



**Department
of Health**

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

April 26, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Hannah E.C. Moore, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Empire State Plaza
Albany, New York 12237

Walton Montegut, MD


RE: In the Matter of Walton Montegut, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-082) 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:

Jean T. Carney, 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 Ms. Carney 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 Dawn MacKillop-Soller.

Dawn MacKillop-Soller
Acting Chief Administrative Law Judge
Bureau of Adjudication

DXM: cmg
Enclosure

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

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|-----------------------|---|---------------|
| -----X | : | |
| IN THE MATTER | : | DETERMINATION |
| OF | : | AND |
| WALTON MONTEGUT, M.D. | : | ORDER |
| -----X | | |

A hearing was held on March 23, 2022, by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), James Egnatchik, MD, Chairperson, Jerry Balentine, DO, and Heidi Miller, PA-C, MPH, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Tina M. Champion, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by Hannah E.C. Moore, Assistant Counsel. A Notice of Referral Proceeding and Statement of Charges dated January 24, 2022 were duly served upon Walton Montegut, MD (Respondent), who appeared at the hearing and testified in his own behalf.

The Hearing Committee received and examined documents from the Department. (Dept. Exs. 1-7.) A stenographic reporter prepared a transcript of the proceeding.

BACKGROUND

The Department brought this case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Educ. Law § 6530(9). The Respondent is charged with two specifications of professional misconduct. The first specification is pursuant to Educ. Law § 6530(9)(d) for “[h]aving 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." The second specification is pursuant to Educ. Law § 6530(9)(a)(iii) for being convicted of committing an act constituting a crime under "the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law."

Pursuant to PHL § 230(10), the Department has the burden of proving its case by a preponderance of the evidence. Any licensee found guilty of professional misconduct under the procedures prescribed in PHL § 230 "shall be subject to penalties as prescribed in [PHL § 230-a] except that the charges may be dismissed in the interest of justice."

FINDINGS OF FACT

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. The Respondent was licensed to practice medicine in New York State on January 4, 1991 by issuance of license number 184645. (Dept. Ex. 7.)
2. On July 27, 2021, the Medical Board of California issued a Decision, effective August 3, 2021, adopting a Stipulated Surrender of License and Disciplinary Order. (Dept. Ex. 5.)
3. The Decision was based on a May 18, 2021 Accusation and Petition to Revoke Probation which alleged, in part, mental illness affecting competency; conviction of a crime substantially related to the qualifications, functions, or duties of a physician; use of alcohol and/or dangerous drugs to an extent, or in a manner, as to be dangerous or injurious to self, others, or the public; acts of dishonesty and/or corruption; repeated negligent acts; inadequate and/or inaccurate records, and general unprofessional conduct. (Dept. Ex. 5.)

4. On or about December 3, 2019, the Respondent was convicted in the Superior Court of California, Orange County, upon his plea of guilty, to violating California Vehicle Code § 23152(f), driving under the influence of drugs, a misdemeanor. The Respondent admitted that he unlawfully drove while under the influence of methamphetamine and admitted a prior conviction for California Vehicle Code § 23103.5. The Respondent was sentenced to five years of informal probation with terms and conditions including four days of jail, installation of an ignition interlock device, participation in a six-month residential treatment program, and a prohibition against driving with any measurable alcohol. (Dept. Ex. 6.)

VOTE OF THE HEARING COMMITTEE

The Hearing Committee, by a vote of 3-0, sustains the charges that the Respondent committed professional misconduct as defined in Educ. Law §§ 6530(9)(d) and 6530(9)(a)(iii).

HEARING COMMITTEE DETERMINATIONS

It is undisputed that the Respondent was disciplined by the Medical Board of California. The conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state pursuant to Educ. Law §§ 6530(3), (7), (8), and (32). It is also undisputed that the Respondent was convicted of committing an act constituting a crime in California which, if committed within this state, would have constituted a crime under New York Vehicle and Traffic Law §1192(4). The Hearing Committee finds that the California disciplinary action and conviction constitute professional misconduct pursuant to Educ. Law §§ 6530(9)(d) and (a)(iii).

The Hearing Committee appreciated the Respondent's active participation in the hearing, however, much of his testimony was rambling and incoherent. After considering all the of the evidence presented, the Hearing Committee is extremely concerned that the public in the State of New York would be in danger if the Respondent were to practice here given the Respondent's


habitual use of substances causing impairment, the seriousness of the acts upon which the Respondent's California discipline is based, and the Respondent's conviction in California. Accordingly, the Hearing Committee finds that the only appropriate penalty is revocation of the Respondent's license to practice medicine in the State of New York.


ORDER

Now, after reviewing the evidence from the hearing, 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 the State of New York is revoked; and
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

Dated: Albany, New York
April 17, 2022


James Egnatchik, MD, Chairperson
Jerry Balentine, DO
Heidi Miller, PA-C, MPH,

Hannah E.C. Moore
Assistant Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, NY 12237


Walton Montegut, MD


IN THE MATTER
OF
WALTON MONTEGUT, M.D.

STATEMENT
OF
CHARGES

WALTON MONTEGUT, M.D., the Respondent, was authorized to practice medicine in New York State on or about 01/04/1991, by the issuance of license number 184645 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about 07/27/2021, the Medical Board of California issued a Decision, effective 08/03/2021, adopting a Stipulated Surrender of License and Disciplinary Order. The Decision was based on an Accusation and Petition to Revoke Probation, which alleged, in part, mental illness affecting competency; conviction of a crime substantially related to the qualifications, functions, or duties of a physician; use of alcohol and/or danger drugs to an extent, or in a matter, as to be dangerous or injurious to self, others or the public; acts of dishonesty and/or corruption, repeated negligent acts; and inadequate and/or inaccurate records.
- B. The conduct resulting in the California Decision 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); and/or
 2. New York Education Law § 6530(7) (practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability); and/or
 3. 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, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice); and/or

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

C. On or about December 03, 2019, Respondent was convicted, upon his plea of guilty, to violating California Vehicle Code § 23152 (f), driving under the influence of drugs, a misdemeanor. Respondent admitted that he unlawfully drove while under the influence of methamphetamine and admitted a prior conviction for California Vehicle Code § 23103.5. Respondent was sentenced to five years' probation with terms and conditions including four days' jail, installation of an ignition interlock device, participation in a six-month residential treatment program, AA meetings, and a prohibition against driving with any measurable alcohol.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having the Respondent's license to practice medicine revoked, suspended or having other disciplinary action taken, or having the Respondent's application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered the Respondent's 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[3], [7], [8], [32]) as alleged in the facts of the following:

1. Paragraphs A and B.

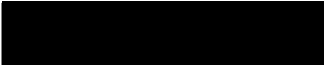
SECOND SPECIFICATION

CRIMINAL CONVICTION (Other Jurisdiction)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law (namely N.Y. Vehicle and Traffic Law § 1192[4], driving while ability impaired by drugs) as alleged in the facts of the following:

1. Paragraph C.

DATE: January 24, 2022
Albany, New York


JERRY J. CONKLIN
Acting Deputy Counsel
Bureau of Professional Medical Conduct