



Department of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

October 28, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Michael Belfiore, D.O.
Allenwood Low Federal Correctional Institution
[REDACTED]
P.O. Box 1000
White Deer, PA 17887

John Thomas Viti, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street – 4th Floor
New York, New York 10007

RE: In the Matter of Michael Belfiore, D.O.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-226) 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. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "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:

Jean T. Carney, 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 Ms. Carney 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,

A solid black rectangular redaction box covering the signature of the Chief Administrative Law Judge.

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
Enclosure

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

COPY

-----X
IN THE MATTER :
OF :
MICHAEL BELFIORE, D.O. :
-----X

DETERMINATION
AND
ORDER
BPMC-22-226

A Notice of Referral Proceeding dated August 12, 2022, and a Statement of Charges dated August 16, 2022 were duly served upon Michael Belfiore, D.O. (Respondent). (Exhibits 1, 2.) A hearing was held on October 19, 2022 via WebEx videoconference. Pursuant to § 230(10)(e) of the Public Health Law (PHL), STEVEN M. LAPIDUS, M.D., Chairperson, ELISA J. WU, M.D., and JOAN MARTINEZ MCNICHOLAS, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. NATALIE J. BORDEAUX, ADMINISTRATIVE LAW JUDGE (ALJ), served as the Administrative Officer.

The Department appeared by John Thomas Viti, Associate Counsel. The Respondent did not appear. The Hearing Committee received and examined documents from the Department (Exhibits 1-3). A transcript of the proceeding was made.

After consideration of the entire hearing record, the Hearing Committee hereby issues this determination. All findings, conclusions, and determinations are unanimous.

JURISDICTION

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Education Law § 6530(9). The Respondent is charged with professional misconduct pursuant to Education Law § 6530(9)(a)(ii), by having been convicted of committing an act constituting a crime under federal law. Hearing procedures are set

forth in Department regulations at 10 NYCRR Part 51. Under PHL §230(10), the Department had the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

1. On or about October 26, 1995, the Respondent was authorized to practice medicine in New York by the Education Department and was issued license number 200906. (Exhibit 1.)

2. On May 23, 2018, the Respondent was convicted by a jury in the United States District Court for the Eastern District of New York, of 26 counts of knowingly and intentionally distributing oxycodone (a Schedule II controlled substance) without a legitimate medical purpose and two counts of distributing oxycodone, causing the death of two individuals, in violation of 21 U.S.C. § 841(a)(1) and § 841(b)(1)(C), and 18 U.S.C. § 3551. The Respondent issued 19 prescriptions for oxycodone to John Doe #1, one prescription for oxycodone to John Doe #2, and five prescriptions for oxycodone to John Doe #3, causing the deaths of John Doe #1 and John Doe #2. He was sentenced to 23 years in prison followed by three years of supervised release and was ordered to pay restitution in the amount of \$17,000. (Exhibit 7.)

CONCLUSIONS OF LAW

Although the Respondent was duly served by personal service with notice of the hearing, he failed to respond or appear at the hearing to present any evidence to contest the stated charge. The Department having established jurisdiction and proper notice, the ALJ determined that the hearing could proceed on the merits despite the Respondent's absence.

The Hearing Committee reviewed the Department's evidence showing the Respondent's conviction in the United States District Court for the Eastern District of New York of federal crimes involving numerous counts of knowingly or intentionally distributing oxycodone without a

legitimate medical purpose. Based on this conviction, the Hearing Committee determined that the Respondent violated Education Law § 6530(9)(a)(ii).

In consideration of the full spectrum of penalties under PHL § 230-a, the Hearing Committee agreed with the Department's recommendation that revocation of the Respondent's medical license was warranted. The Hearing Committee considered that the Respondent's conduct leading to his criminal conviction involved using his medical license to dispense controlled substances outside the course of his professional practice and without a legitimate medical purpose. In less than two years, the Respondent distributed over 3000 pills containing 30 mg of oxycodone to three patients who were the subject of the jury trial. Two of those patients died because of the pills that he dispensed. The Respondent's brazen actions reflected a complete disregard for patient safety and for his responsibilities as a physician. Noting the Respondent's absence from this proceeding despite proper service, the Hearing Committee concluded that revocation of the Respondent's license was the only appropriate penalty.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is sustained.
2. The Respondent's license to practice medicine in the state of New York is revoked pursuant to PHL § 230-a(4).
3. This Order shall be effective upon service on the Respondent in compliance with PHL § 230(10)(h).

DATED: Oct 27th, 2022
Carmel, New York

[REDACTED]
Steven M. Lapidus, M.D., Chairperson
Elisa J. Wu, M.D.
Joan Martinez McNicholas

To: Michael Belfiore, D.O.
Allenwood Low Federal Correctional Institution
[REDACTED]
P.O. Box 1000
White Deer, PA 17887

John Thomas Viti
Associate Counsel
Bureau of Professional Medical Conduct
90 Church Street – 4th Floor
New York, NY 10007

IN THE MATTER
OF
MICHAEL BELFIORE, D.O.

STATEMENT
OF
CHARGES

MICHAEL BELFIORE, D.O. was authorized to practice medicine in New York State on or about October 26, 1995, by the issuance of license number 200906 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about May 23, 2018, in the United States District Court for the Eastern District of New York, Respondent, during a jury trial, was found guilty on 26 counts of knowingly and intentionally distributing a Schedule II controlled substance (oxycodone) without a legitimate medical purpose, and two counts of distributing a Schedule II controlled substance (oxycodone) resulting in the death of two individuals, in violation of 21 U.S.C. §841(a)(1), §841(b)(1)(C) and 18 U.S.C. §3551. Respondent was convicted and sentenced on December 15, 2021, to 23 years in prison and three years' probation. Respondent was ordered to pay \$17,000.00 in restitution.

SPECIFICATION OF CHARGES


FIRST SPECIFICATION

CRIMINAL CONVICTION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) Being 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.

DATE: August 16, 2022
New York, New York


HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct