



ANDREW M. CUOMO  
Governor

Department  
of Health

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

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

December 1, 2015

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Ramesh Gihwala, M.D.  


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

**RE: In the Matter of Ramesh Gihwala, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No.15-284) 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  
RAMESH GIHWALA, M.D.,  
RESPONDENT**

**COPY**

**DETERMINATION  
AND  
ORDER**

**BPMC #15-284**

A hearing was held on October 15, 2015 at the offices of the New York State Department of Health ("the Department"). Pursuant to § 230(10)(e) of the Public Health Law, Mohammad-Reza Ghazi-Moghadam, M.D., Chair, Gail Homick Herrling, and Rose Berkun, M.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Dawn MacKillop-Soller, Esq., Administrative Law Judge, served as the administrative officer. The references in brackets refer to exhibits ["Ex.,"] and/or testimony ["T"].

The Department appeared by Richard Zahnleuter, Esq., Acting General Counsel, by Paul Tsui, Esq., of counsel. A Notice of Referral Proceeding dated July 30, 2015 and Statement of Charges dated July 28, 2015, were served upon the Respondent, Ramesh Gihwala, M.D.<sup>1</sup> The Respondent represented himself at the hearing. There were no other witnesses. After consideration of the entire record, the Hearing Committee issues this Determination and Order, finding that

<sup>1</sup> After several attempts at personal service at both the Respondent's registered address and two additional addresses the Department had for Respondent, the Department sent the Notice of Hearing, Statement of Charges, and Summary of Hearing Rules by certified mail, establishing service pursuant to Public Health Law § 230(10)(d)(i). As a result, at the hearing, the ALJ found that jurisdiction was established. [Ex. 2,3,4,5]

although Respondent is guilty of professional misconduct, his medical license should not be subject to any penalty.

### STATEMENT OF THE CASE

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

Respondent is charged with professional misconduct pursuant to Education 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 the disciplinary action taken against his license to practice medicine 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 I.

This case is based on a Consent Order of the North Carolina Medical Board (hereinafter "North Carolina Board") effective May 20, 2013 finding Respondent engaged in professional misconduct in North Carolina and ordering payment of a \$1,000.00 fine and reprimand of his medical license to include indefinite probation, a practice monitor, and compliance with the North

Carolina Physicians' Health Program ("NCPHP"). [Ex. 7, Order, 1,2,3,4] Whether the North Carolina Board's findings are misconduct here hinges on whether the underlying conduct would constitute professional misconduct in New York.

The Department has charged that the underlying conduct violates Education Law § 6530(3), practicing the profession with negligence on more than one occasion, § 6530(5), practicing the profession with incompetence on more than one occasion, § 6530 (28), failing to respond within 30 days to written communications from the Department of Health and to make available relevant records with respect to an inquiry or complaint, and § 6530(32), failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. This section also obligated Respondent to retain all patient records for at least six years.

#### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter:

1. Ramesh Gihwala, M.D., the Respondent, was authorized to practice medicine in New York State on March 15, 1990, by the issuance of license number 181695 by the New York State Education Department. [Ex. 6]

2. By a Consent Order dated June 20, 2013, the North Carolina Board found Respondent engaged in professional misconduct in North Carolina and ordered payment of a \$1,000.00 fine and reprimand of his medical license to include indefinite probation with a practice monitor and compliance with the NCPHP. [Ex. 7, Order, 1, 2,3,4] The Consent Order states that Respondent admitted to the Findings of Fact and the charges, as stated in the Notice of Charges dated January 7, 2013 (hereinafter "NOC"). [Ex. 7]

3. In an Amended Order dated December 9, 2013, the North Carolina Board terminated

Respondent's probationary term effective November 21, 2013. The North Carolina Board, in an Order dated May 29, 2015, found Respondent satisfactorily completed his practice monitor requirements and any outstanding obligations from the Consent Order and Amended Consent Order. [Ex. 7]

4. The North Carolina Board based its findings on Respondent's conduct, as a psychiatrist, in prescribing controlled substances to his patients between 2008 and 2012 without performing comprehensive psychiatric assessments and in the absence of properly documenting their medical records. [Ex. 7, NOC, 5,6,9,11,12,13,14,17,20,23] They also based their findings on Respondent's failure to provide clinical justifications for psychiatric diagnoses and his improper prescription practices. [Ex. 7, NOC, 9,11,17, 20,23] An additional basis for their findings was in Respondent's failures to respond to inquiries and requests for information concerning a patient's complaint about his professional practice. [Ex. 7, NOC, 29-36]

### **HEARING COMMITTEE DETERMINATION**

#### **A. Negligence on More Than One Occasion**

The Hearing Committee concluded that the evidence supported sustaining the charge of negligence on more than one occasion, in violation of New York Education Law § 6530(3). Negligence constituting professional misconduct is the "failure to exercise the care that would be exercised by a reasonably prudent licensee under the circumstances." Bogdan v. State Bd. for Prof'l Med. Conduct, 195 A.D.2d 86, 88 (3<sup>rd</sup> Dept. 1993). Negligence pursuant to New York State Education Law § 6530(3) has been found when a physician "repeatedly prescribes habit-forming controlled substances without performing appropriate physical examinations or evaluations necessary for proper diagnosis and treatment of the patients at issue..." and where the patients'

medical records are inadequate. Conteh v. Daines, 52 A.D.3d 994, 996 (3<sup>rd</sup> Dept. 2008). A physician's medical practice is found to seriously deviate from the minimum standard of care when controlled substances are prescribed without "obtaining patients' medical histories or undertaking the steps necessary to properly evaluate [the] patients' need for [the] medications or the dosages provided." Roumi v. State Bd. for Prof'l Med. Conduct, 89 A.D.3rd 1170, 1172 (3<sup>rd</sup> Dept. 2011) (Emphasis added) (Physician failed to perform adequate physical examinations resulting in unjustified diagnoses and failed to devise a treatment plan or inquire as to relevant aspects of patients' histories or symptoms).

As in New York, in cases where physicians prescribe controlled substances, North Carolina requires physicians to perform evaluations at office visits. Conteh, 52 A.D.3d at 996. The Hearing Committee noted that Respondent's failures in this regard resulted in his inability to effectively assess his patients' psychiatric and medication histories when formulating treatment plans. It also obstructed his ability to monitor his patients for signs of drug interaction or dependence. [Ex. 7, NOC, 11,14,17,20-23] In one case that is the subject of the North Carolina Board's Order, Respondent failed to perform an initial, comprehensive evaluation of a patient and prescribed controlled substances when the patient's history included suicide attempts and psychotic symptoms. [Ex. 7, NOC, 10,11] In another case, Respondent failed to perform evaluations of a patient even though the patient presented to office visits exhibiting symptoms of psychosis, potential drug dependence, and medication non-compliance. [Ex. 7, NOC, 13,14]

An additional requirement for physicians in North Carolina, which is also found in New York, is to determine the medical necessity of prescribing controlled substances to patients. Roumi, 89 A.D.3rd at 1172. Here, Respondent continued to prescribe controlled substances to his patients "without written justification or rationale". [Ex. 7, NOC, 9,13] Also, Respondent re-authorized

prescriptions for controlled substances in cases where different medications were indicated or should have, at the very least, been considered. [Ex. 7, NOC, 11,17,20]

The Hearing Committee concluded that Respondent's conduct in prescribing controlled substances to his patients without performing psychiatric assessments and without determining the medical necessity for prescribed drugs was a breach of the standard of care. The Hearing Committee considered that the purpose behind these requirements is to keep patients safe. Respondent failed in this obligation. Had Respondent's conduct in caring for his patients occurred in New York, it would have been considered professional misconduct. Accordingly, the Hearing Committee concluded that Respondent's failures constituted negligence on more than one occasion, in violation of Education Law § 6530(3).

**B. Failing to Maintain a Record for Each Patient Accurately Reflecting the Evaluation and Treatment of the Patient**

The Hearing Committee determined that Respondent's conduct in North Carolina in failing to adequately maintain his patients' medical records was a violation of New York Education Law § 6530(32). Education Law § 6530(32) provides that physicians must maintain records for each patient that accurately reflect the evaluation and treatment of the patient and that "all patient records must be retained for at least six years." The purpose behind the rule requiring proper patient record-keeping is to ensure that "meaningful information is recorded in case the patient should transfer to another professional or the treating practitioner should become unavailable." Muccio v. Fernandez, 195 AD2d 623, 624 (3<sup>rd</sup> Dept. 1993); *See also* 8 NYCRR 29.2(a)(3).

The North Carolina Board's findings included that in numerous circumstances, Respondent failed to record necessary and important medical information, resulting in inadequate medical record-keeping. In those cases, the North Carolina Board found that Respondent failed to adequately document in his patients' medical files clinical findings, laboratory results, treatment



plans, and justifications for his diagnoses. [Ex. 7, NOC 11,17,20,23] In one case that is the subject of the North Carolina Board's Order, Respondent misdiagnosed a patient's condition after failing to document rationales for his diagnoses and treatment plans. [Ex. 7, NOC, 17] In a different case where Respondent misdiagnosed a patient's psychiatric condition, Respondent failed to document clinical information, laboratory results, and reasons for his diagnoses. [Ex. 7, NOC, 20] Such failures demonstrated to the Hearing Committee the Respondent's disregard for the follow-up or continuous care of his patients by new or subsequent providers.

In their findings, the North Carolina Board also found that in the time frame Respondent rendered care to the six patients that are the subject of the North Carolina Board Order, portions of his patients' medical files were missing or incomplete. [Ex. 7, NOC, 9,11,14,20] In New York, Respondent is obligated to maintain the entirety of his patients' medical records for a six-year time frame. Since the treatment at issue that is the subject of the North Carolina Board Order occurred between 2008 and 2012, all of the patient medical records not adequately maintained were within six years of the North Carolina Board's 2013 Consent Order. Had Respondent's conduct occurred in New York, he would have been obligated to maintain his patients' medical records for at least six years, which was beyond the time frame that his patients' medical records were found to be missing or incomplete, as stated in the North Carolina Board's Consent Order. Although Respondent testified to changes he has made to his current medical-record keeping practices, the evidence was devoid of any information demonstrating Respondent's efforts to correct the medical-record deficiencies pertaining to the six patients at issue. [T. 12,14,22]

Respondent's conduct in not adequately documenting his patients' medical files with critical information relevant to their treatment and in not maintaining complete copies of their medical

records while the patients were under his care, and within six years of the North Carolina Board's Consent Order, evidenced a violation of New York Education Law § 6530(32).

**C. Practicing the Profession With Incompetence on More Than One Occasion**

The Hearing Committee considered whether the evidence supported a finding that Respondent's conduct constituted practicing the medicine incompetently, pursuant to Education Law § 6530(5), and concluded that it did. Incompetence is defined as "the lack of skill or knowledge necessary to practice the profession". Matter of Mehulic v. State Bd. for Prof'l Med. Conduct, 107 A.D.3d 1066-1068 (3<sup>rd</sup> Dept. 2011)

Here, in two cases that are the subject of the North Carolina Board's Order, Respondent's conduct included misdiagnosing his patients' psychiatric conditions. [Ex. 7, NOC, 17,20] In one case, Respondent misdiagnosed a patient with general anxiety disorder and thereafter improperly prescribed benzodiazepines and atypical antipsychotic drugs when other medications were indicated. [Ex. 7, NOC, 17] In a different case where Respondent prescribed controlled substances, Paxil and alprazolam, Respondent had misdiagnosed the patient's condition as generalized anxiety disorder. [Ex. 7, NOC, 20] These errors, the Hearing Committee considered, are significant since in failing to render proper diagnoses, Respondent also improperly prescribed medications not indicated for the patients' conditions. [Ex. 7, NOC, 17,20]

As in New York, North Carolina requires physicians to exhibit appropriate knowledge and skill levels in the treatment of their patients. Mehulic, 107 A.D.3d at 1066. In not properly diagnosing his patients' conditions and in improperly prescribing drugs that were not indicated, the Hearing Committee found Respondent failed in this obligation. Had Respondent's conduct in caring for his patients in this manner occurred in New York, it would have been considered professional

misconduct. Accordingly, the Hearing Committee concluded that Respondent's errors constituted Incompetence on More Than One Occasion, in violation of Education Law § 6530(5).

**D. Failing to Respond Within 30 Days to Written Communications**

The Hearing Committee considered whether the evidence supported a finding that Respondent's conduct included failing to make available "any relevant records with respect to an inquiry or complaint about (his) professional misconduct", in violation of Education Law § 6530(28), and concluded that it did. (Emphasis added) The failure to respond within a 30 day timeframe to a request for records, made in connection with an inquiry or complaint about the licensee's professional misconduct, constitutes a violation of Education Law § 6530(28). Kleinplatz v. Novello, 14 A.D.3d 946, 948 (3<sup>rd</sup> Dept. 2005) (Emphasis added).

Respondent failed to respond to the North Carolina Board's mailed correspondence dated June 22, 2012 and August 7, 2012 and electronic correspondence dated September 7, 2012, which concerned a patient complaint related to his professional practice. Although Respondent corresponded with the North Carolina Medical Board sometime in September of 2012 requesting additional time to respond to the correspondence, he never responded. [Ex. 7, NOC, 29-36] North Carolina, as in New York, requires physicians to respond to inquiries or complaints relative to their professional medical practice within a specified time period. Since Respondent failed to respond to the North Carolina Board's inquiries and requests for information within 30 days, which is the required time frame for such responses in New York, the Hearing Committee found that his conduct in North Carolina would have amounted to professional misconduct here. As such, the Hearing Committee concluded that Respondent's conduct violated New York Education Law § 6530(28).

## **VOTE OF THE HEARING COMMITTEE**

### **FIRST SPECIFICATION**

Respondent violated New York 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 New York State laws.

VOTE: Sustained (3-0)

### **SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked or having other 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 suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under New York State laws.

VOTE: Sustained (3-0)

### **PENALTY DISCUSSION**

In turning to the assessment of a penalty, the Hearing Committee considered how in less than seven months following the effective date of the Consent Order in North Carolina requiring "indefinite probation", the North Carolina Medical Board, in an Amended Consent Order, terminated Respondent's probationary term. [Ex. 7] This suggested to the Hearing Committee Respondent's determination in complying with the North Carolina Board's requirements, as stated in the Consent Order. Further, in an Order dated May 29, 2015, the North Carolina Board found Respondent satisfied all outstanding terms and conditions of the Consent Order and noted that

“Respondent has complied in all respects with his Consent Order and Amended Consent Order”.

[Ex. 7] Respondent testified at the hearing to his efforts in making certain he was in full compliance with any outstanding terms so that he may continue to render psychiatric services to an underprivileged portion of the patient population in Gastonia, North Carolina. [T. 12-14,22,27] This suggested to the Hearing Committee Respondent’s commitment to not only satisfying the North Carolina Board’s requirements but in ensuring the health and safety of his patients moving forward. [Ex. 7] Also noted by the Hearing Committee was that as a result of the North Carolina Board lifting all conditions and limitations from Respondent’s medical license, Respondent can practice medicine there without restriction. [T. 24-25]

The Hearing Committee also took note of Respondent’s remorse in the treatment of the patients that are the subject of the North Carolina Board’s Order, as well as in his prescription practices. Along these lines, Respondent testified that he has completely overhauled his medical record keeping to include an electronic system and to eliminate handwriting. [T. 12,14,22] He also testified that he has made important changes in his treatment practices of patients prescribed controlled substances, including increased testing, drug screens, prescription management plans, and discharge criteria. [T. 14,26]

Respondent’s remorse in his behavior combined with his efforts towards rehabilitation proved to the Hearing Committee his commitment to his patients’ welfare and that the same conduct that occurred in North Carolina will not occur in New York. As a result, the Hearing Committee decided that Respondent’s license should not be subject to any penalty.

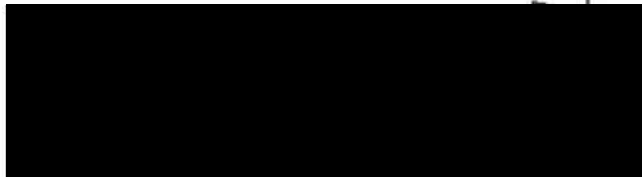
**ORDER**

IT IS HEREBY ORDERED THAT:

1. The factual allegations and specifications contained in the Statement of Charges (Appendix D) are SUSTAINED; and
2. The Respondent's license to practice medicine in the State of New York shall not be subject to any penalty; and
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: Albany, New York

November 27, 2015

  
Mohammad-Reza Ghazi-Moghadam, M.D.  
Chairperson

Gail Homick Herrling  
Rose Berkun, M.D.

To:

Ramesh Gihwala, M.D.  
10722 Hadlow Ct.  
Charlotte, NC 28278

Paul Tsui, Esq., Attorney for Petitioner  
Associate Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
Albany, New York 12237

Ramesh Gihwala, M.D. - Direct Referral

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*APPENDIX I*

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

IN THE MATTER  
OF  
RAMESH GIHWALA, M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

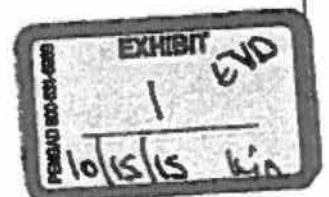
TO: Ramesh Gihwala, M.D.  
[REDACTED]

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 the 15th day of October, 2015, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Menands, New York 12204-2719.

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 not less than 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. The answer 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. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. 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.

**SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.**

**DATED:** Albany, New York  
July 30, 2015



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

**Inquiries should be addressed to:**

**Paul Tsui,  
Associate Counsel  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, NY 12237  
(518) 473-4282**

IN THE MATTER  
OF  
RAMESH GIHWALA, M.D.  
CO-13-08-4027-A

STATEMENT  
OF  
CHARGES

RAMESH GIHWALA, M.D., Respondent, was authorized to practice medicine in New York State on March 15, 1990, by the issuance of license number 181695 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about June 20, 2013, the North Carolina Medical Board, (hereinafter "North Carolina Board"), by a Consent Order (hereinafter "North Carolina Order"), inter alia, REPRIMANDED Respondent based on his medical treatment and care of six (6) patients constituting unprofessional conduct, including departure from or failure to conform to standards of acceptable and prevailing medical practice or the ethics of the medical profession. The North Carolina Board ordered that Respondent's medical license be placed on indefinite probation, that Respondent obtain a Practice Monitor, that Respondent pay a \$1,000.00 fine within thirty days of the date of the North Carolina Order, and that Respondent continue in a contract with the North Carolina Physician's Health Program up to May 2017. On or about May 29, 2015, by a Final Order, the North Carolina Board amended the Consent Order and discontinued Respondent's probation and monitoring by the North Carolina Physician's Health Program based upon Respondent's compliance.

B. The conduct resulting in the North Carolina Medical Board disciplinary action against 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 §6530(3) (practicing the profession with negligence on more than one occasion);

2. New York Education Law §6530(5) (practicing the profession with incompetence on more than one occasion);
3. New York Education Law §6530(28) (failing to respond within thirty days to written communications from the department of health and to make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct);
4. New York Education Law §6530(32) (failing to maintain a record for each patient that accurately reflects the evaluation and treatment of the patient).

**SPECIFICATIONS**  
**FIRST SPECIFICATION**

Respondent violated New York 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 Petitioner charges:

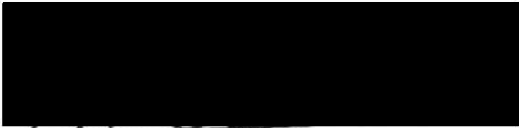
1. The facts in paragraphs A and B and B1, A and B and B2, A and B and B3 and/or A and B and B4.

**SECOND SPECIFICATION**

Respondent violated New York Education Law §8530(9)(d) by having disciplinary action taken 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 New York state, in that Petitioner charges:

2. The facts in paragraphs A and B and B1, A and B and B2, A and B and B3 and/or A and B and B4.

DATED: July 28, 2015  
Albany, New York

  
MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct