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of Health**

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Executive Deputy Commissioner

July 9, 2015

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dhanbir Saluja, M.D.
230 Jefferson Street
Newark, New Jersey 07105

Dhanbir Saluja, M.D.


Jude B. Mulvey, Esq.
NYS Department of Health
ESP-Coming Tower-Room 2512
Albany, New York 12237

Paul E. Walker, Esq.
315 West 106th Street – Suite 1A
New York, New York 10025

RE: In the Matter of Dhanbir Saluja, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 15-182) 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,


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
DHANBIR SALUJA, M.D.
C0-14-09-5650A

DETERMINATION
AND
ORDER
BPMC #15-182

COPY

A hearing was held on May 20, 2015, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding dated March 9, 2015 and an Amended Statement of Charges, dated April 9, 2015, were served upon the Respondent, **Dhanbir Saluja, M.D.**

Pursuant to Section 230(10)(p) of the Public Health Law, **Robert A. Catalano, M.D., M.B.A., Chair, Paul C. Harrington, M.D., and Leslie S. Moore, N.D., MSOM., LAc.**, 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 **Jude B. Mulvey, Esq.**, of Counsel. The Respondent, **Dhanbir Saluja, M.D.**, did appear, with counsel, **Paul E. Walker, Esq.** of New York City. Evidence was received and transcripts of these proceedings were 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 New York Education Law §6530(9) (d) by having his license to practice medicine revoked or suspended after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state.

Respondent is also charged with having violated New York Education Law § 6530(9)(a)(iii) by being convicted of an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law. Copies of the Notice of Referral Proceeding and the Amended Statement of Charges are attached to this Determination and Order as Appendix 2.

WITNESSES

For the Petitioner:

None

For the Respondent:

Dhanbir Saluja, 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. Dhanbir Saluja, M.D., the Respondent, did appear at the hearing and was duly served with process. There was no dispute about jurisdiction. (Petitioner's Exhibit 2)
2. Dhanbir Saluja, M.D., the Respondent, was authorized to practice medicine in New York State on October 10, 1973, by the issuance of license number 118312 by the New York State Education Department. (Petitioner's Exhibit 3)
3. On or about December 5, 2014, Respondent surrendered his New Jersey medical license by a Final Consent Order ("New Jersey Final Order") with the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners ("New Jersey Medical Board"). This surrender followed allegations that Respondent engaged in the unlicensed practice of medicine

after (1) allowing his license to expire in June 2011; and (2) after a September 2013 Order of Temporary Suspension by the New Jersey Board. (Petitioner's Exhibit 4)

4. Other allegations in the December 5, 2014 Final Consent Order included charges that he failed to cooperate with the New Jersey Medical Board in an investigation, that he failed to maintain required malpractice insurance, and that he provided false documentation regarding the status of his medical license to an insurance company and to the New Jersey Enforcement Bureau.

(Petitioner's Exhibit 4)

5. According to the terms of the New Jersey Final Order, Respondent's surrender of his New Jersey medical license was deemed a revocation. Respondent is ineligible from reapplying for reinstatement of his New Jersey medical license for three years, required to pay costs of \$21,280.26, and required to pay \$10,000 of a \$70,000 penalty, with \$60,000 of the penalty stayed provided there is no repeat of his unlicensed practice of medicine. Should Respondent seek reinstatement of his New Jersey medical license, he must, among others, complete a Board-approved Ethics course.

(Petitioner's Exhibit 4)

6. Or about March 6, 2015 in the Superior Court of New Jersey, Essex County, Respondent was convicted following his guilty plea of Unauthorized Practice of Medicine in the Third Degree, an indictable offense, in violation of New Jersey Statutes Annotated 2C; 21-20. Respondent was sentenced to one year of probation and fines and court fees of approximately \$156.00. (Petitioner's Exhibit 5)

7. The conduct resulting in the New Jersey Final Order and discipline against

Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York law;

a. New York Education Law § 6530(2) (practicing the profession fraudulently or beyond its authorized scope);

b. New York Education Law §6530(12) (practicing the profession while the license is suspended);

c. New York Education Law § 6530(15) (failure to comply with a Board Order);
and/or

d. New York Education Law §6530(16) (willful failure to comply with substantial provisions of federal, state or local laws, rules, or regulations governing the practice of medicine).

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked or suspended after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(lii) by being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State Law..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, with counsel, and was duly served with process in this matter. There was no dispute about jurisdiction. At the hearing, the Department presented a documentary case against the Respondent detailing how he surrendered his New Jersey medical license by a final Consent Order following allegations that he engaged in the unlicensed practice of medicine after first allowing his license to expire in June 2011 and then after a September 2013 Order of Temporary Suspension by the New Jersey Board.

The documentation presented by the Department included evidence that the Respondent failed to cooperate with the New Jersey Medical Board in an investigation, that he failed to maintain required malpractice insurance, and that he provided false documentation regarding the status of his medical license to an insurance company and to the New Jersey Enforcement Bureau. Furthermore, the evidence against the Respondent shows that he was convicted following his guilty

plea of Unauthorized Practice of Medicine in the Third Degree, an indictable offense, in violation of New Jersey Statutes Annotated 2C; 21-20.

The basic facts in this case were not contested. There was no dispute about the fact that Doctor Saluja engaged in the unlicensed practice of medicine after first allowing his license to expire in June 2011 and then after a September 2013 Order of Temporary Suspension. In addition, the Respondent did not deny the fact that he was convicted, following his guilty plea, of Unauthorized Practice of Medicine in the Third Degree, an indictable offense, in violation of New Jersey Statutes.

The Respondent testified and explained that he was confused with the New Jersey Registration process. The Respondent testified, credibly and persuasively, that he had tried his best to comply with the confusing registration requirements via his computer and that he honestly believed that he was properly registered. The Respondent indicated that he was misled by his secretary, whom he had paid cash to complete the registration process.

The Respondent testified, credibly and persuasively, that he believed he was registered. According to his testimony, he gave money to his secretary to pay his registration fees and his attorney presented evidence at the hearing showing these cash payments. The Respondent's attorney, Mr. Paul Walker, presented a well-documented case, including receipts for payment to Respondent's secretary, Exhibit 5; checkbook records documenting payment of the license fee in 2011; Exhibit 6, bank records documenting the aforementioned payments, also Exhibit 7; and a copy of the Respondent's New Jersey registration, valid, apparently, through June 30, 2013, Exhibit 8.

The panel concluded that the evidence put forward by the Respondent's attorney supports the contention that the Respondent was misled, and duped, by his secretary, who led him to believe that he was registered, when, in fact, he wasn't. The Department's attorney, Ms. Mulvey, stated that the facts in this case show bad judgment that warrants revocation. The panel agreed with the Department that the facts in this case show very bad judgment, indeed. However, the panel decided, unanimously, that a stayed suspension and three years of probation would be a more appropriate penalty.

The panel based this lesser penalty, in part, on noting that the Attorney for the Respondent pointed out that there has been no allegation of patient harm and that this Doctor has practiced without complaint for over 35 years. The panel based its determination on all the documentation in the record and considered the full range of penalties available. The panel was unanimous that a stayed suspension would be the appropriate penalty. The panel also determined that the Respondent should complete a course in ethics approved by the Director of OPMC as well as an appropriate computer course in medical records approved by the Director of OPMC.

In addition to the Stayed Suspension, the panel determined that the Respondent should be placed on probation for three years and that probation should include an administrative monitor to insure that rules and regulations relating to licensing and malpractice insurance be followed . The terms of the probation are attached hereto as Appendix I and are incorporated into this Order.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**
2. The license of the Respondent to practice medicine in New York State is hereby **SUSPENDED FOR A PERIOD OF THREE YEARS; HOWEVER, THE SUSPENSION IS STAYED IN WHOLE.**
3. The Respondent is to take and complete an ethics course and an appropriate computer course in medical records approved by the Director of OPMC.
4. The Respondent is placed on a term of probation for three years. The terms of the probation are attached hereto as Appendix I and are incorporated into this Order.
5. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10) (h).

**DATED: Delmar, New York
July 6, 2015**



Robert A. Catalano, M.D., M.B.A., Chair

**Paul C. Harrington, M.D.
Leslie S. Moore, N.D., MSOM., LAc.**

To:

Dhanbir Saluja, M.D.
Respondent
230 Jefferson St.
Newark, NJ 07105

Dhanbir Saluja, M.D.
Respondent



Jude B. Mulvey, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Coming Tower, Room 2512
Albany, New York 12237

Paul E. Walker, Esq.
Attorney for Respondent
315 West 106th Street, Suite 1A
New York, New York 10025

APPENDIX 1

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, 150 Broadway, Suite 354, 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 and shall include review of all internet activity by the Respondent.
6. Throughout the period of probation, Respondent shall be subject to the supervision of an administrative monitor. The administrative monitor shall be on-site at times determined by the Director of OPMC. The administrative monitor shall be proposed by the Respondent and subject to the written approval of the Director of OPMC. The administrative monitor shall not be a family member or personal friend, or be in a professional relationship, which could pose a conflict with supervisory responsibilities.
7. Respondent shall ensure that the administrative monitor is familiar with the Order and terms of probation in this case, and is aware of the licensing and registration obligations of the Respondent, along with his requirements for malpractice insurance. Respondent shall cause the administrative monitor to report within 24 hours any suspected irregularity and any failure to comply with licensing and registration requirements or any possible misconduct to OPMC.
8. Respondent shall authorize the administrative monitor to have access to the books and financial records of the office and to submit quarterly written reports to the Director of OPMC regarding Respondent's practice, including, but not limited to his procedures for obtaining and keeping licenses and registration and malpractice insurance current.

APPENDIX 2

IN THE MATTER
OF
DHANBIR SALUJA, M.D.
CO-14-09-5650A

NOTICE OF
REFERRAL
PROCEEDING

TO: Dhanbir Saluja, M.D. Dhanbir Saluja, M.D.
230 Jefferson St 442 Mother Gaston Blvd
Newark, NJ 07105 Brooklyn, NY 11212

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 20th day of May, 2015, 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.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered that would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.



If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted 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 F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(g), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten (10) 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. You may file a written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney, indicated 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 New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that 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 and/or other evidence that cannot be photocopied.

YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five (5) days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

March 9, 2015


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Jude B. Mulvey
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

IN THE MATTER

OF

DHANBIR SALUJA
CO-14-09-5650A

AMENDED
STATEMENT
OF
CHARGES

DHANBIR SALUJA, M.D., Respondent, was authorized to practice medicine in New York State on October 10, 1973, by the issuance of license number 118312 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 5, 2014, Respondent surrendered his New Jersey medical license by Final Consent Order ("New Jersey Final Order") with the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners ("New Jersey Medical Board") following allegations that Respondent engaged in the unlicensed practice of medicine after (1) allowing his license to expire in June 2011 and (2) after a September 2013 Order of Temporary Suspension by the New Jersey Board. Other allegations included that he failed to cooperate with the New Jersey Medical Board in an investigation, that he failed to maintain required malpractice insurance, and that he provided false documentation regarding the status of his medical license to an insurance company and to the New Jersey Enforcement Bureau. According to the terms of the New Jersey Final Order, Respondent's surrender of his New Jersey medical license was deemed a revocation. Respondent is ineligible from reapplying for reinstatement of his New Jersey medical license for three years, required to pay costs of \$21,280.26, and required to pay \$10,000 of a \$70,000 penalty, with \$60,000 of the penalty stayed provided there is no repeat of his unlicensed practice of medicine. Should Respondent seek reinstatement of his New Jersey medical license, he must, among others, complete a Board-approved Ethics course.

B. The conduct resulting in the New Jersey Final Order and discipline against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York law:

1. New York Education Law §6530(2) (practicing the profession fraudulently or beyond its authorized scope);
2. New York Education Law §6530(12) (practicing the profession while the license is suspended);
3. New York Education Law §6530(15) (failure to comply with a Board Order); and/or
4. New York Education Law §6530(16) (willful failure to comply with substantial provisions of federal, state or local laws, rules, or regulations governing the practice of medicine).

C. On or about March 6, 2015 in the Superior Court of New Jersey, Essex County, Respondent was convicted following his guilty plea of Unauthorized Practice of Medicine in the Third Degree, an indictable offense, in violation of New Jersey Statutes Annotated 2C: 21-20. Respondent was sentenced to one year of probation and fines and court fees of approximately \$156.00.

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked or suspended after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges.

1. The Facts in Paragraphs A and B.

SECOND SPECIFICATION

Respondent violated New York Education Law § 6530(9)(a)(iii) by being convicted of an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

2. The facts in Paragraph C.

DATED: *APRIL 9*, 2015
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct