

Public



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

Sue Kelly
Executive Deputy Commissioner

October 16, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Rodney Baltazar, D.O.
REDACTED

Rodney Baltazar, D.O.
REDACTED

Paul Tsui, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237-0032

RE: In the Matter of Rodney Baltazar, D.O.

Dear Parties:

Enclosed please find the Determination and Order (No. 13-326) 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. 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 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

IN THE MATTER
OF
RODNEY BALTAZAR, D.O.
CO-12-12-6191-A

DETERMINATION
AND
ORDER

BPMC #13-326

COPY

A hearing was held on September 18, 2013, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Order and Notice of Referral Proceeding and a Statement of Charges dated April 22, 2013, were served upon the Respondent, **Rodney Baltazar, D.O.** Pursuant to Section 230(10)(e) of the Public Health Law, **Frances E. Tarlton**, Chairperson, **Iffath Abbasi Hoskins, M.D.**, and **Trevor A. Litchmore, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **William J. Lynch, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **James E. Dering, Esq.**, General Counsel, by **Paul Tsui, Esq.**, of Counsel. The Respondent did not appear at the hearing.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

BACKGROUND

This case was brought pursuant to Public Health Law Section 230(12)(b) and 230(10)(p). The latter section of 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 Section 6530(9)(a)(ii). Copies of the Commissioner's Order and 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. Rodney Baltazar, D.O., the Respondent, was authorized to practice medicine in New York State on August 2, 1995, by the issuance of license number 200349 by the New York State Education Department (Petitioner's Ex. 3).

2. On or about May 4, 2012, in the United State District Court, Southern District of Florida, Respondent was found guilty, based on a plea of guilty, of five counts of Distributing Controlled Substances in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1) and 18 U.S.C. § 2. He was sentenced to six months in prison to run concurrently on each count, one year supervised release, \$1,368,519.00 in restitution and \$500.00 in fees. The special conditions of his supervised release include a permanent disciplinary relinquishment of his medical license upon the request of the appropriate regulatory agency (Petitioner's Ex. 5).

3. On or about February 24, 2012, in the United State District Court, Western District of Missouri, Respondent was found guilty, based on a plea of guilty, of Conspiracy to Distribute Controlled Substances in violation of 21 U.S.C. §§ 841 and 846. He was sentenced to six months in prison, one year supervised release and \$100.00 in fees. The court case was transferred to the Southern District of Florida for sentencing to run concurrently with the sentence outlined in the paragraph above (Petitioner's Ex. 5).

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

Respondent violated New York Education Law Section 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law.

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent is currently incarcerated and did not appear at the hearing in person or by counsel. After considering the documentary evidence concerning service of the Commissioner's

Order and Notice of Referral Proceeding and the Statement of Charges (Petitioner's Ex. 1, 2), the Administrative Law Judge ruled that the Petitioner had met the requirements of law for service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits despite Respondent's absence.

In federal district courts of Florida and Missouri, the Respondent was found guilty of distributing controlled substances and conspiracy to distribute controlled substances. The conduct in these two actions constitutes a crime under federal law. Therefore, the specification of misconduct contained in the Statement of Charges of this proceeding is sustained.

The record also indicates that the Secretary of Department of State in the State of Delaware suspended Respondent's controlled substance registration on December 13, 2011, finding that Respondent presented an imminent danger to the public health or safety (Ex. 6). On April 22, 2013, the Commissioner of Health of the New York State Department of Health issued an Order prohibiting Respondent from practicing medicine in New York or in any other jurisdiction where that practice is predicated on a valid New York license to practice medicine (Ex. 1).

The Hearing Committee notes that Respondent is currently incarcerated, but that one of the special conditions of his supervised release is a permanent disciplinary relinquishment of his medical license upon a request by the New York State Board for Professional Medical Conduct (Petitioner's Ex. 5). The Hearing Committee in this proceeding unanimously concluded that Respondent lacks integrity as evidenced by his having used his medical license to illegally prescribe controlled substances and that Respondent's conduct demonstrated indifference towards the patients who were the recipients of drugs which can be dangerous if not used appropriately. Therefore, the Hearing Committee determined the record contains ample evidence that the only

appropriate penalty is the revocation of Respondent's license to practice medicine in New York State.

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent's license to practice medicine in the State of New York 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: Albany, New York
_____, 2013

REDACTED

Frances E. Tarlton
Chairperson

Iffath Abbasi Hoskins, M.D.
Trevor A. Litchmore, M.D.

TO: Rodney Baltazar, D.O.
REDACTED

Rodney Baltazar, D.O.
REDACTED

Paul Tsui, Esq.
Attorney for Petitioner
New York State Department of Health
Bureau of Professional Medical Conduct
Coming Tower Building - Room 2512
Empire State Plaza
Albany, New York 12237-0032

IN THE MATTER
OF
RODNEY BALTAZAR, D.O.
CO-12-12-6191-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: Rodney Baltazar, D.O.

REDACTED

The undersigned, Nirav R. Shah, M.D., M.P.H., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that **RODNEY BALTAZAR, D.O.**, Respondent, licensed to practice medicine in the State of New York on August 2, 1995, by license number 200349, has been convicted of committing an act constituting a felony under Federal law, in United States District Court, Southern District of Florida, 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 **RODNEY BALTAZAR, D.O.** 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 VIOLATION OF THIS COMMISSIONER'S ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY, DEFINED BY NEW YORK EDUCATION LAW §6512.

EXHIBIT

UNPV
#1 7-15-

PLEASE TAKE NOTICE that 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 the 19th day of June, 2013, at 10:30 a.m., at 150 Broadway, Suite 510, Menands, New York 12204-2719, 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 may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

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. Respondent 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. Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. 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.

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, 150 Broadway, Suite 510, Menands, NY 12204-2719, 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. 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 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
April 22, 2013

REDACTED _____

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

Inquiries should be addressed to:

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

IN THE MATTER
OF
RODNEY BALTAZAR, D.O.
CO-12-12-6191-A

STATEMENT
OF
CHARGES

RODNEY BALTAZAR, D.O., Respondent, was authorized to practice medicine in New York State on August 2, 1995, by the issuance of license number 200349 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 4, 2012, in the United States District Court, Southern District of Florida, Respondent was found guilty, based on a plea of guilty, of five (5) counts of Distributing Controlled Substances in violation of 21 U.S.C. §§841(a)(1) and (b)(1) and 18 U.S.C. §2 and sentenced to 6 months in prison to run concurrently on each count, 1 year supervised release, \$1,368,519.00 in restitution, and \$500.00 in fees. Special conditions of supervision include relinquishment of his license upon the request of the appropriate regulatory agency. Such relinquishment is permanent and will be considered disciplinary action.

B. On or about February 24, 2012, in the United States District Court, Western District of Missouri, Respondent was found guilty, based on a plea of guilty, of Conspiracy to Distribute Controlled Substances in violation of 21 U.S.C. §§841 and 846 and sentenced to 6 months in prison, 1 year supervised release, and \$100.00 in fees. This case was transferred to the Southern District of Florida for sentencing to run concurrently with the sentence outlined in Paragraph A above.

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(ii) by being convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraph A and B.

DATED: *April 22*, 2013
Albany, New York

REDACTED

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