



**Department
of Health**

ANDREW M. CUOMO
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Commissioner

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

August 11, 2016

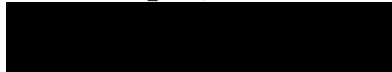
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

William Rogers, M.D.



David D. Hudgins, Esq.
Hudgins Law Firm, P.C.
515 King Street – Suite 400
Alexandria, Virginia 22314

William Rogers, M.D.



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

RE: In the Matter of William Rogers, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.16-279) 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.

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 Respondent or the Department may seek a review of a committee determination.

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 solid black rectangular redaction box covering the signature of James F. Horan.

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**

**IN THE MATTER
OF
WILLIAM ROGERS, M.D.**

**DETERMINATION
AND
ORDER
BPMC #16-279**

COPY

A hearing was held on July 14, 2016, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding, dated May 25, 2016 and a Statement of Charges, dated March 17, 2016, were served upon the Respondent, **William Rogers, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Robert A. Catalano, M.D., M.B.A., Chair, Kenneth J. Steier, D.O., and Gail S. Homick Herrling**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **Richard J. Zahnleuter, Esq.**, General Counsel, by **Marc Nash, Esq.**, of Counsel. The Respondent, **William Rogers, M.D.**, did appear, by telephone, along with his attorney from the Commonwealth of Virginia, **David D. Hudgins, Esq.** of the Hudgins Law Firm. Evidence was received and transcripts of these proceedings were made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(d) by having had action taken against his license to practice medicine after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, 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. Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:	None
For the Respondent:	None

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex."

These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. William Rogers, M.D., the Respondent, did appear at the hearing, by telephone, along with his attorney and was personally served with process. (Petitioner's Ex. 2)
2. William Rogers, M.D., the Respondent, was authorized to practice medicine in New York State on December 11, 1989, by the issuance of license number 180975 by the New York State Education Department. (Petitioner's Ex. 3)
3. On or about March 30, 2015, the Virginia Board of Medicine (hereinafter, Virginia Board) by a Consent Order, reprimanded Respondent based upon findings that Respondent, on or about November 22, 2013, wrote a prescription for one vial of injectable Haldol Decanoate (Schedule VI), 50 mg/i ml, with five refills, for a female individual with whom Respondent did not have a bona fide physician-patient relationship. (Petitioner's Ex. 4)
4. The Virginia Order specified that Respondent had never seen or examined the individual, had never talked to the individual, did not maintain a medical record for this individual, did not assess the individual or formulate a diagnosis, and did not have the individual's medical history or consent for treatment, but instead relied on information given to Respondent by the individual's son-in-law. (Petitioner's Ex. 4)

5. The Conduct resulting in the Virginia Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following Sections of New York State Law:

- a. New York Education Law § 6350(4) (Practicing the profession with gross negligence on a particular occasion); and/or
- b. New York Education Law § 6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

“Respondent violated New York State Education Law § 6530(9)(d) by having had disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state 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...”

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, with counsel, by telephone from Virginia. The Administrative Officer had the Respondent sworn for testimony by a Notary Public from the Commonwealth of Virginia, Notary License #Y739125.

The undisputed record herein shows that the Respondent was reprimanded by the Virginia Board of Medicine for writing a prescription for one vial of injectable Haldol Decanoate, for a female individual with whom Respondent did not have a *bona fide* physician-patient relationship. The Virginia Order specified that Respondent had never seen or examined the individual, had never talked to the individual, did not maintain a medical record for this individual, did not assess the individual or formulate a diagnosis, and did not have the individual's medical history or consent for treatment, but instead relied on information given to Respondent by the individual's son-in-law.

The Respondent testified and did not dispute the basic facts of the case. Dr. Rogers accepted the fact that he was guilty and had violated the letter of the law in prescribing medication without seeing the patient. The Respondent admitted that he had never met the patient in question, but relied on the information given the Respondent by the patient's son-in-law, an Air Force medical technician with whom the Respondent worked.

According to the Respondent, the patient in question was diagnosed with Capgras Syndrome and refused to seek mental health treatment. The Respondent went on to testify that he was concerned that this individual would leave her home at night and wander the neighborhood and so he provided a prescription for Haldol Deconate to stabilize her. It is noted that the record shows that the patient refused to accept an injection of this medicine. The record goes on to show that the patient was subsequently admitted to a mental health treatment facility where the treating psychiatrist did administer Haldol Deconate.

(Petitioner's Exhibit 4)

The record shows that the Respondent did not dispute the facts of the Virginia Order and that he accepted the Reprimand and its condition that he complete eight hours of Board-approved Continuing Medical Education in the subject of proper prescribing.

(Petitioner's Exhibit 4) At the hearing, the Respondent's attorney submitted a certificate from the Robert Wood Johnson Medical School of Rutgers University, dated November 22, 2015, showing that the Respondent completed the required course in Medical Ethics. Along with this certificate, Mr. Hudgins also submitted a letter from the Virginia Board of Medicine, dated December 18, 2015, establishing that the Respondent's course work verification satisfied the Virginia Board Order and that the conditions placed on his license were thereby terminated and that he was restored to a full and unrestricted license in that Commonwealth. (See Respondent's Exhibit A)

Based on the evidence in the record the Department's attorney asked the panel to impose a Censure and Reprimand and a \$500 fine and have the Respondent pay his New York registration fees. The panel disagreed with the fine and payment of registration fees and determined that there was no financial gain to the Respondent and thus no basis for a monetary penalty. After considering all the options available, the panel was unanimous in sustaining the charges and agreed, again unanimously, that that a Censure and Reprimand was warranted by the facts of this case and so reprimanded and censured the Respondent.

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 is **CENSURED AND REPRIMANDED** for his conduct in the Commonwealth of Virginia, and, in particular, for his prescribing a medication without seeing or examining the patient in question.

3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

**DATED: Delmar, New York
August 3, 2016**

[REDACTED]

Robert A. Catalano, M.D., M.B.A., Chair

**Kenneth J. Steier, D.O.
Gail S. Homick Herrling**

To:

William Rogers, M.D.,

[REDACTED]

William Rogers, M.D.,

[REDACTED]

**David D. Hudgins, Esq.
Hudgins Law Firm, P.C.
515 King Street, Suite 400
Alexandria, VA 22314**

**Marc S. Nah, Esq.
Attorney for Petitioner
Senior Attorney
NYS Department of Health
Bureau of Professional Medical Conduct
Coming Tower, Room 2512
Albany, New York 12237**

APPENDIX 1

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

IN THE MATTER
OF
WILLIAM ROGERS, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: William Rogers, M.D.

William Rogers, M.D.

David D. Hudgins, Esq.
Hudgins Law Firm, P.C.
515 King Street, Suite 400
Alexandria, VA 22314

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 July 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 12204-2719.¹

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.

¹ For GPS purposes, enter "Menands", not "Albany".

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 610, 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,

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
May 25, 2016


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

**Marc Nash
Senior Attorney
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282**

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

IN THE MATTER

OF

WILLIAM ROGERS, M.D.
[REDACTED]

STATEMENT
OF
CHARGES

WILLIAM ROGERS, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 11, 1989, by the issuance of license number 180975 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 30, 2015, the Virginia Board of Medicine (hereinafter, "Virginia Board") by a Consent Order, reprimanded Respondent based upon findings that Respondent, on or about November 22, 2013, wrote a prescription for one vial of Injectable Haldol Decanoate (Schedule VI), 50 mg/1 ml, with five refills, for a female individual with whom Respondent did not have a bona fide physician-patient relationship. Specifically, Respondent had never seen or examined the individual, had never talked to the individual, did not maintain a medical record for this individual, did not assess the individual or formulate a diagnosis, and did not have the individual's medical history or consent for treatment, but instead relied on information given to Respondent by the individual's son-in-law.

B. The Conduct resulting in the Virginia Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following Section of New York State Law:

1. New York Education Law § 8350(4) (Practicing the profession with gross negligence on a particular occasion); and/or

2. New York Education Law § 6530 (32) (Falling to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATION OF CHARGES

DISCIPLINARY ACTION IN ANOTHER STATE

Respondent violated New York State Education Law § 6530(9)(d) by having disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state 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:

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

DATE: March 7, 2016
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct