

Public

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

BPMC No. 14-313

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IN THE MATTER  
OF  
TATYANA I. DATKHAEVA, M.D.  
CO-13-12-7364A

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COMMISSIONER'S  
ORDER  
AND  
NOTICE OF  
HEARING

TO: Tatyana I. Datkhaeva, M.D.  
[REDACTED]

The undersigned, Howard A. Zucker, M.D., J.D., Acting 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 **TATYANA I. DATKHAEVA, M.D.**, Respondent, New York license number 240871, pled guilty to a felony in another jurisdiction which, if committed within this state, would have constituted 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, **TATYANA I. DATKHAEVA, 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.**

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 18<sup>th</sup> day of February, 2015, 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.

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 in a manner and form as prescribed by the civil practice law and rules or either party may issue such subpoenas on their own behalf, 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.

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 then (10) days prior to the scheduled date of the Notice of Hearing, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges no less than ten (10) days prior 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, who 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 Hearing, 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 of 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.

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, conclusion as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

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

**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  
17<sup>th</sup> December, 2014

  
Howard A. Zucker, M.D., J.D.  
Acting 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**  
  
**TATYANA I. DATKHAEVA, M.D.**

STATEMENT  
  
OF  
  
CHARGES

TATYANA I. DATKHAEVA, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 2006, by the issuance of license number 240871 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about May 6, 2013 in Denver District Court, also known as "Denver Criminal Court," in Denver, Colorado, Respondent was convicted of theft (\$500-1000), a misdemeanor, in violation of sections 18-4-401(1) and (2)(b.5) of the Colorado Revised Statutes. As a result of the misdemeanor conviction, Respondent was made to pay approximately \$78 in fines and penalties, was placed on probation for a period of two years, and was required to provide 100 hours of community service.

B. On or about May 2, 2013, Respondent filed a registration application with the New York State Department of Education (SED) for renewal of the registration associated with Respondent's New York State medical license. Respondent answered "no" to a question on that application which asked "Are criminal charges pending against you in any court?" Respondent's answer to that question was false, as the criminal proceedings associated with

Respondent's May 6, 2013 criminal conviction referenced above, and the guilty plea referenced below, were pending at the time Respondent filed the registration application with SED. Respondent's answer was false and was made with intent to deceive, under circumstances where Respondent knew, or should have known, that Respondent's answer to the question was false.

C. On or about May 6, 2013 in Denver District Court, also known as "Denver Criminal Court," in Denver, Colorado, Respondent pled guilty to theft (\$20,000 or more), a felony, in violation of sections 18-4-401(1) and (2)(d) of the Colorado Revised Statutes. Respondent's sentence was deferred, and Respondent's conviction was accordingly held in abeyance. The crime to which Respondent pled guilty would, had it been committed in New York, be a felony pursuant to New York State Penal Law section 155.35.

### **SPECIFICATION OF CHARGES**

#### **FIRST SPECIFICATION**

#### **CRIMINAL CONVICTION (Other Jurisdiction)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(iii) by having been 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 (namely N.Y. Penal Law § 155.25) as alleged in the facts of the following:

1. The facts in Paragraph A.

**SECOND SPECIFICATION**

**FRAUDULENT PRACTICE**

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:

2. The facts in paragraph B.

DATE: December 19, 2014  
Albany, New York

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MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct