

Howard A. Zucker, M.D., J.D.  
Acting Commissioner of Health

**NEW YORK**  
state department of  
**HEALTH**

*Public*

Sally Dreslin, M.S., R.N.  
Executive Deputy Commissioner

December 9, 2014

**CORRECTED LETTER**

Paul Tsui, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2512  
Albany, New York 12237

Mikhail Presman, M.D.  
FCI Fort Dix  
P.O. Box 2000  
Fort Dix, New Jersey 08640

Mikhail Presman, M.D.  
[REDACTED]

Samuel M. Braverman, Esq.  
Fasulo, Braverman & DeMaggio, LLP  
226 Broadway - Suite 715  
New York, New York 10007

**RE: In the Matter of Mikhail Presman, M.D.**

Dear Parties:

The Determination and Order of the Hearing Committee in the above referenced matter was served on November 25, 2014. The cover letter listed the Order Number for this matter as 14-292. **Please note that the correct Order Number for this matter should be 14-293.**

Sincerely,

[REDACTED]  
James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH:nm  
Enclosure

Howard A. Zucker, M.D., J.D.  
Acting Commissioner of Health

**NEW YORK**  
state department of  
**HEALTH**

Sue Kelly  
Executive Deputy Commissioner

November 25, 2014

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Paul Tsui, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2512  
Albany, New York 12237

Mikhail Presman, M.D.  
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226 Broadway - Suite 715  
New York, New York 10007

**RE: In the Matter of Mikhail Presman, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 14-292) 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.

HEALTH.NY.GOV  
facebook.com/NYSDOH  
twitter.com/HealthNYGov

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,

  
James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH:cah  
Enclosure

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

**COPY**

**IN THE MATTER  
OF  
MIKHAIL PRESMAN, M.D.**

**DETERMINATION  
AND  
ORDER**

**BPMC #14-293**

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("the Department"). A July 15, 2014 Commissioner's Order and Notice of Referral Proceeding with Statement of Charges was served upon Mikhail Presman, M.D. ("Respondent") and is attached to this Determination and Order as Appendix 1. A hearing, pursuant to N.Y. Public Health Law ("PHL") §230 and New York State Admin. Proc. Act §§301-307 and 401, was held on September 17, 2014 at the Department's offices at 150 Broadway, Albany, New York.

Peter B. Kane, M.D., Elaine Lombardi Wilk, D.O., and David F. Irvine, DHSc, RPA-C, duly designated members of the State Board for Professional Medical Conduct ("Board"), served as the Hearing Committee ("Committee") in this matter. Administrative Law Judge Ann H. Gayle served as the administrative officer. The Department appeared by Paul Tsui, Associate Counsel. The Respondent appeared by Sam Braverman, Esq. of Fasulo Braverman & DeMaggio, LLP.

**STATEMENT OF CASE**

Respondent is charged with professional misconduct pursuant to N.Y. Education Law ("Educ. Law") §6530(9)(a)(ii) for having been convicted of a crime under federal law. When a licensee is charged with misconduct under Educ. Law §6530(9), the scope of the hearing is

limited to a determination of the penalty, if any, to be imposed upon the licensee (PHL §230(10)(p)).

### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Citations in brackets, which refer to transcript page numbers ["T"] and exhibits ["Ex"] that were accepted into evidence, represent evidence found persuasive by the Committee in arriving at a particular finding; evidence not cited was considered and rejected in favor of the cited evidence. All Committee findings were unanimous.

1. Respondent was notified of the hearing by personal service on or about August 12, 2014. Respondent, who is incarcerated in the Federal Correctional Institution, Fort Dix, New Jersey, did not personally appear at the hearing but Respondent's letter to the Investigative Committee of the Board was provided to the Committee, and Respondent was represented at the hearing by Counsel. [Ex 2; Ex 6; T 10, 14, 16-17, 30]
2. Respondent was authorized to practice medicine in New York State on February 1, 2001 by the issuance of license number 220313 by the New York State Education Department. [Ex 3]
3. On or about October 30, 2013, Respondent was adjudicated guilty based on a guilty plea to a charge of Health Care Fraud under 18 USC 1347 by the United States District Court, Eastern District of New York in case number CR-13-00576, and his March 13, 2014 sentence included eighteen months imprisonment, three years supervised release, restitution in the amount of \$1,200,000 and a fine of \$100. [Ex 4; Ex 5]

### **CONCLUSIONS OF LAW**

Respondent was charged with professional misconduct under Educ. Law §6530(9)(a)(ii)

for having been convicted of committing an act constituting a crime under federal law (First Specification of Charges). The Committee unanimously concludes that the First Specification is sustained. [Ex 4; Ex 5]

### **DETERMINATION AS TO PENALTY**

The Committee, in considering the full range of penalties available pursuant to PHL Law §230-a, including: (1) censure and reprimand; (2) suspension of the license, wholly or partially; (3) limitation on practice; (4) revocation of the license; (5) annulment of the license or registration; (6) limitation on registration or further licensure; (7) a fine up to \$10,000 per specification sustained; (8) a course of education or training; (9) performance of public service; and, (10) probation, unanimously concludes that the only appropriate penalty for Respondent's wrongdoing is revocation.

The Committee unanimously concludes that the protection of the public requires a revocation of Respondent's license because of how serious Respondent's misconduct, a felony conviction for Health Care Fraud that was committed by virtue of his license to practice medicine, was and how long the fraudulent billing went on. The Committee finds that the amount - \$1.2 million, the type of billing - upcoding and billing Medicare for home medical visits at times when Respondent was in various locations around the world or in his (not the patient's) home, and the duration - 7 years dictate that the only appropriate penalty for such serious misconduct is a revocation of Respondent's license to practice medicine in New York state.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The misconduct charge under Educ. Law §6530(9)(a)(ii) of having been convicted of a crime under federal law is sustained.
2. Pursuant to PHL §230-a(4) Respondent's license to practice medicine shall be revoked.

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

DATED: ESTERO, Florida

NOVEMBER 25, 2014

  
~~PETER B. KANE, M.D., Chair  
ELAINE LOMBARDI WILK, D.O.  
DAVID F. IRVINE, DHEC, RPA-C~~

To: Paul Tsui  
Associate Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Room 2512, Corning Tower  
Empire State Plaza  
Albany, New York 12237

Mikhail Presman, M.D.  
[REDACTED]

Mikhail Presman, M.D.  
FCI Fort Dix  
P.O. Box 2000  
Fort Dix, New Jersey 08640

Samuel M. Braverman, Esq.  
Fasulo Braverman & DeMaggio, LLP  
226 Broadway  
Suite 715  
New York, New York 10007



## **APPENDIX 1**

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

IN THE MATTER  
OF  
MIKHAIL PRESMAN, M.D.  
CO-13-05-2415A

COMMISSIONER'S  
ORDER  
AND  
NOTICE OF  
REFERRAL  
PROCEEDING

TO: Mikhail Presman, M.D.  
[REDACTED]

Mikhail Presman #80667-053  
FCI Fort Dix  
PO Box 2000  
Fort Dix, NJ 08640

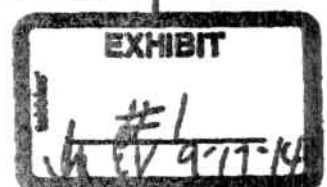
The undersigned, Howard A. Zucker, M.D., J.D., Acting Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that MIKHAIL PRESMAN, M.D., Respondent, licensed to practice medicine in the State of New York on February 1, 2001, by license number 220313, has been convicted of committing an act constituting a felony under Federal law, in United States District Court, Eastern District of 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 MIKHAIL PRESMAN, 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.

EXHIBIT



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 September, 2014, at 10:30 a.m., at 150 Broadway, Suite 510, Menands, 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. Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health no later than ten days prior to the hearing. Any charge and allegation not answered shall be deemed admitted. Respondent may wish to seek the advice of counsel prior to filing such answer.

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, 150 Broadway, Suite 510, Menands, NY 12204-2719, 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  
July 15, 2014

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

Inquiries should be addressed to:

Paul Tsui  
Associate Counsel  
Bureau of Professional Medical Conduct  
Corning Tower - Room 2512  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

MIKHAIL PRESMAN, M.D.  
CO-13-05-2415-A

STATEMENT

OF

CHARGES

MIKHAIL PRESMAN, M.D., Respondent, was authorized to practice medicine in New York State on February 1, 2001, by the issuance of license number 220313 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about October 30, 2013, in the United States District Court, Eastern District of New York, Respondent was found guilty, based on a plea of guilty, of Health Care Fraud in violation of Title 18 U.S.C. §1347 and sentenced on or about March 13, 2014, to 18 months in prison, three (3) years supervised release, \$1,200,000.00 in restitution, and a \$100.00 fine.

**SPECIFICATIONS**

**FIRST SPECIFICATION**

Respondent violated New York Education Law §8530(9)(a)(ii) by being convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *July 15*, 2014  
Albany, New York

\_\_\_\_\_  
MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct