



Department of Health

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

September 23, 2021

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Andrew M. Knoll, M.D., J.D.
Cohen Compagni Beckman Appler & Knoll, PLLC
507 Plum Street, Suite 310
Syracuse, NY 13204

Hannah E.C. Moore, Assistant Counsel
New York State Department of Health
Division of Legal Affairs
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Albany, NY 12237

RE: In the Matter of Muhammad Cheema, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 21-201) 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:

Jean T. Carney, 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 Ms. Carney 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: nm
Enclosure

COPY

**DETERMINATION
AND
ORDER**

The Department appeared by Hannah Moore, Assistant Counsel. A Notice of Referral Proceeding, and Statement of Charges dated March 30, 2021¹, were duly served upon Andrew M. Knoll, Esq., who represented Muhammad Cheema, M.D. (Respondent) at the hearing. (Exhibits 1 and 2.) The Respondent participated in the hearing by telephone. The Hearing Committee received and examined documents from the Department (Exhibits 1-6) and the Respondent (Exhibits A-C). A stenographic reporter prepared a transcript of the proceeding. The Hearing Committee unanimously votes 3-0 to sustain the charge that the Respondent committed professional misconduct, in violation of Education Law (Educ. Law) § 6530(9)(a)(ii), and determined to revoke the Respondent's medical license.

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BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Educ. Law § 6530(9). The Respondent is charged with professional misconduct pursuant to Educ. Law § 6530(9)(a)(ii), by having been convicted of committing an act constituting a crime under federal law, specifically, 18 U.S.C. § 1347.

FINDINGS OF FACT

The Hearing Committee, by unanimous vote, hereby makes the following findings of fact:

1. On August 19, 2004, the Respondent was authorized to practice medicine in New York by the Education Department and was issued license number 233735. (Exhibit 6.)
2. On or about December 10, 2020, the Respondent was convicted in the United States District Court, Western District of New York, following his guilty plea, to the felony crime of Health Care Fraud (18 U.S.C. § 1347) for willfully executing a fraudulent scheme from January 3, 2013 to July 11, 2017 to bill health insurance companies for psychotherapy services that he did not render. As the basis for the entry of his guilty plea, the Respondent agreed that he received approximately \$218,368 in reimbursements related to approximately 5,000 false claims that he was not entitled to receive. The Respondent was sentenced to eighteen months of imprisonment and ordered to pay restitution in the amount of \$813,495.48. (Exhibits 4 and 5.)

CONCLUSIONS OF LAW

The Hearing Committee reviewed the Department's evidence showing the Respondent's plea of guilty in the United States District Court, Western District of New York, to Health Care Fraud, a felony under 18 U.S.C. § 1347. Based on this conviction, the Hearing Committee unanimously

voted (3-0) that the Respondent violated Educ. Law § 6530(9)(a)(ii), which defines professional misconduct to include:

9. (a) Being convicted of committing an act constituting a crime under...(ii) federal law.

The Hearing Committee then considered the full spectrum of penalties under PHL 230-a, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties, and the penalties recommended by both parties. The Department recommended revocation of the Respondent's medical license, while the Respondent requested a more lenient penalty, suggesting a stayed license suspension, a term of probation under the supervision of a practice monitor and/or successful completion of continuing medical education (CME) courses in ethics and medical recordkeeping.

The Hearing Committee agreed with the Department's recommendation that revocation of the Respondent's medical license is warranted. In reaching this conclusion, the Hearing Committee considered the Respondent's conduct that led to his criminal conviction, noting that the Respondent submitted approximately 5,000 false claims for psychiatry services within a 4 ½ year period, routinely billed insurance companies for CPT codes for psychotherapy and evaluation-and-management that reflected significantly more face-to-face time with patients than actually occurred, inputted information in patient records regarding services that were not provided, and falsified documentation to support billings during an audit. The findings supporting the Respondent's conviction reflected systematic, brazen, and premeditated acts.

The Hearing Committee was not persuaded that a penalty other than revocation would provide adequate assurances that the Respondent would not relapse into the fraudulent behaviors that resulted in his criminal conviction. The Respondent stated that his future psychiatric practice upon his release

from prison in September 2021 would be limited to private pay patients, who would be adequately protected by any unsatisfactory treatment or billing methods because they would be able to initiate and resolve billing disputes with the help of credit card companies. However, the Hearing Committee concluded that private pay patients were as, or even more, vulnerable than patients with insurance since services rendered to private pay patients would not be subject to an audit. They also noted that the Respondent overlooked the prospect of patients paying in cash, which would further eliminate a paper trail and accountability for those patients' treatment. Furthermore, as Respondent's counsel conceded, the imposition of a billing monitor to supervise the Respondent would serve no purpose in a "cash-only" practice. The Hearing Committee strongly believes that the penalty of revocation protects all patients, regardless of their pay status.

The Hearing Committee found that the Respondent's explanations for his actions belied his stated acceptance of responsibility for his actions. For instance, he vaguely attributed a falsified lab report and records to a new secretary and explained that he falsified documentation showing board certification in psychiatry because it was very easy to locate and forge such documentation. He also claimed that his billing methods were common practice amongst psychiatrists, despite being ranked as the 2nd, 7th, and 17th highest biller for certain CPT codes amongst psychiatrists in the Western New York region where he practiced. The Respondent's contention that the amount of restitution that he has paid far exceeds the total amount of payments received for fraudulent claims also evinces the Respondent's inability to grasp the significance or ultimate objective of the criminal sentence he was handed.

The Respondent has failed to accept responsibility for his actions, despite serving a jail sentence and paying substantial amounts in restitution. The Hearing Committee seeks to convey to the Respondent the gravity of his criminal acts and the harm that such acts inflict upon the public.

Therefore, the Hearing Committee concluded that the only appropriate penalty in this case is the revocation of the Respondent's medical license.

ORDER

IT IS HEREBY ORDERED THAT:


1. The specification of professional misconduct, as set forth in the Statement of Charges, is sustained.
2. The Respondent's license to practice medicine in the state of New York is revoked pursuant to PHL § 230-a(4).
3. This Order shall be effective upon service on the Respondent in compliance with PHL § 230(10)(h).

**DATED: Menands, New York
, 2021**

NYS DEPT OF HEALTH

SEP 22 2021

**Division of Legal Affairs
Bureau of Adjudication**


**William A. Tedesco, M.D.
Chairperson**

**Gregory Allen Threatte, M.D.
David F. Irvine, DHSc, P.A.**

To: Andrew M. Knoll, M.D., J.D.
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Hannah E.C. Moore, Assistant Counsel
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APPENDIX I

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

IN THE MATTER
OF
MUHAMMAD CHEEMA, M.D.

STATEMENT
OF
CHARGES

MUHAMMAD CHEEMA, M.D., the Respondent, was authorized to practice medicine in New York State on or about 08/19/2004, by the issuance of license number 233735 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 10, 2020, a judgment was entered, in the United States District Court, Western District of New York, convicting Respondent, after a guilty plea, of one count Health Care Fraud (18 U.S. Code § 1347); a felony. Respondent was sentenced to an 18-month term of imprisonment, and restitution in the amount of \$813,495.48.

SPECIFICATION OF CHARGES

CRIMINAL CONVICTION (Federal)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. The facts of Paragraph A.

DATE: March 30, 2021
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct