

Public



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

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

Richard F. Daines, M.D.  
Commissioner

Wendy E. Saunders  
Chief of Staff

July 17, 2009

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Ambroise Forte, M.D.

Redacted Address

Ambroise Forte, M.D.

Redacted Address

Robert Bogan, Esq.

NYS Department of Health

Bureau of Professional Medical Conduct

433 River Street, Suite 303

Troy, New York 12180

**RE: In the Matter of Ambroise Forte, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 09-135) 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 Signature

James F. Horan, Acting Director  
Bureau of Adjudication

JFH:djh

Enclosure

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

COPY

IN THE MATTER  
OF  
AMBROISE FORTE, M.D.

DETERMINATION  
AND  
ORDER

BPMC NO. 09-135

A hearing was held on June 18, 2009, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated May 21, 2008, were served upon the Respondent, **AMBROISE FORTE, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Arthur Hengerer, M.D., Chair, Eleanor Kane, M.D.,** and, **Robert M. Briber**, 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 Conway, Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent, **AMBROISE FORTE M.D.**, did appear, *pro se*, and was 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) (ii), commission of a Federal Crime. Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

#### **WITNESSES**

For the Petitioner:

None

For the Respondent:

Ambroise Forte, M.D.

Pierre Renelique, 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 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.

1. **AMBROISE FORTE, M.D.**, the Respondent, did appear at the hearing, *pro se*, and was duly and personally served with process on July 21, 2008. (Petitioner's Exhibit 8.)
2. **AMBROISE FORTE, M.D.**, the Respondent, was authorized to practice medicine in New York State on May 27, 1983, by the issuance of license number 154269 by the New York State Education Department (Petitioner's Ex. 4).
3. On April 25, 2007, In the United States District Court, Southern District of Florida, Respondent was found guilty, based on a plea of Guilty, to Healthcare Fraud in violation of 18 U.S.C. § 1347, a felony, and was sentenced to two (2) years probation, one hundred (100) hours of community service, a \$100.00 Assessment, and \$1,530.00 restitution. (Petitioner's Ex. 5).
4. On October 17, 2007, the State of Florida, Board of Medicine (hereinafter "Florida Board") due to the above conviction, by a Final Order (hereinafter "Florida Order"), *inter alia*, reprimanded Respondent's license to practice medicine, required him to perform fifty (50) hours of community service, placed his license to practice medicine on one (1) year probation, and required him to pay a \$5,000.00 fine and \$1,843.72 costs. (Petitioner's Ex. 6).

## **VOTE OF THE HEARING COMMITTEE**

### **FIRST SPECIFICATION**

Respondent violated New York Education Law Section 6530(9) (ii) by having been convicted of committing an act constituting a crime under federal law, namely Healthcare Fraud, 18 U.S.C. § 1347, a felony.

VOTE: Sustained (3-0)

### **SECOND SPECIFICATION**

Respondent violated New York Education Law Section 6530(9) (d) by having disciplinary action taken by a duly authorized disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State constitute professional misconduct under the laws of New York State in that respondent was found guilty, based on a plea of Guilty, to Healthcare Fraud in violation of 18 U.S.C. § 1347, a federal felony.

VOTE: Sustained (3-0)

## **HEARING COMMITTEE DETERMINATION**

The Respondent did appear at the hearing, *pro se*. The Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Personal Service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Exhibit 2), ruled that the Petitioner had met the requirements of law for service of process and that jurisdiction had been established over the Respondent. The record in this case indicates that Respondent had been convicted in Federal Court of committing an act which

constituted a crime under federal law, namely Healthcare Fraud in violation of 18 U.S.C. § 1347, a federal felony.

The record in this case shows that this is not the first time that the Respondent has been sanctioned for his actions. Exhibit 7 in the record shows that in 1996 he agreed to a consent order in New York for a three-year suspension of his license based upon a 1994 Florida discipline action.

The present action is based upon a felony plea in Federal Court in Florida to a charge of Healthcare Fraud. (Exhibit 5 sets forth the full indictment). For this crime the Respondent was sentenced to Federal probation of two years, 100 hours of community service, and ordered to pay an assessment of \$100.00 and make restitution of \$1,530.00. (Exhibit 5)

The Board of Medicine of the State of Florida followed this Federal punishment with its own reprimand, coupled with a fine of \$5,000, 50 hours of community service, and costs of \$1,843.72. (Exhibit 6).

The panel was unanimous in finding misconduct in his having been convicted of the felony in Florida and being disciplined by the Florida Medical Board for his conduct.

In determining a penalty which will protect the people of the State of New York, the majority of the panel was of the opinion that the Respondent has shown very poor judgment in serving as the medical director for a no-fault mill for automobile accidents to defraud insurance companies. To allow him to practice in New York would mean that he could do the same thing here as he has done in Florida and the panel was not willing to subject the people of New York to that risk. Accordingly, as to the penalty, a majority (two members) of the Hearing Committee determined that the people of New York State would be protected by a revocation of the Respondent's license. One panel member was of the

opinion that indefinite suspension would be an appropriate penalty under the circumstances.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The license of the Respondent to practice medicine in New York State is hereby revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10) (h).

**DATED: Pittsford, New York**  
**July 16, 2009**

Redacted Signature

**Arthur Hengerer, M.D., Chair**

**Eleanor Kane, M.D.,**  
**Robert M. Briber**

To:

Ambroise Forte, M.D.,  
2777 N.W. 95<sup>th</sup> Avenue  
Coral Springs, FL 33065

Robert Bogan, Esq.  
Attorney for Petitioner  
Associate Counsel  
NYS Department of Health  
Bureau of Professional Medical Conduct  
433 River Street, Suite 303  
Troy, New York 12180-2299

## **APPENDIX 1**



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

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IN THE MATTER  
OF  
AMBROISE FORTE, M.D.  
CO-07-10-6261-A

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COMMISSIONER'S  
ORDER  
AND  
NOTICE OF  
REFERRAL  
PROCEEDING

**TO:** AMBROISE FORTE, M.D.

Redacted Address

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 **AMBROISE FORTE, M.D.**, Respondent, licensed to practice medicine in the State of New York on May 27, 1983, by license number 154269 has been convicted of committing an act constituting a felony under federal law in the United States District Court, Southern District of Florida 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 **AMBROISE FORTE, M.D.**, Respondent, 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 THE STATE OF NEW YORK IN  
DEFIANCE 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 17<sup>th</sup> day of July 2008, at 10:00 a.m., at Hedley Park Place, 433 River Street, 5<sup>th</sup> 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. 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

5/21 / ,2008

Redacted Signature

RICHARD F. DAINES, M.D.  
Commissioner 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

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IN THE MATTER  
OF  
AMBROISE FORTE, M.D.  
CO-07-10-6261-A

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STATEMENT  
OF  
CHARGES

AMBROISE FORTE, M.D., Respondent, was authorized to practice medicine in New York state on May 27, 1983, by the issuance of license number 154269 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about April 25, 2007, in the United States District Court, Southern District of Florida, Respondent was found guilty, based on a plea of guilty, of Healthcare Fraud, in violation of 18 U.S.C. §1347, a felony, and was sentenced to two (2) years probation, one hundred (100) hours of community service, a \$100.00 assessment, and \$1,530.00 restitution.

B. On or about October 17, 2007, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order"), inter alia, reprimanded Respondent's license to practice medicine, required him to perform fifty (50) hours of community service, placed his license to practice medicine on one (1) year probation, and required him to pay a \$5,000.00 fine and \$1,843.72 costs, based on the conviction set forth in Paragraph A, above.

C. The conduct resulting in the Florida Board 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)(ii) (having been convicted of committing an act constituting a crime under federal law.)

**SPECIFICATIONS**

**FIRST SPECIFICATION**

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

1. The facts in Paragraph A.

**SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized disciplinary agency of another state, where the conduct resulting in the disciplinary action 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: *May 21*, 2008  
Albany, New York

Redacted Signature

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