

Public

NEW YORK
state department of
HEALTH

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

Sue Kelly
Executive Deputy Commissioner

November 13, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Anthony Casamassima, M.D.



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

Paul E. Walker, Esq.
Peltz & Walker
222 Broadway
New York, New York 10038

RE: In the Matter of Anthony Casamassima, M.D. Lic# 165928

Dear Parties:

Enclosed please find the Determination and Order (No. 13-372) 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.

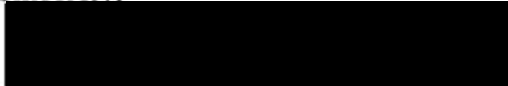
The notice of review served on the Administrative Review Board should be forwarded to:

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,


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
ANTHONY CASAMASSIMA, M.D.
CO-12-08-3839-A

DETERMINATION
AND
ORDER

BPMC #13-372

COPY

A hearing was held on September 19, 2013, at the offices of the New York State Department of Health ("Petitioner"). A Commissioner's Order suspending Respondent's medical license, Notice of Hearing Proceeding and Statement of Charges dated June 20, 2013, were served upon Respondent, **Anthony Casamassima, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Jerry Waisman, M.D.**, Chairperson, **Elisa J. Wu, M.D.**, and **Paul J. Lambiase**, 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.

Petitioner appeared by **James E. Dering, Esq.**, General Counsel, by **Michael G. Bass, Esq.**, of Counsel. Respondent participated in the hearing by telephone as did his attorney, **Peltz & Walker**, by **Paul E. Walker, Esq.**

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(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 Section 6530(9)(a)(i). 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.

The Respondent and his attorney requested that be permitted to participate in the hearing by telephone, and Petitioner did not object. Petitioner requested that the Statement of Charges be amended, and Respondent did not object.

WITNESSES

For the Petitioner:

None

For the Respondent:

Anthony Casamassima, 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. Anthony Casamassima, M.D., the Respondent, was authorized to practice medicine in New York State on March 28, 1986, by the issuance of license number 165728 by the New York State Education Department (Petitioner's Ex. 3).

2. On or about October 18, 2010, Respondent was arraigned on criminal charges in Suffolk County Court. Respondent pled not guilty and was released on his own recognizance (Petitioner's Ex. 4).

3. On or about October 6, 2011, Respondent prepared a registration renewal document for his medical license which he submitted to the New York State Education Department. He falsely answered "No" to the question, "Are criminal charges against you pending in any court?" Respondent knew this answer was false and intended to mislead the State Education Department (Petitioner's Ex. 4, 5, Respondent A).

4. On or about January 11, 2012, Respondent was convicted of the crimes of Grand Larceny in the Third Degree, in violation of Penal Law Section 155.35, a felony, and Petit Larceny, in violation of Penal Law Section 155.25, a misdemeanor. Respondent was sentenced, *inter alia*, to five years of probation and ordered to pay approximately \$43,000.00 in restitution (Petitioner's Ex. 6).

HEARING COMMITTEE CONCLUSIONS

Respondent was arraigned in Suffolk County Court in October 2010 on a criminal charge that was not resolved until January 2012 with his conviction for two crimes under the laws of New York State. These facts are uncontested. The Hearing Committee infers

that Respondent knew that his answer on his October 2011 registration renewal document was false and that he intended to mislead the Education Department with his false answer because Respondent was aware of the true state of facts at the time his false responses were given.

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

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

VOTE: Sustained (3-0)

SECOND SPECIFICATION

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

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

Respondent became licensed as a physician in 1986 and practiced medicine until 2002. While working as a physician between 1990 and 1994, Respondent attended law school. In 2002, he decided to enter into the full time practice of law.

Regarding the basis for his larceny convictions, Respondent stated that he took clients' money which was he was holding for them in escrow accounts. He alleged that he initially used his own fund and then began taking his clients' money to pay extortion to members of organized crime. He stated that his involvement with organized crime began with discussions about obtaining financial backing for his law practice (though he claims that he never received any money from them). Respondent alleged that he paid over

\$100,000.00 to his extortionists and that approximately \$43,000.00 of that amount was from his clients' escrow accounts. Respondent stated that he never made a complaint to law enforcement over the several years of this alleged extortion because threats were made against him and his wife.

The Hearing Committee recognizes Respondent's contention that he was a good and successful physician who served his country and has considered the letter of reference attesting to his character. Respondent also submitted a Certificate of Relief from Disabilities that was issued on December 2012. However, the issuance of a Certificate of Relief from Disabilities does not prevent this board from relying upon the conviction in that certificate as the basis for the exercise of its discretionary power to suspend, revoke or refuse to renew Respondent's license to practice medicine.

The Hearing Committee did not find Respondent's testimony credible. Respondent said that he had answered that no criminal charges were pending against him on the advice of two attorneys. One of the attorneys who allegedly gave him this advice told him that her opinion was based on the fact that there had not yet been a conviction and that the charges were unrelated to the practice of medicine. Even if Respondent had been given this advice, however, the Hearing Committee found it incredible that Respondent would accept it as an honest answer to the straight forward question which asked whether criminal charges were pending against him in any court.


Respondent stole his client's money and lied on the registration renewal application for his medical license. Based on these facts, the Hearing Committee determined that Respondent lacks the personal integrity necessary to resume the practice of medicine and that his license to practice medicine in the State of New York must be revoked.

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: New York, New York
Nov. 7, 2013


Jerry Waisman
Chairperson

Elisa J. Wu, M.D.
Paul J. Lambiase

APPENDIX I



IN THE MATTER

OF

ANTHONY CASAMASSIMA, M.D.
CO-12-08-3839-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
HEARING

TO: Anthony Casamassima, M.D.



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 **ANTHONY CASAMASSIMA, M.D.**, Respondent, licensed to practice medicine in the State of New York on March 28, 1986, by license number 165728, has been convicted of committing an act constituting a felony under New York law, in the Suffolk County Court, State of 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 **ANTHONY CASAMASSIMA, 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 AS A PHYSICIAN 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.

PLEASE TAKE NOTICE a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 and N.Y. State Admin. Proc. 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 August 21, 2013, at 10:30 a.m., at the Offices of the New York State Department of Health, Riverview Center, 150 Broadway Suite 510, Albany, NY 12204-2719 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, which 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, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES 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, and 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 N.Y. Pub. 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 N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands 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 which cannot be photocopied.

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.

DATE

6/20/13


Nirav R. Shah, M.D., M.P.H.
Commissioner of Health
New York State Health Department

Inquiries should be directed to:
Michael G. Bass, Assistant Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

IN THE MATTER

OF

ANTHONY CASAMASSIMA, M.D.
CO-12-08-3839-A

STATEMENT

OF

CHARGES

ANTHONY CASAMASSIMA, M.D., the Respondent, was authorized to practice medicine in New York state on or about March 28, 1986, by the issuance of license number 165728 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 11, 2012, in the Suffolk County Court, State of New York, Respondent pled guilty to Grand Larceny in the Third Degree, in violation of New York State Penal Law Section 155.35, a felony, and Petit Larceny, in violation of New York State Penal Law Section 155.25, a misdemeanor. On or about May 31, 2012, in the Suffolk County Court, State of New York, Respondent was sentenced, *inter alia*, to five (5) years of probation and ordered to pay approximately \$32,000 in restitution.

\$43,000 JK 4/19/12

B. On or about October 18, 2010, in Suffolk County Court, Respondent was arraigned on a criminal charge that he later pled guilty to on January 11, 2012.

C. On or about October 6, 2011, 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, ^{C.} & Are criminal charges pending against you in any court?"

JK 2/11/12

SPECIFICATIONS

FIRST SPECIFICATION

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.

SECOND SPECIFICATION

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

2. The facts in Paragraphs B and C.

DATED: *June 13*, 2013
Albany, New York


MICHAEL A. HISER
Acting Deputy Counsel
Bureau of Professional Medical Conduct