

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

NEW YORK
state department of
HEALTH

PUBLIC

Sue Kelly
Executive Deputy Commissioner

January 11, 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Roman Tabakman, M.D.

REDACTED ADDRESS

Joel E. Abelow, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

RE: In the Matter of Roman Tabakman, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 12-04) 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., Chief 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
ROMAN TABAKMAN, M.D.

DETERMINATION
AND
ORDER
BPMC #12-04

COPY

A hearing was held on December 15, 2011, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Order, Notice of Referral Proceeding and Statement of Charges, all dated November 2, 2011, were served upon the Respondent, **ROMAN TABAKMAN, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Jerry Waisman, M.D., Chair, William A. Tedesco, M.D., and, Thomas W. King, Jr. M.P.A., P.E.,** 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.,** and General Counsel, by **Joel E. Abelove, Esq.,** of Counsel. The Respondent, **Roman Tabakman, M.D.,** did not appear, although 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) (a) (i) for felony convictions under New York State law. For these convictions, the license of the Respondent was summarily suspended by Commissioner's Order dated November 2, 2011. Copies of the Commissioner's Order, 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: None

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. Roman Tabakman, M.D., the Respondent, did not appear at the hearing although duly and personally served with process. (Petitioner's Exhibit 2)
2. Roman Tabakman, M.D., the Respondent, was authorized to practice medicine in New York State on September 21, 1990, by the issuance of license number 183984 by the New York State Education Department. (Petitioner's Ex. 3)
3. On or about September 16, 2010, in the Supreme Court of the State of New York, New York County, New York, Respondent was found guilty, based on a plea of guilty, of Attempted Enterprise Corruption, in violation of New York Penal Law, §110-460.20, a class C felony, and Attempted Money Laundering in the second degree, in violation of New York Penal Law §110-470.15(1), a class D felony, and on or about January 4, 2011, was sentenced to six (6) months jail, five (5) years probation and \$320.00 in fees. (Petitioner's Ex. 4)

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

"Respondent violated New York Education Law §6530(9) (a) (i) by being convicted of a crime under New York State law..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing, either in person or by counsel. The Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Personal Service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Exhibit 2), ruled that the Petitioner had met the requirements of law for the service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits notwithstanding the Respondent's absence.

The record in this case indicates that Respondent pled guilty to two felonies, attempted enterprise corruption and attempted money laundering and was sentenced to six months in jail, five years probation and \$320.00 in fees. (See Exhibit 4) The Attempted Enterprise Corruption was in violation of New York Penal Law, §110-460.20, a class C felony, and the Attempted Money Laundering in the second degree, was in violation of New York Penal Law §110-470.15(1), a class D felony. According to the Department's attorney, the Respondent was involved in a "big no-fault fraud mill" (T. 6) and Mr. Abelow recommended revocation as the only appropriate penalty.

Respondent did not appear at the hearing, and the record does not contain any evidence of mitigating circumstances, or remorse. The panel noted that that the Respondent was aware of this proceeding and chose to ignore it. As to the penalty, the Hearing Committee determined, unanimously, that the people of New York State would be protected by a revocation of the Respondent's license.

Accordingly, the panel, unanimously, decided to revoke his license.

ORDER

IT IS HEREBY ORDERED THAT:

1. The license of the Respondent to practice medicine in New York State is revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10) (h).

**DATED: Poughquag, New York
January 6, 2012**

REDACTED SIGNATURE


Jerry Waisman, M.D., Chair

**William A. Tedesco, M.D.
Thomas W. King, Jr. M.P.A., P.E**

To:

**Roman Tabakman, M.D.
Respondent**

REDACTED ADDRESS

**Joel E. Abelow, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Albany, New York 12237**

APPENDIX 1

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

IN THE MATTER
OF
ROMAN TABAKMAN, M.D.
CO-11-02-0824-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: ROMAN TABAKMAN, M.D.
REDACTED ADDRESS

The undersigned, Nirav R. Shah, M.D., M.P.H., Commissioner of Health, pursuant to New York Public Health Law §230(12)(b), upon the recommendation of a Committee on Professional Conduct of the State Board for Professional Medical Conduct, has determined that **ROMAN TABAKMAN, M.D.**, Respondent, licensed to practice medicine in the State of New York on September 21, 1990, by license number 183984, has been convicted of committing an act constituting a felony under New York State law, in the Supreme Court of the State of New York, New York County, New York, 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 **ROMAN TABAKMAN, M.D.**, 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.

ANY PRACTICE OF MEDICINE IN THE STATE OF NEW YORK OR IN
ANY OTHER JURISDICTION WHERE THAT PRACTICE OF MEDICINE
IS PREDICATED ON A VALID NEW YORK STATE LICENSE TO

**PRACTICE MEDICINE IN VIOLATION OF THIS COMMISSIONER'S
ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT
WITHIN THE MEANING OF NEW YORK EDUCATION LAW §8530(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(12)(b) 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 15TH day of December, 2011, at 10:00 a.m., at Hedley Park Place, 433 River Street, 5th 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 shall file an answer to each of the charges and allegations in the Statement of Charges no later than ten days prior to the hearing with the below-named attorney for the Department of Health. Any charge or allegation not so answered shall be deemed admitted. Respondent may wish to seek the advice of counsel prior to filing such answer and may be represented by counsel admitted to practice in New York State.

The licensee may file a brief and affidavits with the Committee on Professional Conduct. The licensee may appear personally before the Committee on Professional Conduct and may present evidence or sworn testimony in his or her behalf. The Department may also present evidence or sworn testimony and file a brief at the hearing. A stenographic record of the hearing shall be made. Such evidence or sworn testimony offered to the Committee on Professional Conduct 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 to the committee which would show that the conviction would not be a crime in New York State. The Committee on Professional Conduct may reasonably limit the number of witnesses whose testimony will be received and the length of time any witness will be permitted to testify.

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.

**YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE
MADE PUBLIC UPON ISSUANCE.**

Department attorney: Initial here _____

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. JAMES F. HORAN, ACTING 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. The committee 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
Nov 2, 2011

REDACTED SIGNATURE

NIRAV R. SHAH, M.D., M.P.H.
Commissioner of Health
New York State Department of Health

Inquires should be addressed to:

Joel E. Abelow
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

IN THE MATTER
OF
ROMAN TABAKMAN, M.D.
CO-11-02-0824-A

STATEMENT
OF
CHARGES

ROMAN TABAKMAN, M.D., Respondent, was authorized to practice medicine in New York State on September 21, 1990, by the issuance of license number 183984 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about September 16, 2010, in the Supreme Court of the State of New York, New York County, New York, Respondent was found guilty, based on a plea of guilty, of Attempted Enterprise Corruption, in violation of New York Penal Law, §110-460.20, a class C felony, and Attempted Money Laundering in the second degree, in violation of New York Penal Law §110-470.15(1), a class D felony, and on or about January 4, 2011, was sentenced to six (6) months jail, five (5) years probation and \$320.00 in fees.

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: *November 2*, 2011
Albany, New York

REDACTED SIGNATURE

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