

July 28, 2014

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Shaikh Monirul Hasan, M.D.

ADDRESS REDACTED

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

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

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

Dear Parties:

Enclosed please find the Determination and Order (No. 14-189) 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,

SIGNATURE REDACTED

James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH:

Enclosure

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

X

IN THE MATTER  
OF  
SHAIKH MONIRUL HASAN, M.D.  
NY-10-08-5051-A

DETERMINATION  
AND  
ORDER

BPMC #14-189

X

COPY

A hearing was held on May 21, 2014, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Order, Notice of Referral Proceeding and Statement of Charges, dated February 25, 2014, were served upon the Respondent, **SHAIKH MONIRUL HASAN, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Kendrick A. Sears, M.D.**, Chair, **Mary E. Rappazzo, 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. **David A. Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **James E. Dering, Esq.**, General Counsel, by **David W. Quist, Esq.**, of Counsel. The Respondent, **Shaikh Monirul Hasan, M.D.**, did appear, with counsel, **Raphael F. Scotto, Esq.**, of New York City and was duly served. Evidence was received and a transcript of this proceeding was 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 Education Law §6530(9)(a)(i) – by having been convicted of committing an act constituting a crime under New York state law

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:

Bus Driver, IDENTITY REDACTED

SHAIKH MONIRUL HASAN, 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. **SHAIKH MONIRUL HASAN, M.D.** , the Respondent, did appear at the hearing, and was duly served and notified of the hearing on March 4, 2014. (Petitioner's Exhibit 2)
2. **SHAIKH MONIRUL HASAN, M.D.**, the Respondent, was authorized to practice medicine in New York State on April 4, 1995, by the issuance of license number 198890 by the New York State Education Department. (Petitioner's Ex. 3)
3. On or about October 10, 2013 in the Supreme Court for the State of New York, New York County, Respondent pled guilty to forty-one (41) counts of criminal sale of a prescription for a controlled substance (in violation of section 220.65 of the New York State Penal Law), a felony. On or about November 13, 2013, Respondent was sentenced to a term of 30-days' imprisonment, probation for a period of five (5) years subject to conditions, suspension of his driver's license for a period of six (6) months, and made to pay approximately \$375 in various charges and assessments. (Petitioner's Ex. 4)

**VOTE OF THE HEARING COMMITTEE**

**SPECIFICATION**

"Respondent violated New York State Education Law §6530 (9)(a)(i) by having been 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, Mr. Scotto. There was no dispute about jurisdiction and service was acknowledged. The record herein also shows that on or about October 10, 2013 in the Supreme Court for the State of New York, New York County, Respondent pled guilty to forty-one (41) counts of criminal sale of a prescription for a controlled substance (in violation of section 220.65 of the New York State Penal Law), a felony. The record goes on to show that on or about November 13, 2013, Respondent was sentenced to a term of 30-days' imprisonment, probation for a period of five (5) years subject to conditions, suspension of his driver's license for a period of six (6) months, and made to pay approximately \$375 in various charges and assessments.

The panel was unanimous in finding that the actions of the Respondent warranted sanction in New York and determined that a stayed suspension along with a five year probation of the Respondent's New York license would be an appropriate and effective protection for New York patients. In addition the panel determined, unanimously, that the

Respondent's license should be restricted and limited such that he be barred from issuing prescriptions for narcotics until such time as a committee of OPMC determines that this limitation should be lifted. Finally, the panel determined that the Respondent be required to successfully complete 12 hours of Continuing Medical Education in the areas of the use of narcotics and pain management.

In assessing the penalty to be imposed in this case, the panel took many factors into account, not the least of which was the fact that the Respondent clearly expressed sorrow and remorse for what he had done. The panel gave credence to the testimony of a patient that showed that the Respondent was a caring physician and the panel also noted that there was no complaint about his practice from the Respondent's patients and recognized that the Respondent is providing care to an underserved community. The panel also noted that the Respondent was completing three months of active suspension already, and, for that reason, the Panel was unanimous in deciding on a stayed suspension. The panel weighed the seriousness of the crime that was committed and took into account and considered the full range of penalties available in the case and determined that a stayed suspension and five-year probation would be appropriate.

#### ORDER

##### **IT IS HEREBY ORDERED THAT:**

1. The specification of professional misconduct, as set forth in the Statement of Charges, is **SUSTAINED**.
2. The license of the Respondent to practice medicine in the State of New York is **SUSPENDED** and this suspension is **STAYED**.

3. Respondent is placed on a term of probation for five years. The terms of the probation are attached hereto as Appendix II and are incorporated into this Order.
4. The Respondent's license to practice medicine in the State of New York is limited in that he is barred from issuing prescriptions for narcotics until such time as a committee of OPMC determines that this limitation should be removed and the Respondent restored to full practice.
5. The Respondent is required to successfully complete 12 hours of Continuing Medical Education in the areas of the use of narcotics and pain management
6. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10) (h).

DATED: Syracuse, New York  
June \_\_\_\_\_, 2014

*August 1, 2014*

SIGNATURE REDACTED

Kendrick A. Sears, M.D., Chair,  
Mary E. Rappazzo, M.D.  
William W. Walence, Ph. D.



# APPENDIX I

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

IN THE MATTER  
OF  
SHAIKH MONIRUL HASAN, M.D.  
NY-10-08-5051-A

COMMISSIONER'S  
ORDER  
AND  
NOTICE OF  
REFERRAL  
PROCEEDING

TO: Shaikh Hasan, M.D.

ADDRESS 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 SHAIKH MONIRUL HASAN, M.D., Respondent, New York license number 198890, has pleaded guilty to committing an act constituting a felony under New York State law; 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), that effective immediately, SHAIKH MONIRUL HASAN, 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 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

tabular

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 23<sup>rd</sup> day of April, 2014, at 10:30 a.m., at Riverview Center, 150 Broadway, Suite 510, Albany, 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. The licensee may file a brief and affidavits with the Committee on Professional Conduct. 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, Riverview Center, 150 Broadway, Suite 510, Albany, New York 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  
Feb 25, 2014

**SIGNATURE REDACTED**

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

Inquiries should be addressed to:

David W. Quist  
Associate Attorney  
Bureau of Professional Medical Conduct  
Corning Tower - Room 2512  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282

IN THE MATTER

OF

SHAIKH MONIRUL HASAN, M.D.

STATEMENT

OF

CHARGES

SHAIKH MONIRUL HASAN, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 4, 1995, by the issuance of license number 198890 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about October 10, 2013 in the Supreme Court for the State of New York, New York County, Respondent pled guilty to forty-one (41) counts of criminal sale of a prescription for a controlled substance (in violation of section 220.65 of the New York State Penal Law), a felony. On or about November 13, 2013, Respondent was sentenced to a term of 30-days' imprisonment, probation for a period of five (5) years subject to conditions, suspension of his driver's license for a period of six (6) months, and made to pay approximately \$375 in various charges and assessments.

**SPECIFICATION OF CHARGES**  
**CRIMINAL CONVICTION (N.Y.S.)**

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

1. The facts in Paragraph A.

DATE: February 25, 2014  
Albany, New York

SIGNATURE REDACTED

Michael A. Hiser  
Deputy Counsel  
Bureau of Professional Medical Conduct

## **APPENDIX II**

## Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, third floor, 150 Broadway, Albany, New York 12204; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State, Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more, Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices,
6. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
7. Respondent shall authorize the practice monitor to have access to patient records and to submit quarterly written reports to the Director of OPMC, regarding Respondent's practice, including, but not limited to procedures for obtaining written consent to procedures and appropriate chaperoning of patients, These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, general demeanor, and other such



on-duty conduct as the practice monitor deems appropriate to report under the circumstances of this case.

8. Respondent, pursuant to the Oder in this case, is barred from issuing prescriptions for narcotics until such time as a committee of OPMC determine that it may be lifted.