



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

September 29, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David W. Quist, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Empire State Plaza
Albany, New York 12237

Mikhail Solomonov, MD
c/o Lisa D. Taylor, Esq.
Inglesino, Webster, Wyciskala
& Taylor, LLC
600 Parsippany Road, Suite 204
Parsippany, New Jersey 07054

RE: In the Matter of Mikhail Solomonov, MD

Dear Parties:

Enclosed please find the Determination and Order (No. 20-247) 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. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "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: cmg
Enclosure

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

COPY

In the matter of

Mikhail Solomonov, MD
NYS license # 249031

Determination
and Order

CO-19-12-7970A
BPMC-20-247

A notice of referral proceeding and statement of charges dated July 14, 2020 were served on Respondent Mikhail Solomonov, MD. (Exhibit 1.) The statement of charges, as amended on August 27, 2020, alleged professional misconduct in violation of New York State Education Law (Ed.L) 6530. (Exhibit 7.) A hearing was held at the New York State Department of Health on September 9, 2020, by videoconference.

Pursuant to Public Health Law (PHL) 230(10)(e), Jagdish M. Trivedi, MD, Chair, Richard F. Kasulke, MD, and Gail S. Homick-Herrling, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee. John Harris Terepka, Administrative Law Judge, served as the administrative officer.

The Department of Health (the Petitioner) was represented by David W. Quist, Esq. Mikhail Solomonov, MD (the Respondent) was represented by Lisa D. Taylor, Esq. After consideration of the entire record, the hearing committee issues this determination and order sustaining the charges and revoking the Respondent's license to practice medicine.

JURISDICTION

The Respondent, a physician, has been charged with misconduct pursuant to Ed.L 6530(9)(a)(iii). Pursuant to PHL 230(10)(p), a hearing on limited issues, or "direct referral proceeding," is authorized when a licensee is charged solely with a violation of Ed.L

6530(9). Charges of misconduct under Ed.L 6530(9) are based upon a criminal conviction or an administrative violation, in New York State or another jurisdiction, establishing conduct that would constitute a crime or professional misconduct if committed in New York. The scope of the hearing is limited to whether there is a relevant conviction or administrative determination and if so, to a determination of the nature and severity of the penalty to be imposed. PHL 230(10)(p). Penalties which may be imposed are set forth at PHL 230-a. Hearing procedures are set forth in Department of Health regulations at 10 NYCRR Part 51.

HEARING RECORD

Petitioner exhibits: 1-10
Respondent witnesses: [REDACTED]
Mikhail Solomonov, MD
Respondent exhibits: A-H, K

A transcript of the hearing was made. The Respondent submitted one hearing brief and a supplemental brief, and the Department submitted one hearing brief.

FINDINGS OF FACT

1. Respondent Mikhail Solomonov, MD was authorized to practice medicine in New York State on June 11, 2008 under license number 249031. (Exhibit 3.)
2. On October 29, 2019, in the District Court of Broomfield County, Colorado, the Respondent was convicted of sexual assault, a felony in violation of section 18-3-402 of the Colorado Revised Statutes (CRS). The Respondent was sentenced to 90 days jail time, a suspended prison term of six years, probation, and fees and costs in the amount of \$10,458.50. (Exhibit 4.)

HEARING COMMITTEE DETERMINATION

The Respondent practiced medicine in New Jersey, but traveled to Colorado in July 2018 to attend a medical training program. Two female employees on his staff, [REDACTED]

██████████ and the 28 year-old he was convicted of assaulting, accompanied him in order to also participate in the training. The incident in question took place at the hotel where they were staying. The three were drinking in the Respondent's room for several hours, and the Respondent admits that after ██████████ returned to her room a sexual encounter with the other employee occurred. The Respondent was subsequently convicted in Colorado of the felony of sexual assault.

The Respondent claims that the sexual encounter was consensual, but the Colorado jury determined otherwise and convicted him on the grounds that he knew the victim was "incapable of appraising the nature of the victim's conduct." CRS 18-3-402(1)(b). Under Colorado law, "consent" requires "cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act." CRS 18-3-401(1.5).

The Respondent, based upon the language of the statutes rather than the act for which he was convicted of a crime, argues that the crime of which he was convicted in Colorado is not a crime in New York. The Department charges, consistently with Ed.L 6530(9)(a)(iii), that the pertinent issue is whether the act for which the Respondent was convicted of a crime in Colorado would, if committed in New York, have constituted a crime. The Department cites New York Penal Law 130.25(1) or (3), third degree rape; 130.52(1), forcible touching; 130.55, third degree sexual abuse; or 130.60(1), second degree sexual abuse as New York crimes that the act in question would fit. (Exhibit 7.)

The hearing committee agreed that the Colorado conviction was for subjecting the victim to sexual contact without her consent, and that this act would constitute the crime of sexual abuse in New York. The hearing committee accordingly agreed that, as alleged in the

statement of charges, the Respondent violated Ed.L 6530(9)(a)(iii) which defines professional misconduct as:

9. (a) Being convicted of committing an act constituting a crime under... (iii) the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State Law.

The Petitioner recommended revocation of the Respondent's license. Although the Respondent was convicted by a jury of sexual assault, he acknowledges little more than "poor judgment" and continues to assert his innocence of any crime under either Colorado or New York law. The hearing committee found his account and attempted explanations for his conduct unconvincing. The hearing committee unanimously determined (3-0) that revocation of the Respondent's New York license is an appropriate penalty.

ORDER

IT IS HEREBY ORDERED THAT:

The Respondent's license to practice medicine in New York State is revoked.

This order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required under PHL 230(10)(h).

Dated: Albany, New York

9.23.2020

By:


Jagdish M. Trivedi, MD, Chair

Richard F. Kasulke, MD
Gail S. Homick-Herrling

To: David W. Quist, Esq.
Bureau of Professional Medical Conduct
Corning Tower, Empire State Plaza
Albany, New York 12237-0032

Mikhail Solomonov, MD, c/o
Lisa D. Taylor, Esq.
Inglesino, Webster, Wyciskala & Taylor, LLC
600 Parsippany Road, Suite 204
Parsippany, New Jersey 07054

APPENDIX I

IN THE MATTER

OF

MIKHAIL SOLOMONOV, M.D.

SECOND
AMENDED
STATEMENT
OF
CHARGES

MIKHAIL SOLOMONOV, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 11, 2008, by the issuance of license number 249031 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 29, 2019, in the District Court of Broomfield County, Colorado, Respondent was convicted of sexual assault, a felony. On or about that date, Respondent was sentenced to ninety days in jail, a suspended prison term of six years, probation for a period of 12 years to life, and payment of fees and costs in the amount of approximately ten thousand four hundred sixty dollars (\$10,460.00).

B. The conviction for sexual assault was for a crime which, had it been committed in New York, would have been a crime pursuant to §§ 130.25(1) or (3) (third degree rape), 130.52(1) (forcible touching), 130.55 (third degree sexual abuse), or 130.60(1) (second degree sexual abuse) of the Penal Law.

SPECIFICATION OF CHARGES

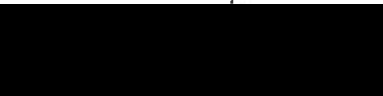
FIRST SPECIFICATION

CRIMINAL CONVICTION (Other Jurisdiction)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. 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 within this state, would have constituted a crime under New York state law (namely Penal Law §§ 130.25(1) or (3) (third degree rape), 130.52(1) (forcible touching), 130.55 (third degree sexual abuse), or 130.60(1) (second degree sexual abuse)), as alleged in the facts of the following:

1. The facts in Paragraphs A and B.

DATE: August 27, 2020
Albany, New York



TIMOTHY J. MAHAR, ESQ.
Deputy Counsel
Bureau of Professional Medical Conduct