

**NEW YORK**  
state department of  
**HEALTH**

Public

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

Sue Kelly  
Executive Deputy Commissioner

November 30, 2011

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Robert R. DeMeo, M.D.  
522 Tysens Lane  
Staten Island, New York 10306

Ivan Raevski, Esq.  
315 Rathway Avenue  
Elizabeth, New Jersey 07202

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

Marybeth Hefner  
NYS Department of Health  
ESP-Corning Tower-Room 1717  
Albany, New York 12237

**RE: In the Matter of Robert R. DeMeo, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 11-283) 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 SIGNATURE

James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH:cah

Enclosure

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

---

IN THE MATTER  
OF  
ROBERT R. DE MEO, M.D.  
C0-10-11-6783-A

DETERMINATION  
AND  
ORDER  
BPMC #11-283

COPY

---

A hearing was held on September 21, 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 July 1, 2011, were served upon the Respondent, **Robert R. De Meo, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Donald Cherr, M.D.**, Chair, **Ralph W. Liebling, M.D.**, and **Jacqueline H. Grogan, Ed.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, **Robert R. DeMeo, M.D.** did appear with counsel, **Ivan Raevski, Esq.**, of Elizabeth, New Jersey. Evidence was received and a transcript of these proceedings was made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

## STATEMENT OF CASE

The case was a "Direct Referral Plus" case. As such, this case has two aspects. First, in the "Plus" aspect, the Respondent was charged with misconduct by failing to report two criminal convictions for Driving While Intoxicated and for failing to report these convictions on his New York State Education Department Registration Renewal Document where he falsely answered "No" to questions about criminal convictions.

Secondly, the direct referral aspect of this case was brought on by the Department pursuant to Public Health Law Section 230(10) (p). The statute provides for an expedited hearing when a licensee is charged 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 the Direct Referral aspect of this expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee. The scope of the "Plus" of this hearing is to determine if there was medical misconduct set forth in the underlying criminal charges and the failure to report them to the Education Department.

Accordingly, in the instant case, the Respondent is charged with two specifications of professional misconduct pursuant to the Education Law §6530. First, Respondent violated New York Education Law §6530(9)(a)(i) by having been found guilty of committing a crime under New York State law, to wit, two New York State convictions for Driving While Intoxicated. Secondly, Respondent violated New York Education Law §6530(2) by practicing the profession fraudulently in that the Respondent failed to report these convictions on his New York State Education Department Registration Renewal

documents as required. 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:	Robert R. DeMeo, M.D. Rick Saltalamachea

### 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, **Robert R. DeMeo, M.D.**, did appear with counsel and was duly served with process on July 9, 2011. (Petitioner's Exhibit 2)
2. **Robert R. DeMeo, M.D.**, the Respondent, was authorized to practice medicine in New York State on September 11, 1974, by the issuance of license number 121217 by the New York State Education Department. (Petitioner's Exhibit 3)

3. On or about September 22, 2004, in the Criminal Court of the City of New York, County of Richmond, Respondent pled guilty to Driving While Intoxicated, in violation of New York Vehicle and Traffic Law, Section 1192(2), a misdemeanor, and was sentenced, *inter alia*, to a \$500 fine and a one year conditional discharge. (Petitioner's Exhibit 4)
4. On or about December 15, 2005, Respondent prepared and/or submitted to the New York State, Education Department, a Registration Renewal Document, wherein he falsely answered "No" to the question: "Since your last registration application, Have you been found guilty after trial, or pleaded guilty, no contest, or *nolo contendere* to a crime (felony or misdemeanor) in any court?" (Petitioner's Exhibit 5)
5. On or about January 31, 2008, in the Criminal Court of the City of New York, County of Richmond, Respondent again pled guilty to Driving While Intoxicated, in violation of New York Vehicle and Traffic Law, Section 1192(3), a misdemeanor, and was sentenced, *inter alia*, to a \$500 fine and a one year conditional discharge. (Petitioner's Exhibit 6)
6. On or about December 18, 2009, Respondent prepared and/or submitted to the New York State, Education Department, a Registration Renewal Document, wherein he falsely answered "No" to the question: "Since your last registration application, Have you been found Guilty after trial or pleaded guilty, no contest, or *nolo contendere* to a crime (felony or misdemeanor) in any court?" (Petitioner's Exhibit 7)
7. Respondent violated New York Education Law Section 6530(9) (a) (i) by being convicted of committing an act constituting a crime under New York state law, specifically, two instances of violating New York Vehicle and Traffic Law, Section 1192(2), a misdemeanor.

8. Respondent violated New York Education Law Section 6530(2) by practicing the profession fraudulently in that he failed to report the above convictions as required.

**VOTE OF THE HEARING COMMITTEE**

**SPECIFICATIONS**

**FIRST SPECIFICATION**

"Respondent violated New York Education Law §6530(9) (a) (i) having been convicted of a crime under New York state law..."

VOTE: Sustained (3-0)

**SECOND SPECIFICATION**

"Respondent violated New York Education Law §6530(2) by practicing the profession fraudulently..."

VOTE: Sustained (3-0)

**HEARING COMMITTEE DETERMINATION**

The Respondent did appear at the hearing, with counsel. The Administrative Officer, after considering the documentary evidence, which included an Affidavit of Personal Service of the Notice of Referral Proceeding and Statement of Charges (Petitioner's Exhibit 2 ), ruled that the Petitioner had met the requirements of law for service of process and

that jurisdiction had been established over the Respondent. There was no dispute about jurisdiction.

The unrefuted documentation in the record shows that twice, first in 2004 and then again in 2008, the Respondent pled guilty to driving while intoxicated, a misdemeanor. Additional unrefuted documentation in the record shows that, on two occasions, first in 2005 and then again in 2009, the Respondent failed to indicate these convictions on registration renewal applications with the New York State Education Department.

In his testimony at the hearing the Respondent stated that he was under the impression that these convictions were for only minor violations and that is why he answered "No" to the question about crimes. (See T. pp. 23 and 25) The panel did not believe this testimony. The panel noted that the Respondent lost his freedom to drive with these convictions and this, by itself should have alerted him to the fact these offenses were more than a minor violations. The panel concluded that the Respondent should have realized this fact all the more so because \$1,000 in fines was imposed by the criminal court on Staten Island.

In assessing the penalty to be imposed in this case, the panel took many factors into account and was concerned about the inconsistencies in the Respondent's testimony. The panel did not believe the Respondent when he testified that he did not know that he had committed misdemeanors. The panel recognized that the Respondent was twice convicted and should have known the category of his offense, certainly since his driving was restricted for two years. In his defense, the Respondent had a friend from Staten Island, Rick Saltalamachea; testify to his character and reputation in the community. Mr. Saltalamachea testified that he is a patient of the Respondent and has



known him for ten years. Mr. Saltalamachea testified that the Respondent is highly regarded in the community and is a veteran who has served his country and is highly respected and is regarded as an honest person. (See T. 46) The panel considered this testimony but still concluded that the Respondent was dishonest in reporting his criminal record.

The panel recognized that this was, at least in part, a crime of greed and self-aggrandisement in that the Respondent gained, financially, from not reporting his crimes to the Education Department. Taking this financial gain into account the panel determined that the Respondent should be punished financially for his actions and determined that a fine of \$2,000 would be appropriate under the circumstances of this case.

The panel was concerned with the Respondent's history of trouble with alcohol in view of the fact that he was twice convicted of driving while under the influence of alcohol. While it is true that no patient harm was proven in this case, the panel was concerned that, without appropriate treatment, the Respondent may harm his patients in the future due to the possible effects of alcoholism.

At the hearing, the Respondent presented a report from his psychiatrist, Dr. Michael Myers and this report was received into evidence as Respondent's Exhibit A. In this ten page report, Dr. Myers indicates that in his discussions with the Respondent about his use of alcohol, the Respondent told him he "can take it or leave it." (Exhibit A, page 4) In his conclusion and diagnostic impression, Dr. Myers was of the opinion that the Respondent's alcoholism was in sustained and full remission. (Exhibit A, page 7)

The panel had the opportunity to question the Respondent and they were not convinced that the Respondent was in full remission from his alcoholism. The panel noted that the Respondent was twice convicted of driving while intoxicated and while the Respondent tried to downplay the seriousness of these offenses and considered them mere violations, the reality is that these were charges that warrant careful review. In his testimony, the Respondent stated that the two convictions were "traffic violations, not a criminal one." (T. p. 23) The record shows that the Respondent was twice convicted of alcohol related misdemeanors, crimes for which he could have received a year in jail, each time. Apparently, because he was not jailed, the Respondent felt that he was guilty of only traffic violations. This logic deeply troubled the panel, and notwithstanding the clearance from Dr. Myers, the panel concluded that a more thorough evaluation of the Respondent should be done. The committee determined, based on the testimony of the Respondent and the record and documentation submitted at the hearing, that they have reason to believe that the Respondent may be impaired and should, therefore, be directed to submit to an evaluation.

Accordingly, the panel determined that the Respondent should be directed, pursuant to Section 230(7) of the Public Health Law, to submit to a psychiatric examination for evaluation for impairment due to alcoholism. The panel considered the full range of penalties available in the case and determined that a fine would also be appropriate in this case. It is noted that the panel decided against a suspension or revocation of the Respondent's license because there was no evidence of any harm done to patients by the Respondent.

**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 directed, pursuant to Section 230(7) of the Public Health Law, to submit to a psychiatric examination for evaluation for impairment due to alcoholism.
3. A fine of \$2,000.00 is imposed on the Respondent, Dr. Robert R. DeMeo, M.D. 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: Rochester, New York**

**November 30, 2011**

REDACTED SIGNATURE

---

**Donald Cherr, M.D., Chair**

**Ralph W. Liebling, M.D.  
Jacqueline H. Grogan, Ed.D.**

To:  
Robert R. DeMeo, M.D.  
522 Tysens Lane  
Staten Island, NY 10306

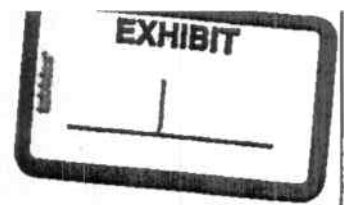
Ivan Raevski, Esq.  
315 Rahway Ave.  
Elizabeth, N.J. 07202

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

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

## **APPENDIX 1**

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



IN THE MATTER  
OF  
ROBERT R. DE MEO, M.D.  
CO-10-11-6783-A

NOTICE  
OF  
HEARING

TO: ROBERT R. DE MEO, M.D.  
522 Tysens Lane  
Staten Island, NY 10306

PLEASE TAKE NOTICE:

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 September 21, 2011, at 10:00 a.m., at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, NY 12180 , and at such other adjourned dates, times, and places as the committee may direct.

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. You shall appear in person at the hearing and may be represented by counsel who shall be an attorney admitted to practice in New York state. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A Summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone 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, (henceforth "Bureau of Adjudication"), (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. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of actual engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of New York Public Health Law §230(10)(c), 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. 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 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 that cannot be photocopied.

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

Department Attorney: Initial here \_\_\_\_\_

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 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 OUT 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 1*, 2011

REDACTED SIGNATURE

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

Inquiries should be directed to:

Michael G. Bass  
Assistant Counsel  
New York State Department of Health  
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  
ROBERT R. DE MEO  
CO-10-11-6783A

---

STATEMENT  
OF  
CHARGES

**ROBERT R. DE MEO, M.D.**, the Respondent, was authorized to practice medicine in New York state on September 11, 1974, by the issuance of license number 121217 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about September 22, 2004, in the Criminal Court of the City of New York, County of Richmond, Respondent pled guilty to Driving While Intoxicated, in violation of New York Vehicle and Traffic Law, Section 1192(2), a misdemeanor, and was sentenced, inter alia, to a \$500 fine and a one year conditional discharge.

B. On or about December 15, 2005, Respondent prepared and/or submitted to the New York State, Education Department, a Registration Renewal Document, wherein he falsely answered "No" to question "2. Since your last registration application, a. Have you been found guilty after trial, or pleaded guilty, no contest, or nolo contendere to a crime (felony or misdemeanor) in any court?"

C. On or about January 31, 2008, in the Criminal Court of the City of New York, County of Richmond, Respondent pled guilty to Driving While Intoxicated, in violation of New York Vehicle and Traffic Law, Section 1192(3), a misdemeanor, and was sentenced, inter alia, to a \$500 fine and a one year conditional discharge.

D. On or about December 18, 2009, Respondent prepared and/or submitted to the New York State, Education Department, a Registration Renewal Document, wherein he falsely answered "No" to question "2. Since your last registration application, A. Have you been found Guilty after trial, or pleaded guilty, no contest, or nolo contendere to a crime (felony or

misdemeanor) in any court?"

### SPECIFICATIONS

#### **FIRST AND SECOND SPECIFICATIONS**

Respondent violated New York Education Law Section 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.
2. The facts in Paragraph C.

#### **THIRD AND FOURTH SPECIFICATIONS**

Respondent violated New York Education Law Section 6530(2) by practicing the profession fraudulently, in that Petitioner charges:

3. The facts in Paragraph B.
4. The facts in Paragraph D.

DATED: *July 1*, 2011  
Albany, New York

REDACTED SIGNATURE

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