

**These charges are only allegations
which may be contested by the licensee
in an administrative hearing.**

IN THE MATTER
OF
TOLBERT JONES SMALL, M.D.

TOLBERT JONES SMALL, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 12, 1973 by the issuance of license number 114756 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 15, 2020, the Medical Board of California issued a Decision that became effective July 15, 2020, that adopted a Stipulated Settlement and Disciplinary Order entered into by the Respondent and the California Medical Board. The Decision resulted in a revocation of the Respondent's Physician's and Surgeon's Certificate No. A 23282, which was stayed, and placed Respondent on probation for thirty-five (35) months. The Disciplinary Order also imposed a prohibition from solo practice of medicine; prohibited Respondent from supervising physician assistants and advanced practice nurses during the probation term; and required Respondent to complete an education course annually, and successfully complete CME in the areas of prescribing practices, medical recordkeeping, and ethics.

The Decision resolved an Accusation that alleged, in part, Respondent violated California law by engaging in gross negligence, repeated negligent acts, excessive/dangerous prescribing without examination/indication, inadequate medical recordkeeping, and failing to properly supervise a physician assistant under his charge regarding the care of three patients between 2011-2019. It was alleged, among other things, that Respondent failed to classify patient's risk stratification when prescribing controlled substances, failed to get a consultation with an addiction medicine specialist, failed to properly monitor the controlled substances regimen throughout treatment, failed to keep adequate medical records, excessively prescribed controlled substances without medical indication therefor, failed to monitor side effects related to opioid use, and failed to properly supervise the physician assistant providing care to these patients. It was also alleged

that Respondent improperly self-prescribed Ambien, a controlled substance, daily throughout most of 2015 and 2016.

B. The conduct resulting in the California disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following section (s) of New York State law:

1. New York Education Law § 6530(4) (practicing the profession with gross negligence on a particular occasion)
2. New York Education Law § 6530(3) (practicing the profession with negligence on more than one occasion)
3. New York Education Law § 6530(32) (failure to maintain an accurate record for each patient)
4. New York Education Law § 6530(33) (failing to exercise appropriate supervision over persons authorized only to practice under supervision of licensee)

SPECIFICATION OF CHARGES

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530(4), § 6530(3), § 6530(32), 6530(33)) as alleged in the facts of the following:

1. Paragraphs A and B.

DATE: July 14, 2021
Albany, New York


Jeffrey J. Conklin
Acting Deputy Counsel
Bureau of Professional Medical Conduct