Public

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

May 2, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jude B. Mulvey, Esq.
NYS Department of Health
Corning Tower Room 2512
Empire State Plaza
Albany, New York 12237

Connor Smith, M.D.
REDACTED

Connor Smith, M.D.
REDACTED

RE: In the Matter of Connor Smith, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 13-121) 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:nm
Enclosure

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

COPY

IN THE MATTER	:	DETERMINATION
	:	
OF	:	AND
	:	
CONNOR SMITH, M.D.	:	ORDER
CO-12-01-0023-A	:	
		BPMC #13-121

A Notice of Referral Proceeding and Statement of Charges, both dated November 30, 2012, were served upon the Respondent, Connor Smith M.D. **JILL M. RABIN, M.D. (Chair), LELAND DEANE, M.D., M.B.A., and CAROLYN C. SNIPE,** 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 Jude Mulvey, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on March 13, 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)(i) in that he was found guilty of committing a crime under the laws of another state which would, if committed in New York constitute a crime under New York Law. He is also charged with having violated New York Education Law §6530(9)(d) by having his license to practice medicine in another state suspended after disciplinary action was instituted by said other state. 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. Connor Smith, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on March 7, 2000 by the issuance of license number 216916 by the New York State Education Department. (Ex. #4).

2. On or about January 15, 2010, in the Court of Common Pleas of Montgomery County, Pennsylvania, Respondent was found guilty, based upon a plea of guilty, to three counts of Criminal Possession of a Controlled Substance, in violation of 35 Pennsylvania Statutes §7-80-113(a)(16) - a misdemeanor. He was sentenced to a one year term of probation, $500 fine and court associated costs, ordered to complete 48 hours of community service, prohibited from practicing medicine while on supervised probation, and to complete the Capstone Program at Temple University. (Exhibit #6).

3. On or about November 17, 2011, the Pennsylvania State Board of Medicine, Department of State ("Pennsylvania Board")

suspended Respondent's license to practice medicine based upon the criminal conviction cited in paragraph 2, above. (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 clearly established that the Respondent was convicted of a crime under the laws of another jurisdiction by virtue of his convictions for criminal possession of a controlled substance. Further, the Pennsylvania Board took disciplinary action against Respondent based upon his criminal conviction. Respondent's conduct, had it occurred in New York, would constitute professional misconduct in violation of New York Education Law §6530(9)(a)(iii) [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]. Therefore, the First and Second Specifications of professional misconduct shall be sustained.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that the Respondent's license to practice medicine in New York State shall 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.

Respondent was found guilty of three counts of criminal possession of controlled substances, and was subsequently suspended by the Pennsylvania Board. He failed to appear at the hearing, and presented no evidence in mitigation. Under the circumstances, revocation of his New York medical license is the only appropriate sanction.

ORDER

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

1. The First and Second Specifications of professional misconduct, as set forth in the Statement of Charges (Exhibit # 1) are **SUSTAINED**;

2. Respondent's license to practice as a physician in the State of New York 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: New York, New York
April 30th, **2013**

REDACTED

JILL M. RABIN, M.D. (CHAIR)

LELAND DEANE, M.D., M.B.A.
CAROLYN SNIPE

TO: Jude B. Mulvey, Esq.
Associate Counsel
New York State Department of Health
Corning Tower, Room 2512
Albany, New York 12237

Connor Smith, M.D.
REDACTED

Connor Smith, M.D.
REDACTED

APPENDIX I

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

IN THE MATTER	STATEMENT
OF	OF
CONNOR SMITH, M.D. CO-12-01-0023-A	CHARGES

CONNOR SMITH, M.D., Respondent, was authorized to practice medicine in New York State on March 7, 2000, by the issuance of license number 216916 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 15, 2010, in the Court of Common Pleas of Montgomery County, Pennsylvania, Respondent was found guilty, based on a plea of guilty, to three counts of Criminal Possession of a Controlled Substances, in violation of 35 Pennsylvania Statue §7-80-113 (a)(16), a misdemeanor, and was sentenced to a one year term of probation, $500 fine and court associated court costs, ordered to complete forty-eight (48) hours of community service, prohibited from practicing medicine while on supervised probation, and to complete the Capstone Program at Temple University.

B. On or about November 17, 2011, the Pennsylvania State Board of Medicine, Department of State suspended Respondent's license to practice medicine based upon his conviction of three counts of Criminal Possession of a Controlled Substance.

C. The conduct resulting in the Pennsylvania discipline against Respondent would constitute misconduct under the laws of New York State, pursuant to the following section of New York State law:

1. New York State Education Law §6530 (9)(a)(i)

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated 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.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530 (9)(d) by having his license to practice medicine suspended after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state where the conduct resulting in the suspension would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

2. The facts in Paragraphs A, B and/or C.

DATED: Nov. 30, 2012
Albany, New York

REDACTED

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