

May 30, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Aleksandra Gashinskaya, M.D.
REDACTED

Nathan L. Dembin, Esq.
Nathan L. Dembin & Associates, P.C.
1123 Broadway – Suite 1117
New York, New York 10010

Aleksandra Gashinskaya, M.D.
Savona Medical, P.C.
401 76th Street
Brooklyn, New York 11209

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

RE: In the Matter of Aleksandra Gashinskaya, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 13-153) 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. 2013) and §230-c subdivisions 1 through 5, (McKinney Supp. 2013), "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., 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

IN THE MATTER
OF
ALEKSANDRA GASHINSKAYA, M.D.

DETERMINATION
AND
ORDER

BPMC# 13-153

COPY

A hearing was held on April 24, 2013, 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 February 21, 2013, were served upon the Respondent, **Aleksandra Gashinskaya, M.D.**

Pursuant to Section 230(10)(p) of the Public Health Law, **Diane M. Sixsmith, M.D., Chair, Jonathan Ecker, M.D., and, Les Moore, N.D., MSOM., LAc.,** 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 **Joel E. Abelove, Esq.,** of Counsel. The Respondent, **Aleksandra Gashinskaya, M.D.,** did appear, with counsel, **Nathan L. Dembin, Esq.,** of New York City. 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 New York Education Law §6530(9) (a)(i) by having been convicted of two misdemeanors in New York City criminal courts. 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:

Aleksandra Gashinskaya, M.D.

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. Aleksandra Gashinskaya, M.D., the Respondent, did appear at the hearing with counsel. There was no dispute about jurisdiction. (Petitioner's Exhibit 2)
2. Aleksandra Gashinskaya, M.D., the Respondent, was authorized to practice medicine in New York State on July 26, 2002, by the issuance of license number 225779 by the New York State Education Department. (Petitioner's Exhibit 3)
3. On or about May 12, 2009, in Supreme Court of the State of New York, Kings County, Respondent was found guilty, based on a plea of guilty, of Criminal Facilitation in the Fourth Degree in violation of New York Penal Law, §115.00, a class A misdemeanor, and was sentenced to three years of probation, a \$20.00 Crime Victim Fee, and a \$140.00 surcharge.
4. On or about January 11, 2011, in Supreme Court of the State of New York, Bronx County, Respondent was found guilty, based on a plea of guilty, of Criminal Facilitation in the Fourth Degree, in violation of New York Penal Law, §115.00, a class A misdemeanor, and was sentenced to an Unconditional Discharge, a \$20.00 Crime Victim Fee, and a \$140.00 surcharge.

VOTE OF THE HEARING COMMITTEE

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...”,

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, with counsel. There was no dispute about jurisdiction. The record in this case indicates that the Respondent has been found guilty of two crimes. In the first, on May 12, 2009, in Supreme Court of the State of New York, Kings County, Respondent was found guilty, based on a plea of guilty, of Criminal Facilitation in the Fourth Degree, in violation of New York Penal Law, §115.00, a class A misdemeanor. For this crime, the Respondent was sentenced to three years of probation, a \$20.00 Crime Victim Fee, and a \$140.00 surcharge.

For the second crime, the record shows that on January 11, 2011, in Supreme Court of the State of New York, Bronx County, Respondent was found guilty, based on a plea of guilty, of Criminal Facilitation in the Fourth Degree, in violation of New York Penal Law, §115.00, a class A misdemeanor. For this second crime, the Respondent was

sentenced , in the Bronx, to an Unconditional Discharge, a \$20.00 Crime Victim Fee, and a \$140.00 surcharge.

The record and testimony in this case shows that the Respondent was part of a much larger no-fault insurance scheme to defraud insurance companies. (T. 12) The Respondent maintained that she was merely an hourly worker in this enterprise. According to her attorney, the Respondent did not profit from this fraudulent scheme other than to receive an hourly wage.

The record of convictions in this case shows that the Respondent pled guilty to the crime of Criminal Facilitation in the 4th Degree in both Brooklyn and the Bronx and did not receive jail time in either case.

The Respondent appeared remorseful and ashamed for her actions and promised that she would never do it again. It appears that the Respondent is presently practicing in Brooklyn and her attorney presented an impressive, eight page, array of continuing education credits taken by the Respondent. (See Respondent's Exhibit A)

As for a penalty, the Department's Attorney recommended a three year stayed suspension and Respondent's Attorney asked the panel for a Censure and Reprimand. In its deliberations, the panel considered the full range of penalties available in a case such as this and noted that the sentencing courts deemed the Respondent a minor actor in this larger scheme, noting that there has been no suggestion of poor medical practice.

Weighing all the factors in this case, the panel was unanimous in determining that the people of New York State would be protected by a Censure and Reprimand alone.

To:

Aleksandra Gashinskaya, M.D.
Respondent
REDACTED

Aleksandra Gashinskaya, M.D.
Respondent
Savona Medical, P.C.
401 76th Street
Brooklyn, NY 11209

Nathan L. Dembin, Esq.
Nathan L. Dembin & Associates, P.C.
1123 Broadway, Suite 1117
New York, New York 10010

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

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent is censured and reprimanded for conduct resulting in the two convictions in New York criminal courts.
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: New York, New York
May 29, 2013**

REDACTED

Diane M. Sixsmith, M.D., Chair

**Jonathan Ecker, M.D.
Les Moore, N.D., MSOM, LAc.,**

APPENDIX 1

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



IN THE MATTER
OF
ALEKSANDRA GASHINSKAYA, M.D.
CO-11-05-5361-A

NOTICE OF
REFERRAL
PROCEEDING

TO: Aleksandra Gashinskaya, M.D.
REDACTED

Aleksandra Gashinskaya, M.D.
Savona Medical, P.C.
401 76th Street
Brooklyn, NY 11209

Nathan L. Dembin, Esq.
Nathan L. Dembin & Associates, P.C.
1123 Broadway, Suite 1117
New York, New York 10010

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 24th day of April, 2013, at 10:30 a.m. at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Menands, NY 12204.

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 her

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
Feb. 21, 2013

REDACTED

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

Inquiries should be addressed to:

Joel E. Abelove
Associate 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
ALEKSANDRA GASHINSKAYA, M.D.
CO-11-05-5361-A

STATEMENT
OF
CHARGES

ALEKSANDRA GASHINSKAYA, M.D., Respondent, was authorized to practice medicine in New York State on July 26, 2002, by the issuance of license number 225779 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 12, 2009, in Supreme Court of the State of New York, Kings County, Respondent was found guilty, based on a plea of guilty, of Criminal Facilitation in the Fourth Degree, in violation of New York Penal Law, §115.00, a class A misdemeanor, and was sentenced to three years of probation, a \$20.00 Crime Victim Fee, and a \$140.00 surcharge.

B. On or about January 11, 2011, in Supreme Court of the State of New York, Bronx County, Respondent was found guilty, based on a plea of guilty, of Criminal Facilitation in the Fourth Degree, in violation of New York Penal Law, §115.00, a class A misdemeanor, and was sentenced to an Unconditional Discharge, a \$20.00 Crime Victim Fee, and a \$140.00 surcharge.

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 paragraphs A and/or B.

DATED: Feb. 21, 2013
Albany, New York

REDACTED

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