

December 17, 2014

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Shaikh Monirul Hasan, M.D.
REDACTED

David W. Quist, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

Raphael R. Scotto, Esq.
17 Battery Place – Suite 1226
New York, New York 10004

RE: In the Matter of Shaikh Monirul Hasan, M.D.

Dear Parties:

Enclosed please find the Supplemental Determination and Order (No. 14-308) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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to deliver to the Board of Professional Medical Conduct your license to practice medicine **if said license has been revoked, annulled, suspended or surrendered**, together with the registration certificate.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
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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

REDACTED
James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH:nm

Enclosure

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

COPY

In the Matter of

Shaikh Monirul Hasan, M.D. (Respondent)

Administrative Review Board (ARB)

A supplemental determination in a proceeding to review a
Determination by a Committee (Committee) from the
Board for Professional Medical Conduct (BPMC)

Supplemental Determination No. 14-308

Before ARB Members D'Anna, Koenig, Grabiec, Wilson and Milone
Administrative Law Judge James F. Horan drafted the Determination

For the Department of Health (Petitioner): David W. Quist, Esq.
For the Respondent: Raphael F. Scotto, Esq.

In this Supplemental Determination, the ARB rules that a one-year prohibition against the Respondent prescribing controlled substances should run from November 19, 2014, the date on which the ARB imposed that prohibition under our Determination and Order No. 14-291.

A BPMC Committee Determination on August 1, 2014 found the Respondent guilty of professional misconduct and imposed a penalty that included a non-permanent, but indefinite prohibition on prescribing narcotics (Narcotics Prohibition). Following the Respondent's request for review pursuant to New York Public Health Law (PHL) § 230-c (4)(a)(McKinney 2014), the ARB modified the prescribing prohibition to prohibit the Respondent from prescribing controlled substances for one year (Controlled Substances Prohibition). The ARB Determination went to the parties on November 19, 2014.

The Respondent has now requested, in a December 2, 2014 letter, that the ARB specify the date on which the Controlled Substances Prohibition began. The Respondent argued that the ARB affirmed the prohibition the Committee imposed, so the prohibition should run from August 1, 2014, the date of the Committee's Determination. The Petitioner opposed the

Respondent's argument in a reply on December 4, 2014. The Petitioner argued that the ARB modified rather than affirmed the Committee. The Petitioner argued further that, under PHL § 230-4(c), a penalty under a Committee Determination is stayed during ARB review, except for annulments, revocations or actual suspensions. In this case, the Narcotics Prohibition was stayed from the Respondent's August Review Notice to the ARB Determination in mid-November.

The ARB rules 5-0 that the Controlled Substances Prohibition began on the date the ARB Determination became effective. The ARB modified, rather than affirmed, the Committee's Narcotics Prohibition. In addition to narrowing the Prohibition to just controlled substances, rather than all narcotics, the ARB also placed the Respondent on probation for five years. The probation terms included a requirement that the Respondent complete a course in prescribing controlled substances during the first probation year. There was no such provision in the Committee's Determination, so the requirement to complete the prescribing course in one year only began to run on the date the ARB Determination became effective. The ARB intended that the Respondent complete the course before the Respondent regains his full prescribing privileges. If we were to accept the Respondent's argument and find that the Controlled Substances Prohibition began on August 1st, then the Respondent could begin full prescribing again in August 2015, without having first completed the prescribing course. We also intended that the Prohibition apply for one full year, so that the Respondent would see the consequences from his misconduct. The Prohibition would last for a much shorter period if we accepted the Respondent's argument.

Peter S. Koenig, Sr.
Steven Grabiec, M.D.
Linda Prescott Wilson
John A. D'Anna, M.D.
Richard D. Milone, M.D.

In the Matter of Shaikh Monirul Hasan, M.D.

Linda Prescott Wilson, an ARB Member concurs in this Supplemental Determination in the Matter of Dr. Hasan.

Dated: 15 December 2014

REDACTED

Linda Prescott Wilson

In the Matter of Shaikh Monirul Hasan, M.D.

Peter S. Koenig, Sr., an ARB Member concurs in this Supplemental Determination in the Matter of Dr. Hasan.

Dated: December 3, 2014

REDACTED

Peter S. Koenig, Sr.

In the Matter of Shaikh Monirul Hasan, M.D.

Steven Grabiec, M.D., an ARB Member concurs in this Supplemental Determination in the Matter of Dr. Hasan.

Dated: 12/15, 2014

REDACTED

Steven Grabiec, M.D.

In the Matter of Shaikh Monirul Hasan, M.D.

Richard D. Milone, an ARB Member concurs in this Supplemental Determination in the
Matter of Dr. Hasan.

Date: December 15, 2014

REDACTED

Richard D. Milone, M.D.

In the Matter of Shaikh Monirul Hasan, M.D.

John A. D'Anna, M.D., an ARB Member concurs in this Supplemental Determination in the Matter of Dr. Hasan.

Dated: Dec. 12 2014

REDACTED

John A. D'Anna, M.D.