



## Department of Health

**ANDREW M. CUOMO**  
Governor

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

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

December 28, 2016

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Alexander G. Bateman, Jr.  
Rucskin, Moscou, Faltschek, P.C.  
1425 RXR Plaza  
15<sup>th</sup> Floor – East Tower  
Uniondale, New York 11556

Jeffrey Stein, M.D.  


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

**RE: In the Matter of Jeffrey Stein, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No.16-413) 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 (l), (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 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.

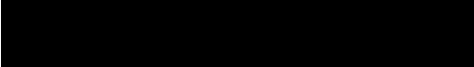
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A solid black rectangular redaction box covering the signature of James F. Horan.

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**

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**IN THE MATTER  
OF  
JEFFREY STEIN, M.D.**

**DETERMINATION  
AND  
ORDER  
BPMC #16-413**

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The New York State Department of Health ("Department") charged Jeffrey Stein, M.D. ("Respondent"), with professional misconduct in violation of New York State Education Law § 6530(9)(a)(ii), for committing an act constituting a crime under federal law.

A hearing was held on October 19, 2016. Pursuant to Section 230(10)(e) of the Public Health Law ("PHL"), Airlie A.C. Cameron, M.D., M.P.H., Chair, Kristin E. Harkin, M.D., and Deborah Whitfield, M.A., Ph.D., duly designated members of the State Board for Professional Medical Conduct ("BPMC"), served as the Hearing Committee ("Committee"). Administrative Law Judge Jankhana Desai ("ALJ") presided over the hearing.

The Department appeared by Marc Nash, Associate Counsel for the Bureau of Professional Medical Conduct. Respondent appeared by Alexander Bateman, Attorney at Law. Evidence was received and a transcript of the proceeding was made. After consideration of the entire record, the Committee issues this Determination and Order.

**BACKGROUND**

This case was brought pursuant to PHL § 230(10)(p), a statute that provides for a direct referral proceeding when a licensee is charged solely with a violation of Educ. Law § 6530(9). In this case, Respondent is charged with professional misconduct pursuant to Educ. Law §

6530(9)(a)(ii), for being convicted of an act constituting a crime under federal law. Respondent was convicted of two felonies in federal court: (1) Corruptly Endeavoring to Obstruct and Impede the Due Administration of the Internal Revenue Laws and (2) Tax Evasion.

The scope of this direct referral hearing is limited to an assessment of the nature and severity of the penalty to be imposed upon the licensee.

### **FINDINGS OF FACT**

The following findings of fact were made unanimously by the Committee:

1. On June 10, 1985, Respondent was authorized to practice medicine in New York State, by the issuance of license number 162428, by the New York State Education Department.
2. On January 29, 2015, in the United States District Court, Southern District of New York, Respondent pled guilty to Corruptly Endeavoring to Obstruct and Impede the Due Administration of the Internal Revenue Laws, a felony, in violation of 26 U.S.C. § 7212(a), and Tax Evasion, a felony, in violation of 26 U.S.C. § 7201. Respondent was sentenced to 18 months in prison for each count, to run concurrently, followed by a three-year period of supervised release for each count, to run consecutively. Respondent was also directed to pay \$245,443 in restitution to the Internal Revenue Service and \$200 in court assessment fees.
3. Respondent completed his prison term and has paid in full his restitution and court assessment.
4. In a Commissioner's Order dated February 24, 2016, Respondent was summarily prohibited from practicing medicine in New York State or in any setting under the authority of Respondent's New York medical license.

### **VOTE OF THE COMMITTEE**

The Committee unanimously sustained the charge that Respondent violated New York Educ. Law Section 6530(9)(a)(ii), for committing an act constituting a crime under federal law.

### **COMMITTEE DETERMINATION**

The Committee unanimously sustained the specification of misconduct contained in the Statement of Charges. The 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.

The Committee concluded that the appropriate penalty in this case is censure and reprimand. The Committee made this determination on several factors. Importantly, Respondent's crimes did not affect his clinical competence or quality of patient care. The Committee did not feel that Respondent was a threat to the public. Moreover, the Committee acknowledged an exemplary surgical career and stable family life. Respondent is married for 21 years and raised two children currently attending college. Seventeen reference letters, written by medical colleagues, patients, a supervisor, and a family member, described Respondent as a talented, compassionate physician and trustworthy person. These letters made a compelling case in favor of Respondent being permitted to practice medicine. Through his testimony, the Committee learned of Respondent's genuine connection to his patients. The Committee also appreciated Respondent's sincere sense of remorse and repentance for his actions. Respondent accepted full responsibility for his conduct and the Committee felt that he has learned from his mistakes.

Under these circumstances, the Committee determined that censure and reprimand was the appropriate penalty and that Respondent's suspension should be lifted effective immediately.

**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 penalty shall be **Censure and Reprimand**.
3. This Determination and Order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required by PHL 230(10)(h).

**DATED: December 15, 2016**

  
**Airle A.C. Cameron, M.D., M.P.H., Chair**

**Kristin E. Harkin, M.D.**  
**Deborah Whitfield, M.A., Ph.D.**

**To:**

**Alexander G. Bateman, Jr.  
Rucskin Moscou Faltischek, P.C.  
1425 RXR Plaza  
15<sup>th</sup> Floor – East Tower  
Uniondale, NY 11556**

**Jeffrey Stein**



**Marc Nash  
Associate Counsel  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
Albany, NY 12237**

# APPENDIX I



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

IN THE MATTER  
OF  
JEFFREY STEIN, M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Jeffrey Stein, M.D.  
[REDACTED]  
Otisville Federal Correction Institution  
2 Mile Drive  
Otisville, New York 10963

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 May 18, 2016, 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.<sup>1</sup>

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

<sup>1</sup> 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 at least 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. You may also file a written brief and affidavits with the Committee. All such documents 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, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge,

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

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  
February 24, 2016

  
MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Marc Nash  
~~Associate Counsel~~  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, NY 12237

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

IN THE MATTER  
OF  
JEFFREY STEIN, M.D.  
CO-14-04-2229A

STATEMENT  
OF  
CHARGES

JEFFREY STEIN, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 10, 1985, by the issuance of license number 162428 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about July 31, 2015 in the United States District Court, Southern District of New York, Respondent pled guilty to a felony of Corruptly Endeavoring to Obstruct and Impede the Due Administration of the Internal Revenue Laws [26 U.S.C. § 7212(a)] and a felony of Tax Evasion [26 U.S.C. § 7201]. Respondent was sentenced to a total term of eighteen (18) months incarceration for each count, to run ~~consecutively~~ <sup>concurrently</sup> followed by a three year period of supervised release for each count, to run consecutively. Respondent was directed to pay restitution to the Internal Revenue Service in the amount of \$245,443.00 and was required to pay a court assessment of \$200.00.

**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:

The facts in Paragraph A.

DATE: February 24 2016  
Albany, New York



MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct