

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

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

IN THE MATTER
OF
KEVIN JOSEPH PAUZA, M.D.

NOTICE OF
REFERRAL
PROCEEDING

Kevin Joseph Pauza, M.D.
1814 Roseland Blvd., Suite 250
Tyler, TX 75701

Michael Elliott, Esq.
7557 Rambler Road
Suite 970
Dallas, Texas 75231

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on April 15, 2019, at 10:30 a.m., at 90 Church Street, 4th Floor, New York, NY 10007, in Hearing Room 1, and at such other adjourned dates, times and places as the committee may direct.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon

the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748)), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. You may also file a written brief and affidavits with the Committee. All such documents shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

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. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here _____



The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. 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 OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
March 11, 2019



HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Deborah Beth Medows
Senior Attorney
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, NY 10007
(212) 417-4389

EXHIBIT "A"

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

**IN THE MATTER
OF
KEVIN JOSEPH PAUZA, M.D.**

**STATEMENT
OF
CHARGES**

Kevin Joseph Pauza, M.D., the Respondent, was licensed to practice medicine in New York State on or about September 17, 2012, by the issuance of license number 266712 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 24, 2018, the Respondent voluntarily entered into an Agreed Order with the Texas Medical Board that stated that he failed to maintain an adequate medical record for one patient that was complete, contemporaneous, and legible, along with failing to practice medicine in an acceptable professional manner consistent with public health and welfare.

1. In the 2018 disciplinary Agreed Order, the Respondent neither admitted nor denied the allegations. The Texas Medical Board alleged in this Order that the Respondent diagnosed the patient whose condition precipitated this Order with lumbar disc pain and lumbar radiculopathy without specifically and clearly documenting in a complete, contemporaneous, and legible record the

rationale behind the diagnosis. The Order further alleged that the Respondent failed to document that he considered simpler and less invasive treatment options prior to performing the procedure or that the patient chose to forego conventional treatment.

2. In the 2018 Agreed Order, the Texas Medical Board ordered the Respondent to: have a practice monitor for 12 consecutive monitoring cycles who shall be either an orthopedic surgeon or neurosurgeon who specializes in spinal procedures; take and pass the Medical Jurisprudence Examination with a score of 75 or above within three attempts within one year following the date of the entry of the Order; and to pay a three thousand dollar (\$3,000) administrative penalty. The Respondent was also required to enroll in, within one year from the date of the Texas Board Order, and successfully complete, at least twenty (20) hours of continuing medical education (CME). He was required to complete four hours of CMEs in each of the following topics: complementary and/or alternative medicine, informed consent, ethics, patient communication, and risk management.

B. The conduct resulting in the Agreed Order would constitute misconduct under the laws of New York State, pursuant to the following section of New York State Law:

1. N.Y. Educ. Law § 6530(32) (Failing to Maintain an Adequate Medical Record.)

SPECIFICATION OF CHARGE

HAVING A DISCIPLINARY ACTION TAKEN

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 (32), as alleged in the facts of the following:

1. The facts in Paragraph A and its subparagraphs.

DATE: March 11, 2019
New York, New York



Henry Weintraub
Chief Counsel
Bureau of Professional Medical Conduct