

September 3, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTEDJoel E. Ablove, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237Joseph J. Carozza, M.D.
REDACTED**RE: In the Matter of Joseph J. Carozza, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 13-282) 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. 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 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,

REDACTED
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 : DETERMINATION
OF :
JOSEPH J. CAROZZA, M.D. : AND
CO-12-12-6155-A : ORDER
-----X
BPMC #13-282

A Commissioner's Order and Notice of Referral Proceeding, dated June 20, 2013 and a Statement of Charges, dated June 13, 2013, were served upon the Respondent, Joseph J. Carozza, M.D. **THEA GRAVES PELLMAN (Chair), PROSPERE REMY, M.D. and JERRY WAISMAN, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by Joel E. Abelove, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by Counsel. A hearing was held on August 21, 2013. Evidence was received and witnesses sworn and heard 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 where a licensee is charged solely with a violation of Education Law §6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which 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, Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(a)(ii) [conviction of committing an act constituting a crime under Federal law]. A copy of the Statement of Charges is attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent 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.

1. Joseph J. Carozza, M.D., (hereinafter "Respondent") was authorized to practice medicine in New York State on March 12, 1984 by the issuance of license number 157636 by the New York State Education Department. (Exhibit #4).

2. On or about March 26, 2012, in United States District Court, Northern District of California, Respondent was found guilty, based upon a verdict of guilty, of Conspiracy to Distribute or to Possess with Intent to Distribute a Schedule III or IV Controlled Substance by Means of a Prescription Issued by a Physician Not for a Legitimate Medical Purpose and Not in the Usual Course of Professional Practice, in violation of 21 U.S.C. §846, and Distributing, or Possessing with Intent to Distribute Phentermine, a Schedule IV Controlled Substance, by Means of a Prescription Issued by a Physician Not for a Legitimate Medical Purpose and Not in the Usual course of Professional Practice, in

violation of 21 U.S.C. §841. Respondent was sentenced to 30 months imprisonment, 3 years supervised release, \$467,000.00 in a money judgment, and \$200.00 in fees. (Exhibit #5).

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The evidence established that Respondent was convicted of committing crimes under Federal law. Therefore, he is guilty of professional misconduct in violation of Education Law §6530(9)(a)(ii). Therefore, the Hearing Committee voted to sustain the First Specification of professional misconduct set forth in the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The court records document that Respondent was part of a

conspiracy to distribute controlled substances through fraudulent prescriptions issued over the internet. Respondent did not appear at the hearing, but did submit documents in his defense (Exhibit A). Respondent does not deny issuing prescriptions but instead challenged the legality of the proceedings brought against him.

The Respondent grossly abused the public trust placed in him by society through the granting of a license to practice medicine. His actions represent an egregious breach of moral and ethical standards. He placed his desires above those of the patients he treated, all in the name of money. Respondent is out on bail while appealing his conviction, and thirty month prison sentence. Revocation of his medical license is the only appropriate sanction for the level of misconduct which he perpetrated upon the public. In the event that he is successful in appealing the conviction, he may seek reinstatement of his medical license.

ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First Specification of professional misconduct, as set forth in the Statement of Charges (Exhibit # 1) is SUSTAINED;

2. Respondent's license to practice medicine in New York State be and hereby is REVOKED;

3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's 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: West Hempstead, New York

August 30, 2013

REDACTED

THEA GRAVES FELLMAN (CHAIR)

PROSPERE REMY, M.D.
JERRY WAISMAN, M.D.

TO: Joel E. Abelove, Esq.
Associate Counsel
New York State Department of Health
Corning Tower - Room 2512
Albany, New York 12237

Joseph J. Carozza, M.D.
REDACTED

APPENDIX I

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

IN THE MATTER
OF
JOSEPH J. CAROZZA, M.D.
CO-12-12-6155-A

STATEMENT
OF
CHARGES

JOSEPH J. CAROZZA, M.D., Respondent, was authorized to practice medicine in New York state on March 12, 1984, by the issuance of license number 157636 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 26, 2013, in the United States District Court, Northern District of California, Respondent was found guilty, based on a verdict of guilty, of Conspiracy to Distribute or to Possess with Intent to Distribute a Schedule III or IV Controlled Substance by Means of a Prescription Issued by a Physician Not for a Legitimate Medical Purpose and not in the Usual Course of Professional Practice, in violation of 21 U.S.C. § 846, and Distributing, or Possessing with Intent to Distribute Phentermine, a Schedule IV Controlled Substance, by Means of a Prescription Issued by a Physician Not For a Legitimate Medical Purpose and Not In the Usual Course of Professional Practice, in violation of 21 U.S.C. § 841, and was sentenced to 30 months in prison, 3 years supervised release, \$467,000.00 in a money judgment, and \$200.00 in fees.

FIRST SPECIFICATION

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

1. The facts in Paragraph A.

DATED: *June 13*, 2013
Albany, New York

REDACTED
MICHAEL A. HISER
Acting Deputy Counsel
Bureau of Professional Medical Conduct