

NEW YORK
state department of
HEALTH

Public

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

Sue Kelly
Executive Deputy Commissioner

March 6, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jude B. Mulvey, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

Dan William Joachim, M.D.
Register #31662-034
FCI Beaumont Low
Federal Correctional Institution
P.O. Box 26020
Beaumont, Texas 77720

RE: In the Matter of Dan William Joachim, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 13-61) 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
Office of Professional Medical Conduct
Riverview Center
150 Broadway - Suite 355
Albany, New York 12204

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
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

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
Chief Administrative Law Judge
Bureau of Adjudication

JFH:cah
Enclosure

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

-----X
IN THE MATTER : DETERMINATION
OF :
DAN WILLIAM JOACHIM, M.D. : AND
CO-12-05-2471-A : ORDER
-----X : BPMC #13-61

COPY

A Commissioner's Order, Notice of Referral Proceeding and Statement of Charges, dated November 8, 2012, were served upon the Respondent, Dan William Joachim, M.D. **TREVOR A LITCHMORE, M.D. (Chair), JANET M. MILLER, R.N., and REID T. MULLER, M.D.,** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. The Department of Health appeared by Jude B. Mulvey, Esq., Associate Counsel. The Respondent failed to appear, either in person or by Counsel. A hearing was held on January 24, 2013. Evidence was received and witnesses sworn and heard 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 where a licensee is charged solely with a violation of Education Law §6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which 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, Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(a)(iii). A copy of the Statement of Charges is attached to this Determination and Order in Appendix I.

The Department was unable to personally serve Respondent with the Commissioner's Order and Notice of Referral Proceeding at the federal correctional institution where he is incarcerated.

The Department then served the documents by certified mail, return receipt requested, to Respondent at the prison. The administrative law judge ruled that the Department had obtained jurisdiction by substituted service and the hearing proceeded in Respondent's absence.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent 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.

1. Dan William Joachim, M.D., (hereinafter "Respondent") was authorized to practice medicine in New York State on June 23, 2006 by the issuance of license number 240737 by the New York State Education Department. (Exhibit #4).

2. On or about January 18, 2012, in the United States District Court, Eastern District of Louisiana, Respondent was found guilty, based upon a plea of guilty, to Receipt of Child Pornography, in violation of Title 18 of the United States Code Sections 2252(a)(2), and Health Care Fraud, in violation of Title 18 of the United States Code Section 1347, both felonies. Respondent was sentenced, to seventy-two (72) months of imprisonment, 5 years supervised release, \$5,000.00 restitution and \$200.00 in fees. (Exhibit #5).

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The evidence established that Respondent was convicted, upon a guilty plea, of crimes under Federal law. Therefore, he is guilty of professional misconduct in violation of Education Law §6530(9)(a)(iii). As a result, the Hearing Committee voted to sustain the specification of professional misconduct.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine should be revoked.

This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

Respondent was found guilty of receiving child pornography, a grievous crime, as well as health care fraud. He failed to appear or to present any evidence which might mitigate the sanction to be imposed. Under the circumstances, revocation of Respondent's medical license is the only sanction which will adequately protect the public.

Albany, New York 12237

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APPENDIX I

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

IN THE MATTER
OF
DAN WILLIAM JOACHIM, M.D.
CO-12-05-2471-A

STATEMENT
OF
CHARGES

DAN WILLIAM JOACHIM, M.D., Respondent, was authorized to practice medicine in New York state on June 23, 2006, by the issuance of license number 240737 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 18, 2012, in the United States District Court Eastern District of Louisiana, Respondent was found guilty, based on a plea of guilty, of Receipt of Child Pornography in violation of 18 U.S.C. § 2252(a)(2), and Health Care Fraud, in violation of 18 U.S.C. § 1347, and sentenced to 72 months in prison, 5 years supervised release, \$5,000.00 in restitution, and \$200.00 in fees.

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(iii) by being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *November 8*, 2012
Albany, New York

REDACTED

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