NEW YORK STATE OF OPPORTUNITY. | 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

Public

February 5, 2015

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Tahir Mir, M.D.
[redacted]

Tahir Mir, M.D.
SCI Pittsburgh (LF3391)
P.O. Box 99991
Pittsburgh, Pennsylvania 15233

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

RE: In the Matter of Tahir Mir, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 15-025) 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,

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

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IN THE MATTER	DETERMINATION
OF	AND
TAHIR MIR, M.D.	ORDER

----------X BPMC#15-025

COPY

A hearing was held on January 15, 2015, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and Statement of Charges, dated October 27, 2014, were served upon the Respondent, **TAHIR MIR, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Janet M. Miller, R.N.**, Chair, **Robert A. Dracker, M.D.**, and **James G. Egnatchik, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **James E. Dering, Esq.**, General Counsel, by **Paul Tsui, Esq.**, of Counsel. The Respondent, **Tahir Mir, M.D.** , did not appear, although duly served. Evidence was received 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 when a licensee is charged solely with a violation of Education Law Section 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 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, the Respondent is charged with professional misconduct pursuant to Education 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 in New York State, constitute a crime under the laws of New York State. For this crime, the Respondent's license to practice medicine in New York was summarily suspended by a Commissioner's Order, dated October 27, 2014.

Copies of the Commissioner's Order, the Notice of Referral Proceeding and the Amended Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:	None
For the Respondent:	None

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to 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. All Hearing Committee findings were unanimous.

1. **Tahir Mir, M.D.,** the Respondent, did not appear at the hearing, although he was duly served and notified of the hearing on November 21, 2014. (Petitioner's Exhibit 2)

2. **Tahir Mir, M.D.**, the Respondent, was authorized to practice medicine in New York State on July 10, 1981, by the issuance of license number 146840 by the New York State Education Department. (Petitioner's Ex. 4)

3. On or about June 21, 2013, in the Commonwealth of Pennsylvania, Indiana County, Court of Common Pleas, Respondent was found guilty, based on a jury verdict of guilt of two counts of issuing Unlawful Prescriptions in violation of the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act and two counts of Criminal Conspiracy, both felonies. (Petitioner's Ex. 5)

4. On or about December 17, 2014, the Superior Court of Pennsylvania, remanded the Respondent's criminal conviction case for resentencing. (Respondent's Ex. C)

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

"Respondent violated New York State Education Law §6530 (9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction...."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing, either in person or by counsel. The Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Personal Service of the Commissioner's Order, the Notice of Referral Proceeding and the Amended Statement of Charges (Petitioner's Exhibit 2), ruled that the Petitioner had met the requirements of law for service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits, notwithstanding the Respondent's absence.

It is noted that Respondent has responded to the communications from the Department, and was aware of this proceeding. Furthermore, the Respondent did submit materials by mail that were received into evidence as Exhibits A. B, and C and were given to the panel for review at the hearing.

The record herein also shows that, on or about June 21, 2013, in the Commonwealth of Pennsylvania, Indiana County Court of Common Pleas, Respondent was found guilty, based on a jury verdict of guilty of two counts of Unlawful Prescriptions in violation of the Pennsylvania Controlled Substance, Drug, Device end Cosmetic Act and two counts of Criminal Conspiracy, all felonies.

The documentation that the Respondent's Pennsylvania attorney submitted shows that this matter has recently been remanded for resentencing. The resentencing, according to the Respondent's attorney (Respondent's Ex. A), is concerned with the restitution order in the original sentence. According to the Department's attorney this resentencing does not change the underlying conviction and finding of guilt by the Pennsylvania criminal court. The Statement of Charges was amended at the hearing to delete the sentencing provisions, including the restitution and fine imposed. The allegation of conviction was undisturbed.

The panel reviewed the documentary evidence in this case and found no evidence or indication of remorse on the part of the Respondent. The materials submitted by the Respondent show no remorse or regret for his crimes. The panel reviewed the full record and deemed the charges so serious as to warrant revocation.

As to the penalty, the Hearing Committee determined that the people of New York State would be protected by a revocation of the Respondent's license and thus the unanimous determination of the panel was that the license of the Respondent to practice medicine in New York State should be revoked.

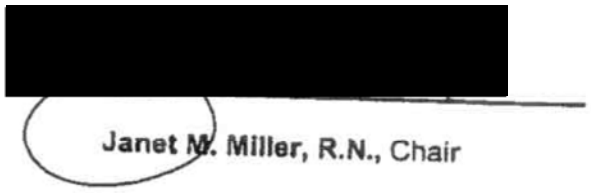
ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is **SUSTAINED**
2. The license of the Respondent to practice medicine in New York State is revoked.
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Downsville, New York

~~January~~ 8th, **2015**
FEBRUARY 5, 2015



Janet M. Miller, R.N., Chair

Robert A. Dracker, M.D.
James G. Egnatchik, M.D.,

To: Tahir Mir, M.D.

Tahir Mir, M.D
SCI Pittsburgh (LF3391).
P.O. Box 99991
Pittsburgh, PA 15233

Paul Tsui, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX I

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

IN THE MATTER OF TAHIR MIR, M.D. CO-13-08-4702A	COMMISSIONER'S ORDER AND NOTICE OF REFERRAL PROCEEDING

TO: **Tahir Mir, M.D.**
[redacted]

Tahir Mir, M.D.
[redacted]

Tahir Mir, M.D.
SCI Pittsburgh (LF3391)
PO Box 99991
Pittsburg, PA 15233

The undersigned, Sue Kelly, Executive Deputy 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 **TAHIR MIR, M.D,** Respondent, New York license number 146840, has been found guilty to committing an act constituting a felony 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, **TAHIR MIR, 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 11th day of December, 2014, 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, 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 Referral Proceeding, 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 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 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 aboce, 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
Oct. 27, 2014

[redacted]

Sue Kelly
Executive Deputy Commissioner of Health
New York State Department of Health

Inquiries should be addressed to:

Paul Tsui
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

IN THE MATTER OF TAHIR MIR, M.D. CO-13-08-4702-A	STATEMENT OF CHARGES

TAHIR MIR, M.D., Respondent, was authorized to practice medicine in New York State on July 10, 1981, by the issuance of license number 146840 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 27, 2013, in the Commonwealth of Pennsylvania, Indiana County Court of Common Pleas, Respondent was found guilty, based on a jury verdict of guilty, of two counts of Unlawful Prescriptions in violation of the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act and two counts of Criminal Conspiracy, both felonies. ~~On or about September 13, 2013, Respondent was sentenced to pay the cost of the prosecution in the amount of $413.50, a $25,000.00 fine and a period of incarceration of six (6) to fifteen (15) years on one count of Unlawful Prescription, and a fine of $50,000.00 and a period of incarceration of seven (7) to fifteen (15) years on the second count of Unlawful Prescription. The Criminal Conspiracy counts merged with the Unlawful Prescription Counts and no penalty was imposed.~~

SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(a)(iii) by being 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, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: Oct. 27, 2014
Albany, New York

[redacted]
MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct