



**Department  
of Health**

**ANDREW M. CUOMO**  
Governor

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

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

January 5, 2017

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Jeffrey Matfus, M.D.  


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

**RE: In the Matter of Jeffrey Matfus, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 17-010) 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:cah  
Enclosure

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

**COPY**

**IN THE MATTER  
OF  
JEFFREY MATFUS, M.D.**

**DETERMINATION**

**AND**

**ORDER**

**BPMC #17-010**

A hearing was held on December 13, 2016, at the offices of the New York State Department of Health ("Department").<sup>1</sup> Pursuant to § 230(10)(e) of the Public Health Law ("PHL"), **WILLIAM A. TEDESCO, M.D.**, Chairperson, **DENNIS P. ZIMMERMAN, M.S., CRC**, and **MARY E. RAPPAZZO, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **DAWN MacKILLOP-SOLLER, ADMINISTRATIVE LAW JUDGE ("ALJ")**, served as the administrative officer.

The Department appeared by Marc Nash, Senior Attorney. A Notice of Referral Proceeding dated September 22, 2016, and Statement of Charges dated September 21, 2016, were served upon Jeffrey Matfus, M.D. ("Respondent"), who did not appear at the hearing.<sup>2</sup> There were no witnesses at the hearing. The Hearing Committee received and examined documents from the Department and a stenographic reporter prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustains the charges that the Respondent committed professional misconduct, in violation of Education Law ("Educ. Law") §§ 6530(9)(b) and 6530(9)(d). The Hearing Committee unanimously votes 3-0 to revoke the Respondent's license to practice medicine in New York.

<sup>1</sup> The location of the hearing was 150 Broadway, Suite 510, Menands, New York.

<sup>2</sup> Copies of the Notice of Referral Proceeding and Statement of Charges are attached to this Determination and Order as Appendix I. References in brackets refer to exhibits [Ex.].

## BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for an expedited 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)(b), "having been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state," and § 6530(d), "having (his) license to practice medicine revoked, suspended or having other disciplinary action taken..." where the conduct resulting in such disciplinary action taken against his license to practice medicine would, if committed in the state of New York, constitute professional misconduct under the laws of the state of New York.

This case is based on the Final Order of the Florida Board of Medicine ("Florida Board") dated December 15, 2015, finding the Respondent guilty of professional misconduct resulting from his improper prescriptions of oxycodone that he issued to individuals in high doses without clinical justification and absent treatment plans, physical examinations or maintaining medical records. The Florida Board found that the Respondent's conduct warranted revocation of his state of Florida medical license. [Ex. 6]. The Department charges that had the Respondent's conduct occurred in New York, it would have constituted practicing the profession with negligence on more than one occasion and failing to maintain a record of the patient which accurately reflected the evaluation of the patient, as defined in Educ. Law §§ 6530(3) and 6530(32), respectively. [Ex. 1].

## FINDINGS OF FACT

The Findings of Fact were made by the Hearing Committee after a review of the record in this matter. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence. The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. Jeffrey Matfus, M.D., the Respondent, was licensed to practice medicine in New York on July 1, 1976, by the issuance of license number 127429 by the Education Department. [Ex. 4, 5].

2. On December 15, 2015, the Florida Board found that the Respondent issued prescriptions for oxycodone to an individual he agreed to meet at a hotel, who used a fake name at the time of the first encounter on March 30, 2015, and who used a different name the following day to request a script for himself and an individual not present. In exchange for completing these illicit prescriptions, which were issued without clinical justification or treatment plans and absent physical examinations, the Respondent accepted \$100.00 cash payments. He also failed to record any medical record documentation. The Florida Board found the Respondent guilty of professional misconduct and ordered revocation of his license to practice medicine in the state of Florida. [Ex. 6].

## VOTE OF THE HEARING COMMITTEE

### FIRST SPECIFICATION

The Hearing Committee determined that the evidence supports sustaining the charge of having committed misconduct under Educ. Law § 6530(9)(b).

VOTE: Sustained (3-0)

---

### SECOND SPECIFICATION

The Hearing Committee concluded that the evidence supports sustaining the charge of having committed misconduct as defined in Educ. Law § 6530(9)(d).

VOTE: Sustained (3-0)

### CONCLUSIONS OF LAW

After attempts to personally serve the Respondent with the Notice of Referral Proceeding and Statement of Charges at the address registered with the New York State Education Department failed, the Department presented evidence to show that the Respondent was served by certified mail at the same address pursuant to PHL § 230(10)(d)(i), establishing jurisdiction. [Ex. 2, 3]. After considering this, the ALJ ruled that the hearing could proceed on the merits despite the Respondent's absence at the hearing.

The Department's evidence showed that the Respondent completed oxycodone prescriptions for individuals in excessive amounts and without performing physical evaluations or assessments to confirm the medical necessity and appropriateness of the drugs. The Hearing Committee considered how the Respondent used his medical license to improperly issue such prescriptions for financial gain while simultaneously failing to perform any medical care, such as taking medical histories, vital signs or monitoring for side effects or reactions to the drugs. Most concerning to the Hearing Committee was the Respondent's conduct in recklessly issuing such prescriptions to unknown individuals and in one case, to a person he had never met. [Ex. 6].

The Hearing Committee considered the dangerous and addictive nature of oxycodone and found the Respondent's prescription practices, which included haphazardly handing out oxycodone prescriptions at a hotel, egregious. Consistent with his lack of medical care to the individuals prescribed the drugs, the Hearing Committee noted the Respondent's failure to document the transactions, to include, at a minimum, medical rationales for the prescriptions. Like Florida, in cases

where physicians prescribe controlled substances, New York requires physicians to perform physical examinations and assessments of patients, which the Respondent failed to do. Similar to Florida, New York also obligates physicians prescribing such drugs to properly document patients' medical records with the results of evaluations and explanations for prescriptions, tasks the Respondent never completed. The Respondent's failures, had they occurred in New York, would have constituted negligence on more than one occasion, as defined in Educ. Law § 6530(3), and a failure to maintain a record for a patient which accurately reflects the evaluation of the patient, as defined in Educ. Law § 6530(32). [Ex. 6].

The Hearing Committee considered the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties. In doing so, it found that the sustained specifications indicate the Respondent's markedly poor judgment in the use of his medical license to improperly issue prescriptions for controlled substances, which placed the patients taking the drugs at risk for harm. As such, the Hearing Committee unanimously concluded that the evidence supports revocation of the Respondent's New York medical license.

### ORDER

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

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**;
2. The Respondent's license to practice medicine in New York State is **REVOKED**; and
3. This Determination and Order shall be effective upon service on the Respondent. Service shall be either by certified mail upon the Respondent at his last known address and such service shall

be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York

1/3 2016  
2017

[Redacted]

William A. Tedesco, M.D.  
Chairperson

Dennis P. Zimmerman, M.S., CRC  
Mary E. Rappazzo, M.D.

TO: Jeffrey Matfus, M.D.

[Redacted]

Marc Nash, Esq.  
Senior Attorney  
Bureau of Professional Medical Conduct  
Corning Tower Building - Room 2512  
Empire State Plaza  
Albany, New York 12237



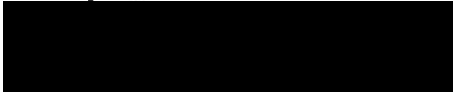
# **APPENDIX I**

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

IN THE MATTER  
OF  
JEFFREY MATFUS, M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Jeffrey Matfus, M.D.



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 December 14, 2016, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Menands (Albany), NY 12204-2719.<sup>1</sup>

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

<sup>1</sup> For GPS purposes, enter "Menands", not "Albany".



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:** Albany, New York  
September 22, 2016

  
**MICHAEL A. HISER**  
Deputy Counsel  
Bureau of Professional Medical Conduct

**Inquiries should be addressed to:**

**Marc S. Nash  
Senior Attorney  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, NY 12237  
(518) 473-1708**

IN THE MATTER  
OF  
JEFFREY MATFUS, M.D.

STATEMENT  
OF  
CHARGES

JEFFREY MATFUS, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1976, by the issuance of license number 127429 by the New York State Education Department,

**FACTUAL ALLEGATIONS**

- A. By Final Order dated December 15, 2015, the Florida Board of Medicine (hereinafter "Florida Board") revoked Respondent's license to practice medicine. This action was based upon the facts set forth in an Administrative Complaint filed on June 26, 2015, which the Florida Board approved, adopted, and incorporated by reference as the conclusion of law. The Florida Board concluded that in the care of two patients, Respondent committed medical malpractice, prescribed a controlled substance other than in his course of his professional practice, and failed to create or maintain adequate medical records which justified the course of treatment.
- B. The conduct resulting in the Florida Board's disciplinary action against the Respondent would constitute misconduct under the laws of New York State pursuant to the following Sections of New York State Law:

1. New York Education Law § 6350(3) (Practicing the profession with negligence on more than one occasion); and/or
2. New York Education Law § 6350(32) (Falling to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

### **SPECIFICATION OF CHARGES**

#### **FIRST SPECIFICATION**

##### **HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT**

Respondent violated New York State Education Law § 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York State in that the Petitioner charges:

1. The facts in paragraphs A and B and B1 and/or A and B and B2.

#### **SECOND SPECIFICATION**

##### **HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent violated New York State Education Law § 6530(9)(d) by having disciplinary action taken, where the conduct resulting in the disciplinary action involving

the license would, if committed in New York State, constitute professional misconduct under the laws of New York State Law, in that Petitioner charges:

2. The facts in Paragraphs A and B and B1 and/or A and B and B2.

DATE: September 21, 2016  
Albany, New York



MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct