



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

Public

James W. Clyne, Jr.
Executive Deputy Commissioner

December 17, 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Alexander Rozenberg, M.D.
68 Whitman Drive
Brooklyn, New York 11234

Nathan L. Dembin, Esq.
225 Broadway – Suite 1400
New York, New York 10007

Michael G. Bass, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

RE: In the Matter of Alexander Rozenberg, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 10-271) 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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

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, Acting Director
Bureau of Adjudication

JFH:cah
Enclosure

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

IN THE MATTER
OF
ALEXANDER ROZENBERG, M.D.

DETERMINATION
AND
ORDER

BPMC #10-271

COPY

A hearing was held on November 18, 2010, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Order and of Referral Proceeding, together with a Statement of Charges dated March 8, 2010, were served upon the Respondent, **Alexander Rozenberg M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Irving S. Caplan**, Chairperson, **Arsenio G. Agopovich, M.D.**, and **Trevor A. Litchmore, 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 **Thomas G. Conway, Esq.**, General Counsel, by **Michael G. Bass, Esq.**, of Counsel. The Respondent appeared with counsel, **Nathan L. Dembin, Esq.**, of New York, New York.

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 THE 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 Section 6530(9)((a)(i) by having been found guilty of committing crimes under New York State law, specifically, Falsifying business records in the first degree, in violation of New York Penal Law §175.10, a Class E felony and insurance fraud in the fifth degree, in violation of New York Penal Law §176.10, a Class A misdemeanor.

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

WITNESSES

For the Petitioner:

None

For the Respondent:

Alexander Rozenberg, M. D.

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 transcript page numbers or exhibits, denoted by the prefixes "T." or "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. **Alexander Rozenberg, M.D.**, the Respondent, was authorized to practice medicine in New York State on June 25, 1997, by the issuance of license number 207165 by the New York State Education Department. (Petitioner's Ex. 3)

2. On or about February 20, 2009, the Respondent was found guilty, after trial, of committing crimes under New York State law, specifically, Falsifying business records in the first degree, in violation of New York Penal Law §175.10, a Class E felony and insurance fraud in the fifth degree, in violation of New York Penal Law §176.10, a Class A misdemeanor. (Petitioner's Ex. 4)

3. On or about June 30, 2009, the Respondent, for the above crimes, was sentenced on the charge of Falsifying business records to fifteen (15) days incarceration and five (5) years probation to run concurrent, including 300 hours of community service and on the insurance fraud charge fifteen (15) days incarceration and three (3) years probation, concurrent with the incarceration and probation previously

adjudged and a \$250 surcharge and a \$50 DNA¹ assessment and a \$20 CVAF².
(Petitioner's Ex. 4)

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

Respondent violated New York Education Law Section 6530(9)(a)(i) by having been found guilty of committing crimes under New York State law, specifically Falsifying business records in the first degree, in violation of New York Penal Law §175.10, a Class E felony and insurance fraud in the fifth degree, in violation of New York Penal Law §176.10, a Class A misdemeanor.

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent was indicted and his case was tried in Supreme Court, Kings County, and State of New York. It appears that the Respondent was found guilty, after trial, of committing crimes under New York State law, specifically, Falsifying business records in the first degree, in violation of New York Penal Law §175.10, a

¹ The \$50 DNA assessment is a mandatory databank fee that applies to many misdemeanors and all felonies. Penal Law § 60.35(10); Exec L § 995(7). New York State estimates that nearly half of all persons convicted of Penal Law offenses will require the DNA sample and consequent fee. See <http://www.criminaljustice.state.ny.us/forensic/dnaoffenses.htm>.

² The "CVAF" is the Crime Victim Assessment Fee, a mandatory surcharge in New York criminal cases.

Class E felony and insurance fraud in the fifth degree, in violation of New York Penal Law §176.10, a Class A misdemeanor and was sentenced to fifteen (15) days incarceration, five (5) years probation, 300 hours of community service, a \$250 surcharge and a \$50 DNA assessment and a \$20 Crime Victim assessment.

The record in this case shows that the Respondent was authorized to practice medicine in New York State on June 25, 1997, by the issuance of license number 207165 by the New York State Education Department. At the hearing, the Petitioner presented thorough documentation establishing that the Respondent was convicted of a felony after trial.

In an effort to lessen the penalty and to mitigate his client's conduct, the Respondent's attorney argued that Dr. Rozenberg was convicted of only two of the more than fifty charges in the initial indictment and that he had initially been charged with a Class B felony and the highest conviction was for a Class E felony. The attorney for the Respondent argued that his client was innocent and did not belong in any indictment and further contended that fifty counts of serious indictments were dismissed. (T. 78) Mr. Dembin contended that this case was all about a simple billing mistake that amounted to only \$25.00.

The panel did not accept this argument in mitigation and found that there was indeed a conviction for a felony and on that basis deemed revocation the appropriate penalty.

In assessing the penalty to be imposed in this case, the panel took many factors into account, not the least of which was the fact the Respondent expressed no remorse

for his crime or any acknowledgement of his guilt in this matter. The Department's attorney recommended revocation.

The Hearing Committee, pursuant to the Findings of Fact set forth above, after due deliberation, unanimously determined that the charges and specifications raised against Respondent were sustained.

The Committee has a responsibility to protect the patients of the State. The issue before this Committee is to choose a penalty that offers the best protection to the people of the State. The Committee finds that the Respondent has committed sufficiently egregious misconduct that is worthy of the revocation of his medical license. The Committee concludes that the Respondent's conduct in this matter has so violated the public trust that revocation is the only appropriate penalty under all the facts and circumstances of this case.

In reaching this conclusion, the Committee considered the full range of penalties available in a case such as this.

The Committee concluded that the only way to protect the public is to revoke Respondent's medical license. Any other penalty would risk a recurrence of this behavior. The public should not bear that risk.

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 hereby 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: Malone, New York
December 17, 2010

REDACTED

Irving S. Caplan, Chairperson

Arsenio G. Agopovich, M.D.
Trevor A. Litchmore, M.D.

To:
Alexander Rozenberg, M. D.

REDACTED

Nathan L. Dembin, Esq.,
225 Broadway, Suite 1400
New York, New York 10007

Michael G. Bass, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Albany, New York 12237

APPENDIX 1

Public

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

IN THE MATTER

OF

ALEXANDER ROZENBERG, M.D.
CO-09-02-1111-A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: ALEXANDER ROZENBERG, M.D.
AR Medical Art, P.C.
1744 East 13th St.
Brooklyn, NY 11229

ALEXANDER ROZENBERG, M.D.
Yonkers Medical Art, P.C.
799 Morris Park Ave.
Bronx, NY 10462

ALEXANDER ROZENBERG, M.D.

REDACTED

The undersigned, Richard F. Daines, M.D., 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 **ALEXANDER ROZENBERG, M.D.**, Respondent, licensed to practice medicine in the State of New York on June 25, 1997, by license number 207165, has been convicted of committing an act constituting a felony under New York state law, in the Supreme Court of the State of New York, County of Kings, Criminal Term: Part 33, New York, 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), effective immediately **ALEXANDER ROZENBERG, 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. This Order shall remain in effect unless

modified or vacated by the Commissioner of Health pursuant to New York Public Health Law §230(12).

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 22nd day of April, 2010, at 10:00 a.m., at Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180, at the offices of the New York State Health Department and at such other adjourned dates, times, and places as the committee may direct. Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

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. 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.

The hearing will proceed whether or not Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and adjournment requests are not, therefore, routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. 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 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
3/8/2010

Redacted Signature

RICHARD F. DAINES, M.D.
Commissioner of Health
New York State Department of Health

Inquires should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street - Suite 303
Troy, New York 12180
(518) 402-0828

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

IN THE MATTER
OF
ALEXANDER ROZENBERG, M.D.
CO-09-02-1111-A

STATEMENT
OF
CHARGES

ALEXANDER ROZENBERG, M.D., Respondent, was authorized to practice medicine in New York state on June 25, 1997, by the issuance of license number 207165 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 20, 2009, in the Supreme Court of the State of New York, County of Kings, Criminal Term: Part 33, New York, Respondent was found guilty, in a contested matter, of Falsifying business records in the first degree, in violation of New York Penal Law §175.10, a class E felony, and Insurance fraud in the fifth degree, in violation of New York Penal Law §176.10, a class A misdemeanor, and on or about June 30, 2009, was sentenced, on the charge of Falsifying business records in the first degree, to fifteen (15) days incarceration and five (5) years probation to run concurrent, including 300 hours of community service, and on the charge of Insurance fraud in the fifth degree, to fifteen (15) days incarceration and three (3) years probation, concurrent with the incarceration and probation previously adjudged, and a \$270.00 surcharge and a \$50.00 DNA Assessment.

SPECIFICATION

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

1. The facts in Paragraph A.

DATED: *March 8*, 2010
Albany, New York

Redacted Signature

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct