

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

NEW YORK
state department of
HEALTH

Public
Sue Kelly
Executive Deputy Commissioner

January 9, 2014

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Hassan Lahham, M.D.
Monmouth County Correctional Institution
1 Waterworks Road
Freehold, New Jersey 07728

Nathaniel White, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

RE: In the Matter of Hassan Lahham, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 14-07) 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

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

COPY

**IN THE MATTER

OF

HASSAN LAHHAM, M.D.
C0-13-02-0526-A**

DETERMINATION

AND

ORDER

BPMC #14-07

A hearing was held on December 11, 2013, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Order and Notice of Referral Proceeding and Statement of Charges, both dated October 21, 2013, were served upon the Respondent, Hassan Lahham, M.D. Pursuant to Section 230(10)(e) of the Public Health Law, Steven I. Sherman, D.O., M.S., Chairperson, Samuel F. Bosco, M.D., and William W. Walence, Ph.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Christine C. Traskos, Esq. Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by James Dering, Esq., General Counsel, by Nathaniel White, 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 proceeding 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 this case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(ii) and Education Law Section 6530(20).

Copies of the Commissioner's Order, Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix I.

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." or transcript page numbers ("T"). 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. The Respondent, Hassan Lahham, M.D., did not appear although he was duly served. (Petitioner's Exs. 2 and 3)

2. Hassan Lahham, M.D., the Respondent, was authorized to practice medicine in New York State on March 16, 1987, by the issuance of license number 169553 by the New York State Education Department. (Petitioner's Ex. 4)

3. On January 31, 2013, in the United States District Court, District of New Jersey, Respondent plead guilty to conspiracy to distribute and possess with intent to distribute a Schedule II controlled substance, a felony, in violation of Title 21 United States Code § 841(a)(1) and (b)(1)(C) and in violation of Title 21 United States Code § 846. On July 22, 2013, Respondent was sentenced to the custody of the United States Bureau of Prisons to be imprisoned for a term of 108 months, supervised release for a term of three years, and a special assessment fee of \$100.00. (Petitioner's Ex. 6)

4. On May 9, 2011, the criminal complaint that resulted in Respondent's conviction was filed in the United States District Court, District of New Jersey charging Respondent with violations of Title 21 United States Code § 841(a)(1) and (b)(1)(C) and Title 21 United States Code § 846. On May 13, 2011 in the United States District Court, District of New Jersey, Respondent appeared by attorney and/or personally at the initial appearance for the pending criminal charges. On June 1, 2011, Respondent completed the online New York State Professions Registration Renewal form. Question #3 of the form asks, "Are criminal charges pending against you in any court?" and Respondent falsely answered "No." (Petitioner's Ex. 5)

VOTE OF THE HEARING COMMITTEE

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.

VOTE: Sustained (3-0)

SECOND SPECIFICATION

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

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing because he is incarcerated in Federal prison. He submitted an Affidavit that was reviewed by the Hearing Committee. (Respondent's Ex. A) The Hearing Committee notes that Respondent denies all responsibility for his actions in his Affidavit, when he in fact he plead guilty to one count of conspiracy to distribute and possess oxycodone. The Hearing Committee further notes that Respondent was represented by counsel at the criminal proceeding.

The Hearing Committee believes that Respondent's misconduct is egregious because he abused his privileges as a physician. Respondent prescribed excessive amounts of oxycodone to patients for his own pecuniary benefit. Respondent also failed to perform appropriate physical examinations on these patients before he prescribed a controlled substance to them. In June 2011,

Respondent lied about pending criminal charges when he applied to renew his medical license registration with the Education Department. The Hearing Committee finds that Respondent's falsification of information on his registration renewal was fraudulent.

The Hearing Committee is troubled by Respondent's blatant dishonesty as well as his failure to take responsibility for his actions. As a result, the Hearing Committee concluded that revocation of Respondent's license to practice medicine is warranted. The Hearing Committee considered the full range of penalties available and was unanimous that revocation would be the proper penalty to protect the safety of the public under the circumstances.

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent's license to practice medicine in New York State is **REVOKED**;
2. This Order shall be effective upon service on the Respondent by personal service or registered or certified mail in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: New York, New York

January 9, 2014

REDACTED

Steven I. Sherman, D.O., M.S.
Chairperson

Samuel F. Bosco, M.D.
William W. Walence, Ph.D.

TO:

Hassan Lahham, M.D.
Monmouth County Correctional Institution
1 Waterworks Rd.
Freehold, N.J. 07728

Nathaniel White , Esq.
Assistant Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower- Rm. 2512
Empire State Plaza
Albany, N.Y. 12237

APPENDIX I

IN THE MATTER
OF
HASSAN LAHHAM, M.D.
CO-13-02-0526-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
HEARING

TO: Hassan Lahham, M.D.
Monmouth County Correctional Institution
1 Waterworks Rd.
Freehold, NJ 07728

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 **HASSAN LAHHAM, M.D.**, Respondent, licensed to practice medicine in the State of New York on March 16, 1987, by license number 169553, has been convicted of committing an act constituting a felony under Federal law, in the United States District Court, District of New Jersey, 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 **HASSAN LAHHAM, 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 December 11, 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 10/21

REDACTED

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

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

IN THE MATTER
OF
HASSAN LAHHAM, M.D.
C0-13-02-0526-A

STATEMENT
OF
CHARGES

HASSAN LAHHAM, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 16, 1987, by the issuance of license number 169553 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 31, 2013, in the United States District Court, District of New Jersey, Respondent pled guilty to conspiracy to distribute and possess with intent to distribute a Schedule II controlled substance, a felony, in violation of Title 21 United States Code § 841(a)(1) and (b)(1)(C) and in violation of Title 21 United States Code § 846. On or about July 22, 2013, Respondent was sentenced to the custody of the United States Bureau of Prisons to be imprisoned for a term of 108 months, supervised release for a term of three years, and a special assessment fee of \$100.00.

B. On or about May 9, 2011, the criminal complaint that resulted in Respondent's conviction was filed in the United States District Court, District of New Jersey charging Respondent with violations of Title 21 United States Code § 841(a)(1) and (b)(1)(C) and Title 21 United States Code § 846. On or about May 13, 2011 in the United States District Court, District of New Jersey, Respondent appeared by attorney and/or personally at the initial appearance for the pending criminal charges. On or about June 1, 2011, Respondent completed the online New York State Professions Registration Renewal form. Question #3 of the form asks, "Are criminal charges pending against you in any court?" and Respondent falsely answered "No".

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. The facts in Paragraph B.

DATE: October 21, 2013
Albany, New York

REDACTED

MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct