



Department of Health

ANDREW M. CUOMO
Governor


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

LISA PINO, M.A., J.D.
Executive Deputy Commissioner

August 16, 2021

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Marc S. Nash, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Albany, New York 12237

Vitaliy Shaulov, M.D.


RE: In the Matter of Vitaliy Shaulov, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 21-171) 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:

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

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
VITALIY SHAULOV, M.D.
-----X

DETERMINATION
AND
ORDER

BPMC-21-171

A hearing was held on August 11, 2021, remotely by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), **David E. Kaplan, M.D., Chairperson, Mary E. Rappazzo, M.D., and Paul J. Lambiase**, 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 Marc S. Nash, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges, both dated June 15, 2021, were duly served upon Vitaliy Shaulov, M.D. (Respondent), who appeared at the hearing.¹

The Hearing Committee received and examined documents from the Department (Dept. Exs. 1-4.) and heard testimony from the Respondent on his own behalf. 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

¹ The hearing initially commenced and concluded without the Respondent. However, the Bureau of Adjudication received a telephone call from the Respondent later that same morning in which the Respondent expressed a desire to participate. The hearing was then reopened and the Hearing Committee reconvened and afforded the Respondent the opportunity to be heard.

Respondent is charged with one specification of professional misconduct 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.” 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 December 11, 1996 by issuance of license number 205273. (Dept. Ex. 3.)
2. On December 17, 2020, the Medical Board of California issued a Public Letter of Reprimand and directed the Respondent to complete a medical record keeping course. (Dept. Ex. 4.)
3. The Public Letter of Reprimand stated that an investigation by the Medical Board of California revealed that the Respondent failed to maintain adequate medical records relating to the provision of services to a patient. (Dept. Ex. 4.)

VOTE OF THE HEARING COMMITTEE

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

HEARING COMMITTEE DETERMINATIONS

The Hearing Committee has thoroughly considered the evidence in this matter. It concludes that the conduct resulting in the disciplinary action in California, if committed in New York State, would constitute professional misconduct under the laws of New York State as defined in Educ. Law § 6530(32) – failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

The Respondent testified about the matter he believes led to the disciplinary action in California and testified that it was unrelated to record keeping. The Respondent adamantly maintained that he was subject to “racketeering” tactics by the Medical Board of California and that he essentially was forced into signing a document regarding failure to keep appropriate patient records. The Respondent also testified that he completed the record keeping course required by California.

The Department has recommended that the Respondent receive a censure and reprimand and be fined \$2,500. While the Respondent completed the required record keeping course in California, the Hearing Committee finds troubling the Respondent’s unwillingness to take any responsibility in this matter. The Hearing Committee finds that censure and reprimand is an appropriate penalty. The Hearing Committee declines to assess any fine in this matter as the Department was unable to articulate a basis for the recommended fine under the circumstances herein.

ORDER

Now, after reviewing the evidence from the hearing, 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 subject to censure and reprimand pursuant to PHL § 230-a(1); 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
August _____, 2021

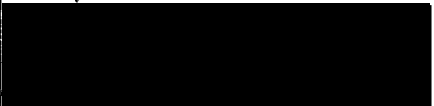
NYS DEPT OF HEALTH

AUG 13 2021

Division of Legal Affairs
Bureau of Adjudication


David E. Kaplan, M.D., Chairperson
Mary E. Rappazzo, D.O.
Paul J. Lambiase

Marc S. Nash
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Albany, New York 12237


Vitaliy Shaulov, M.D.


APPENDIX I

IN THE MATTER

OF

VITALIY SHAULOV, M.D.

STATEMENT
OF
CHARGES

VITALIY SHAULOV, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 11, 1996, by the issuance of license number 205273 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 17, 2020, the Medical Board of California (hereinafter, "California Board") issued a Public Letter of Reprimand which reprimanded the Respondent and directed Respondent to complete a medical record keeping course. This disciplinary action was based upon Respondent's failure to maintain adequate and accurate records to the provision of services to their patients.

B. The conduct resulting in the California 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 § 6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

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 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(32)) as alleged in the facts of the following:

1. Paragraphs A, B and B.1.

DATE: June 15, 2021
Albany, New York


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