

Public

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

BPMC No. 14-312

IN THE MATTER

OF

OSCAR GOSIEN, M.D.
CO-14-05-2633A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

TO: Oscar Gosien #59585-1
Martinsburg Correctional Center
94 Grapevine Road
Martinsburg, WV 25405

The undersigned, Howard A. Zucker, M.D., J.D., Acting 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 **OSCAR GOSIEN, M.D.**, Respondent, New York license number 141253, has pleaded guilty to committing an act constituting a felony under the law of another jurisdiction which, if committed within this state, would have constituted a felony under New York 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, **OSCAR GOSIEN, 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 18th day of February, 2015, 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 above, 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
17th December, 2014

REDACTED

Howard A. Zucker, M.D., J.D.
Acting Commissioner of Health
New York State Department of Health

Inquiries should be addressed to:

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

IN THE MATTER
OF
OSCAR GOSIEN, M.D.

STATEMENT
OF
CHARGES

OSCAR GOSIEN, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 22, 1980, by the issuance of license number 141253 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 8, 2014, in the Circuit Court of Fayette, West Virginia, Respondent was found guilty, after entering pleas of guilty, to three felonies: (1) constructive delivery of hydrocodone, a Schedule III controlled substance, in violation of West Virginia Code §60A-4-401 and West Virginia Code §60A-101-(x)(1); (2) constructive delivery of opana, a brand of oxymorphone, a Schedule II narcotic controlled substance, in violation of West Virginia Code §60A-101-(x)(1); and (3) constructive delivery of oxycodone, a Schedule II narcotic controlled substance, in violation of West Virginia Code §60A-4-401 and West Virginia Code §60A-101-(x)(1). Respondent was sentenced to a term of imprisonment of not less than one year nor more than five years and fined \$5,000 for his conviction of constructive delivery of hydrocodone; to a term of imprisonment of not less than one year nor more than five years and fined \$10,000 for his conviction of constructive delivery of opana; and to a term of imprisonment of not less than one year nor more than fifteen years and fined \$10,000 for his conviction of constructive delivery of oxycodone, the sentences to be served consecutively.

B. On or about May 19, 2014, the West Virginia Board of Medicine ("the West Virginia Board") revoked Respondent's license to practice medicine based upon his conviction of a felony "involving prescribing, selling, administering, dispensing, mixing or otherwise preparing a prescription drug, including a controlled substance under state or federal law, for other than generally accepted therapeutic purposes."

C. The conduct resulting in the West Virginia Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law § 6530 (9)(a)(iii) (criminal conviction in another state);
2. New York Education Law § 6530 (2) (practicing the profession fraudulently or beyond its authorized scope).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

Respondent violated New York Education Law § 6530 (9)(a)(iii) by having been convicted of an act constituting a crime under the laws of another jurisdiction and which, if committed within this state, would constitute 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)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional medical conduct under the laws of New York State:

2. The facts in Paragraphs B and C.

THIRD SPECIFICATION

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

1. The facts in Paragraphs B and C.

DATE: December 18, 2014
Albany, New York

REDACTED

MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct