



Department of Health

ANDREW M. CUOMO
Governor

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

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

June 22, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Anna Lewis, Esq.
NYS Department of Health
90 Church Street – 4th Floor
New York, New York 10007

James Fletcher, M.D.


RE: In the Matter of James Fletcher, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 17-172) 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.

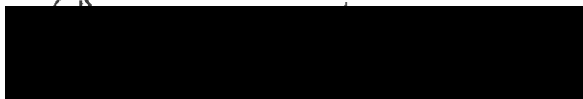
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A large black rectangular redaction box covers the signature area of the letter.

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: nm
Enclosure

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

COPY

-----x
IN THE MATTER
OF
JAMES FLETCHER, M.D.

DETERMINATION
AND
ORDER

-----x
BPMC-17-172

The New York State Department of Health (“Department”) charged James Fletcher, M.D. (“Respondent”), with professional misconduct in violation of New York State Education Law § 6530(9)(d). The Department alleges that actions taken by Respondent, for which his medical license was disciplined in another state, constitute professional misconduct under the laws of New York State.

A hearing was held on April 19, 2017. Administrative Law Judge Jankhana Desai presided over the hearing. Pursuant to Section 230(10)(e) of the Public Health Law (“PHL”), Airlie A.C. Cameron, M.D., Chairperson, Iffath Abbasi Hoskins, M.D., and Ruth Horowitz, Ph.D., duly designated members of the State Board for Professional Medical Conduct (“BPMC”), served as the Hearing Committee (“Committee”).

The Department appeared by Anna Lewis, Associate Counsel for the Bureau of Professional Medical Conduct. Respondent did not appear at the hearing. Evidence was received, and a transcript of the proceeding was made. After consideration of the entire record, the Committee voted 3-0 to sustain the charge of professional misconduct and revoke Respondent’s license to practice medicine in New York State.

BACKGROUND

This case was brought pursuant to PHL § 230(10)(p), a statute that provides for a direct referral proceeding when a licensee is charged solely with a violation of Educ. Law § 6530(9). In this case, Respondent is charged with professional misconduct pursuant to Educ. Law § 6530(9)(d), for “having his ... license to practice medicine revoked, suspended or having other disciplinary action taken...” where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State. Respondent’s license was disciplined in the Commonwealth of Massachusetts, and the Department charges that the underlying conduct in Massachusetts violates Educ. Law § 6530(8) (being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects).

The scope of this direct referral hearing is limited to whether there was a relevant administrative determination in another state and if so, an assessment of the nature and severity of the penalty to be imposed upon the licensee.

PROCEDURAL HISTORY

Respondent did not appear at the hearing, either in person or by counsel. The Department’s evidence established that the Department had met the requirements of law for due diligence in the service of process, that jurisdiction has been established over Respondent, and that the hearing could proceed on the merits notwithstanding Respondent’s absence.

The Notice of Hearing states the following:

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 and allegation not so answered shall be deemed admitted.

Respondent failed to file any answer to the charges and allegations in the Statement of Charges. At the Department's request, and pursuant to PHL § 230(10)(p), the charges and allegations were deemed admitted.

FINDINGS OF FACT

The Committee made the following findings of fact unanimously:

1. Respondent was authorized to practice medicine in New York State on July 1, 1985, by the issuance of license number 163026, by the New York State Education Department.

2. On June 7, 2014, Respondent signed a non-disciplinary Voluntary Agreement Not to Practice Medicine ("Voluntary Agreement") while the Massachusetts Board of Registration in Medicine ("Massachusetts Board") investigated allegations that involved quality of care issues and concerns when Respondent appeared for work under the influence of alcohol. (Exhibit 3.)

3. On September 24, 2014, the Massachusetts Board filed a Statement of Allegations, alleging that Respondent reported to work under the influence of alcohol and was subsequently removed from one position, was diagnosed with Alcohol Dependence [REDACTED] [REDACTED] lied on his physician renewal applications, failed to remember medications that he ordered for patients and later denied ever making the orders, fell asleep during rounds, failed to remember conversations with staff members, failed to properly manage medications, including, but not limited to, failing to properly prescribe anti-psychotic medications, failed to perform complete consultations on patients, and failed to maintain proper patient medical records. The Massachusetts Board also alleged that Respondent participated in a Forensic Fitness to Practice

Evaluation and it was found that Respondent exhibited mildly impaired functioning. (Exhibit 3.)

4. On October 20, 2014, Respondent voluntarily agreed to resign his license to practice medicine in Massachusetts. (Exhibit 3.)

5. On November 5, 2014, the Massachusetts Board accepted Respondent's resignation and issued an order ("Massachusetts Order"), wherein the Board terminated Respondent's Voluntary Agreement, and Respondent surrendered his license to practice medicine, which was deemed disciplinary. (Exhibit 3.)

VOTE OF THE COMMITTEE

Respondent's conduct in Massachusetts shows that he is a habitual user of alcohol, which would constitute professional misconduct in New York under Educ. Law § 6530(8). Therefore, the Committee unanimously sustained the charge that Respondent committed professional misconduct as defined in Educ. Law § 6530(9)(d).

COMMITTEE DETERMINATION

Respondent was deemed to have admitted the factual allegations and specification of misconduct contained in the Statement of Charges because he failed to file a written answer. In addition, the Department's documents admitted into evidence fully supported the allegations. The Committee unanimously sustained the specification of misconduct contained in the Statement of Charges.

The 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. The Committee found that Respondent is a habitual alcohol user and is therefore a danger to patients. The Committee received no evidence that Respondent has

received treatment or taken corrective actions. Respondent's failure to appear at the hearing deprived the Committee of any opportunity to consider mitigating or rehabilitative evidence. The Committee unanimously concluded that public protection demands that Respondent's license to practice medicine in New York State be revoked.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is **SUSTAINED**.
2. Respondent's license to practice medicine in New York State is hereby **REVOKED**.
3. This Determination and Order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required by PHL 230(10)(h).

DATED: June 15, 2017


Airlie A.C. Cameron, M.D., Chairperson

Iffath Abbasi Hoskins, M.D.
Ruth Horowitz, Ph.D.

To:

James Fletcher, M.D.


Anna Lewis
Associate Counsel
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, NY 10007

APPENDIX I

IN THE MATTER

OF

JAMES FLETCHER, M.D.

STATEMENT

OF

CHARGES

JAMES FLETCHER, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1985, by the issuance of license number 163026 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 11, 2014, pursuant to an Agreement between the Respondent and the Commonwealth of Massachusetts, Board of Registration in Medicine ("Board") a non-disciplinary Voluntary Agreement Not To Practice Medicine was accepted by the Board, while it investigated allegations that involved quality of care issues and concerns regarding Respondent's coming to work under the influence of alcohol. On or about October 20, 2014, Respondent voluntarily agreed to resign his license to practice medicine in the Commonwealth of Massachusetts.


1. On November 5, 2014, the Board accepted Respondent's resignation and issued an Order, wherein the Board terminated Respondent's Voluntary Agreement Not to Practice Medicine, and Respondent surrendered his license to practice medicine, which was deemed disciplinary.
2. The conduct resulting in the Board's Order against Respondent would constitute misconduct under the laws of New York State pursuant to New York Education Law §6530(8)(Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects)

SPECIFICATION OF CHARGES
HAVING HAD 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(8)) as alleged in the facts of the following:

1. Paragraphs A and A.1. and A.2.

DATE: February 14, 2017
New York, New York



Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct