



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

January 22, 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Okon Umana, M.D.
[REDACTED]

Okon Umana, M.D.
[REDACTED]

Marc Nash, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

RE: In the Matter of Okon Umana, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 16-015) 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.

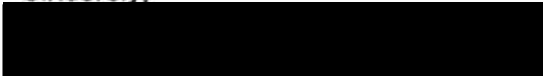
The notice of review served on the Administrative Review Board should be forwarded to:

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**

COPY

**IN THE MATTER
OF
OKON UMANA, M.D.**

**DETERMINATION
AND
ORDER**

BPMC #16-015

A hearing was held on December 16, 2015, at the offices of the New York State Department of Health ("Department")¹. Pursuant to § 230(10)(e) of the Public Health Law ("PHL"), **WILLIAM TEDESCO, M.D.**, Chairperson, **DENNIS P. ZIMMERMAN, M.S., CRC**, and **ROBERT CATALANO, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **DAWN MacKILLOP-SOLLER, ESQ.**, **ADMINISTRATIVE LAW JUDGE ("ALJ")**, served as the Administrative Officer.

The Department appeared by Marc Nash, Esq. A Notice of Referral Proceeding and Statement of Charges dated October 8, 2015, were served upon Okon Umana, M.D. ("Respondent"), who did not appear at the hearing. There were no witnesses at the hearing. The Hearing Committee received and examined documents from the Department and a stenographic reporter prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustains the charge that Respondent committed professional misconduct, in violation of Education Law ("Educ. Law") § 6530(9)(a)(ii), by his plea of guilty to the crime of conspiracy to commit health care fraud, a felony. The Hearing Committee unanimously votes 3-0 to revoke Respondent's license to practice medicine in New York.

¹ The location of the hearing was 150 Broadway, Suite 510, Albany, New York.

BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for an expedited hearing when a licensee is charged solely with a violation of Educ. Law § 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 Respondent is charged here with professional misconduct pursuant to Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law, in violation of 18 U.S.C. § 371. A copy of the Notice of Hearing and Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

These Findings of Fact were made by the Hearing Committee after a review of the record in this matter. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence. The references in brackets refer to exhibits ["Ex."]. The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. Okon Umana, M.D., the Respondent, was authorized to practice medicine in New York on April 1, 1983, by the issuance of license number 153743 by the Education Department. [Ex.1, 4].
2. On or about December 1, 2014, in the United States District Court, Eastern District of New York, Respondent pled guilty to conspiracy to commit health care fraud, a felony, in violation of 18 U.S.C. § 371. The Respondent was sentenced on August 14, 2015, to twenty-four months incarceration, followed by a three-year period of supervised release, restitution in the amount of \$6,429,330.00, forfeiture of \$6,550,036.00, and a \$100.00 court assessment. [Ex. 1, 6].

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

Respondent violated New York Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law.

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Respondent did not appear at the hearing in person or by counsel. After due diligent attempts to personally serve Respondent with the Notice of the Hearing and Statement of Charges at the address registered with the New York State Education Department ("Educ. Dept.") and one additional address failed, the Department served Respondent by certified mail at his registered address, thereby establishing service pursuant to PHL § 230(10)(d)(i). [Exhibits 2, 3]. After considering the documentary evidence concerning service of the Notice of Referral Proceeding and the Statement of Charges, the ALJ ruled that the Petitioner had met the service requirements, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits despite Respondent's absence.

Within the approximate timeframe of November 2009 and October 2012, Respondent's conduct involved participating in a fraudulent scheme to defraud Medicare and Medicaid by seeking reimbursement for medically unnecessary services rendered to patients. This conduct resulted in Respondent's plea of guilty in United States District Court, Eastern District of New York, to the felony crime of conspiracy to commit healthcare fraud, in violation of 18 U.S.C. § 371. Because Respondent was convicted of a crime under federal law, he has committed professional misconduct

as defined in New York Educ. Law § 6530(9)(a)(ii). As such, the specification of misconduct contained in the Statement of Charges of this proceeding is sustained. [Ex. 1, 6].

The Hearing Committee considered the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties, and found that the sustained specification indicates Respondent's lack of integrity in the use of his medical license to defraud Medicare and Medicaid, while taking part in a scam involving his own patients. It also suggested to the Hearing Committee Respondent's placement of his financial interests, in participating in such a scam, above the sound care of his patients. As such, the Hearing Committee found that Respondent breached his ethical pledge in not protecting his patients and in his betrayal of the public's trust. In the opinion of the Hearing Committee, Respondent's conduct would have undoubtedly continued had he not been caught. The Hearing Committee unanimously concluded that the evidence supports the penalty of permanent revocation of Respondent's New York medical license.

ORDER

IT IS HEREBY ORDERED THAT:

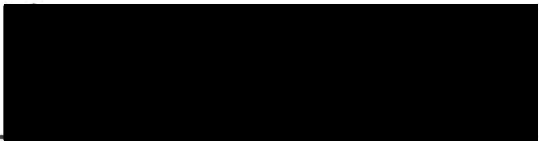
1. The specification of professional misconduct, as set forth in the Statement of Charges, is

SUSTAINED;

2. Respondent's license to practice medicine in the State of New York is hereby **REVOKED;**

3. This Determination and Order shall be effective upon service on the Respondent. Service shall be either by certified mail or upon the Respondent at his last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York
1/18, 2016


William Tedesco, M.D.
Chairperson

Dennis P. Zimmerman, M.S., CRC
Robert Catalano, M.D.

TO: Okon Umana, M.D.


Okon Umana, M.D.


Marc Nash, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX I

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

IN THE MATTER
OF
OKON UMANA, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: OKON UMANA, M.D. OKON UMANA, M.D.

PLEASE TAKE NOTICE THAT:

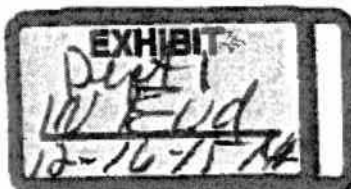
An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on December 16th, 2015 at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Menands (Albany), NY 12204-2719.¹

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which 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 or sworn testimony on your behalf. Such evidence 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 which 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

¹ For GPS purposes, enter "Menands", not "Albany".



Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, 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 twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not later than ten 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 copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen 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 N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the 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 or other evidence which cannot be photocopied.

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

Department attorney: Initial here [REDACTED]


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 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.

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 OUT 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
October 8, 2015



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Michael A. Hiser
Deputy Counsel
Bureau of Professional Medical Conduct
Corning Tower - Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

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

IN THE MATTER

OF

OKON UMANA, M.D.

STATEMENT
OF
CHARGES

OKON UMANA, M.D., the Respondent, was authorized to practice medicine in New York State on April 1, 1983 by the issuance of license number 153743 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 14, 2015 in the United States District Court, Eastern District of New York, Brooklyn, Respondent pled guilty to one felony count of Conspiracy to commit Health Care Fraud [18 U.S.C. §371]. Respondent was sentenced to twenty-four (24) months incarceration, followed by a three year period of supervised release. Respondent is responsible for restitution to Medicare and Medicaid government health insurance programs in the total amount of \$6,429,330.00; required to pay a court assessment of \$100.00; and required to forfeit \$6,550,036.00, of which the amount represents the proceeds of the Federal health care offense.

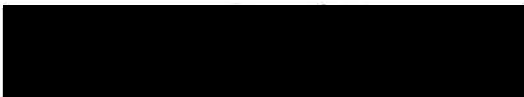
SPECIFICATION OF MISCONDUCT

Respondent violated Education Law § 6530 (9)(a)(ii) by having been convicted of an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraph A.

DATE: Albany, New York
September, 2015

October 8


Michael A. Hiser
Deputy Counsel
Bureau of Professional Medical Conduct