant in the State of Maryland. Respondent would be placed on PROBATION FOR A MINIMUM OF TWO (2) YEARS, and continuing until Respondent had complied with a number of terms and conditions. In the CONCLUSIONS OF LAW of the Maryland Order, the Maryland Board found that Respondent made false and misleading statements during the application and investigative process. (Petitioner's Exhibit 4)

4. On or about November 29, 2006, Respondent was licensed as a Certified Physician Assistant by the Maryland Board. (Petitioner's Exhibit 4)
5. On or about December 6, 2007, the District of Columbia, Department of Health, Board of medicine (hereinafter "D.C. Board"), by Decision and Order of the Board (hereinafter "D.C. Order"), *inter alia*, ORDERED that Respondent's physician assistant license be REVOKED. In the Findings of Fact of the D.C. Order, the D.C. Board found that Respondent provided misleading and untruthful responses to screening questions on his application for a District license and was disciplined by a licensing or disciplinary authority for conduct that would be grounds for disciplinary action under D.C. Official Code, Sec. 3-1205.14(a) (1). (Petitioner's Exhibit 5)
6. The conduct resulting in the Maryland Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law: New York Education Law

Sec. 6530(1) (obtaining the license fraudulently); and/or New York Education Law Sec. 6530(2) (practicing the profession fraudulently).

7. The conduct resulting in the D.C. Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law: New York Education Law Sec. 6530(1) (obtaining the license fraudulently); and/or New York Education Law Sec. 6530(2) (practicing the profession fraudulently).

VOTE OF THE HEARING COMMITTEE
SPECIFICATIONS
FIRST AND SECOND SPECIFICATIONS

"Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper 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 AND FOURTH SPECIFICATIONS

"Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where

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)

FIFTH SPECIFICATION

"Respondent violated New York Education Law §6530(9)(c) by having been found guilty of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, when the violation would constitute professional misconduct under the laws of New York State..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, *pro se*. The Administrative Law Judge, again reminded the Respondent of his right to counsel, but the Respondent indicated that he wished to proceed *pro se*. There was also no dispute about the basic facts of this case. The Respondent acknowledged in his testimony that he had signed the Maryland Consent Order.

The Maryland Consent Order, Exhibit 4, shows that the Respondent was placed on probation for a minimum of two years based on a finding of dishonesty in the application process for initial licensing. The Maryland Board found that the Respondent understated his criminal record and downplayed the seriousness of the crimes he had been convicted

of. The Maryland Board found that this understatement was dishonest and determined that probation was in order. Specifically, the Maryland Board found that Respondent's conviction for assault involved a serious attack on his wife, the severity of which was omitted from his application statement. Subsequently, the District of Columbia revoked the Respondent's license for the same conduct. (See Exhibit 5)

In his defense, the Respondent presented documentation showing that he has, in the interim, been reinstated by both the District of Columbia and the State of Maryland. His present employer, Dr. Norman Rosen, submitted a testimonial letter indicating that the Respondent is an effective employee and a pleasant young man. Letters of support were also submitted from Georgetown University Hospital and Rome Memorial Hospital in New York. (See Respondent's Exhibit A). The panel gave consideration to the testimonials submitted by the Respondent but still determined that some punishment was in order due to the dishonesty shown in the documentation from the State of Maryland.

The Department asked for Censure and Reprimand and a fine. (T. 25) The panel considered the full range of penalties available in the case and determined, unanimously, that a Censure and Reprimand coupled with a \$1,000.00 fine would be appropriate.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are SUSTAINED.

2. The Respondent is censured and reprimanded for conduct resulting in the Maryland Consent Order and the District of Columbia Decision and Order, which would constitute misconduct under the laws of New York State.
3. A fine of One Thousand Dollars (\$ 1,000.00) is imposed on the Respondent. The fine is payable in full within 90 days of the effective date of this Order. Payment must be submitted to the New York State Department of Health, Bureau of Accounts Management, Empire State Plaza, Corning Tower, Room 1717, Albany, New York 12237. Failure to pay the fine on time will subject the Respondent to all provisions of law relating to debt collection by New York State, including imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits and licenses (Tax Law Section 171[27], State Finance Law Section 18, CPLR Section 5001, Executive Law Section 32).
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: West Hempstead, New York
June 27, 2011

REDACTED

Thea Graves Pellman, Chair

Arsenio G. Agopovich, M.D.,
Jill M. Rabin, M.D.,

To:
Fahim Nadir Kashif, R.P.A.
Respondent

REDACTED

Michael G. Bass, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237

NYS Department of Health
Bureau of Accounts Management
Corning Tower, Room 1717
Empire State Plaza
Albany, New York 12237

APPENDIX 1

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

EXHIBIT

IN THE MATTER

OF

FAHIM NADIR KASHIF, R.P.A.
CO-08-08-4803-A

NOTICE OF
REFERRAL
PROCEEDING

TO: FAHIM NADIR KASHIF, R.P.A.

REDACTED

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 19th day of May, 2011, 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, that 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 who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/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 that 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. JAMES F. HORAN, ACTING 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 (10) 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 (10) 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 (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) 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 demands, hereby, disclosure of the evidence that 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 and/or other evidence that cannot be photocopied.

YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here _____

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 (5) 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
March 15, 2011

REDACTED

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

Inquiries should be addressed to:

Michael G. Bass
Assistant Counsel
Bureau of Professional Medical Conduct
Corning Tower - Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

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

IN THE MATTER
OF
FAHIM NADIR KASHIF, R.P.A
CO-08-08-4803-A

STATEMENT
OF
CHARGES

FAHIM NADIR KASHIF, R.P.A., Respondent, was authorized to practice as a physician assistant in New York state on December 15, 2006, by the issuance of license number 011674 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about November 15, 2006, the Maryland Board of Physicians, (hereinafter "Maryland Board"), by a Consent Order (hereinafter "Maryland Order"), inter alia, GRANTED Respondent's Application for Initial Certification Physician Assistant, provided that a certificate would not be issued until the Maryland Board had completed a review of Respondent's qualifications and had determined that Respondent met all current requirements for initial certification required under the Maryland Physician Assistants Act, and ORDERED that beginning on the date the Board issued Respondent a certificate to practice as a physician assistant in the State of Maryland, Respondent would be placed on PROBATION FOR A MINIMUM OF TWO (2) YEARS, and continuing until Respondent had complied with a number of terms and conditions. In the CONCLUSIONS OF LAW of the Maryland Order, the Maryland Board found that Respondent made false and misleading statements during the application and investigative process.
- B. On or about November 29, 2006, Respondent was licensed as a Certified Physician Assistant by the Maryland Board.
- C. On or about December 6, 2007, the District of Columbia, Department of Health, Board of medicine (hereinafter "D.C. Board"), by Decision and Order of the Board (hereinafter "D.C. Order"), inter alia, ORDERED that Respondent's physician assistant license be REVOKED. In the Findings of Fact of the D.C. Order, the D.C. Board found that Respondent provided misleading and untruthful responses to screening questions on his application for a

District license and was disciplined by a licensing or disciplinary authority for conduct that would be grounds for disciplinary action under Sec. 3-1205.14(a) (1) the D.C. Official Code.

D. The conduct resulting in the Maryland Board 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 Sec. 6530(1) (obtaining the license fraudulently);
and/or
2. New York Education Law Sec. 6530(2) (practicing the profession fraudulently).

E. The conduct resulting in the D.C. Board 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 Sec. 6530 (1) (obtaining the license fraudulently);
and/or
2. New York Education Law Sec. 6530 (2) (practicing the profession fraudulently).

SPECIFICATIONS **FIRST AND SECOND SPECIFICATIONS**

Respondent violated New York Education Law Sec. 6530(9)(b) by 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, in that Petitioner charges:

1. The facts in Paragraphs A, B, and D.
2. The facts in Paragraphs C and E.

THIRD AND FOURTH SPECIFICATIONS

Respondent violated New York Education Law Sec. 6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where 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 Petitioner charges:

3. The facts in Paragraphs A, B, and D.
4. The facts in Paragraphs C and E.

FIFTH SPECIFICATION

Respondent violated New York education Law Sec. 6530(9)(C) by having been found guilty of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct under the laws of New York state, in that Petitioner charges:

5. The facts in Paragraphs C and E.

DATED: *March 15*, 2011
Albany, New York

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