

October 7, 2014

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Jude B. Mulvey, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2512  
Albany, New York 12237

Jogendra S. Chhabra, M.D.

ADDRESS REDACTED

**RE: In the Matter of Jogendra Chhabra, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 14-244) 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. 2013) and §230-c subdivisions 1 through 5, (McKinney Supp. 2013), "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,

 SIGNATURE REDACTED

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  
JOGENDRA CHHABRA, M.D.**

**DETERMINATION  
AND  
ORDER  
BPMC #14-244**

**COPY**

A hearing was held on September 18, 2014 at the offices of the New York State Department of Health ("the Department"), Bureau of Adjudication, 150 Broadway, Suite 510, Albany, New York 12204. A Notice of Referral Proceeding and a Statement of Charges, both dated June 24, 2014, were served upon the Respondent, Jogendra Chhabra, M.D. This matter was noticed for hearing on August 21, 2014. The Respondent was granted an adjournment of that hearing date until September 18, 2014. On September 18, 2014, the Department's attorney received a request for a second adjournment, but after the hearing had already occurred.

Pursuant to Section 230(10)(e) of the Public Health Law, Therese G. Lynch, M.D., Chair, Eleanor C. Kane, M.D., and Janet M. Miller, R.N., duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee in this matter. Denise Lepicier, Administrative Law Judge, served as the administrative officer. The Department appeared by Jude Mulvey, Associate Counsel, Bureau of Professional Medical Conduct. The Respondent, Jogendra Chhabra, M.D., did not appear, although personally served. 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 a hearing with circumscribed issues when a licensee is charged based upon a violation of New York Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a criminal conviction regarding conduct which is a crime in New York State or upon 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.

In the instant case, the Respondent is charged with professional misconduct pursuant to 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, and pursuant to New York Education Law §6530(9)(d), by having his license revoked by the State of Illinois 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.

Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

### **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. All hearing committee findings were unanimous.

1. Jogendra Chhabra, M.D., the Respondent, did not appear at the hearing although duly served and notified of the hearing by personal service on July 8, 2014. (Ex. 2)
2. The Respondent was authorized to practice medicine in New York State on January 12, 1998, by the issuance of license number 209321 by the New York State Education Department. (Ex. 3)
3. On or about April 2, 2014, the Medical Disciplinary Board of the Department of Financial and Professional Regulation, Division of Professional Regulation, State of Illinois, (hereinafter the "Illinois Board") adopted the findings of fact, conclusions of law and recommendation of an Administrative Law Judge and agreed to revoke Respondent's Physician and Surgeon and controlled substance licenses for violations of Chapter 225 of the Illinois Compiled Statutes (Professions and Occupations). (Ex. 4, p. 1-2)
4. The Illinois Board found that "Respondent engaged in inappropriate contact of a sexual nature with DD while she was in his care and treatment as her physician and while in his office" and that "this contact was not consensual and that during the course of this contact Respondent physically harmed DD." (Ex. 4, p. 26)

5. The Illinois Board found that “Respondent engaged in inappropriate contact of a sexual nature with ‘BCS’ while she was in his care and treatment as her physician and while in his office;” that “Respondent ‘kissed’ BCS as described by BCS during an office visit and that this ‘kiss’ was not invited or consensual;” and that “Respondent subsequently engaged in sexual intercourse with BCS while she was in his care and treatment as her physician and while in his office.” (Ex. 4, p. 41)
6. The Illinois Board found that Respondent made inappropriate statements both written (on a prescription pad) and oral to patient EJ encouraging her to engage in “uninhibited sexual exploration” with a partner, hugged her, and more than once invited her to come to his home, offered to babysit her son, and offered to bake her a birthday cake. (Ex. 4, p. 44)

#### **CONCLUSIONS OF LAW**

All the following determinations with respect to the specifications were unanimous. The committee relied where appropriate on a memorandum of law by counsel for the Department of Health relating to various definitions of misconduct to make its determinations.

The first specification charges that Respondent violated 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.” Respondent’s conduct was alleged to violate Education Law §§ 6530(2) (practicing the profession fraudulently or beyond its authorized scope); 6530(3) (negligence on more than one occasion); 6530(5) (incompetence on more than one occasion); and 6530(20) (moral unfitness). The hearing committee sustained the

specification and found that Respondent's conduct would be misconduct under each of the misconduct provisions charged in the first specification had the conduct occurred in New York state. **The First Specification is Sustained.**

The second specification charges that Respondent violated Education Law § 6530 (9)(d) by having his "license to practice medicine revoked . . . after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation . . . would, if committed in New York state, constitute professional misconduct under the laws of New York state." Respondent's conduct was alleged to violate Education Law §§ 6530(2) (practicing the profession fraudulently or beyond its authorized scope); 6530(3) (negligence on more than one occasion); 6530(5) (incompetence on more than one occasion); and 6530(20) (moral unfitness). The hearing committee sustained the specification and found that Respondent's conduct would be misconduct under each of the misconduct provisions charged in the second specification had the conduct occurred in New York state. **The Second Specification is Sustained.**

#### **DETERMINATION AS TO SANCTION**

The Hearing Committee has considered the full range of sanctions available pursuant to PHL Education § 230-a, including: (1) censure and reprimand; (2) suspension of the license, wholly or partially; (3) limitation on practice; (4) revocation of the license; (5) annulment of the license or registration; (6) limitation on registration or further licensure; (7) monetary penalties; (8) a course of education or training; (9) performance of public service; and, (10) probation. The hearing committee has concluded that the only appropriate sanction is a revocation of Respondent's license.

The committee considers this an appropriate sanction in light of the fact that Respondent was found to have engaged in inappropriate sexual contact with three current patients. His conduct was egregious. The hearing committee was unanimous in finding that the actions of the Respondent warranted revocation of the Respondent's New York license as the only appropriate protection for New York patients.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**.
2. The license of the Respondent to practice medicine in New York State is **REVOKED**.
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: Rochester, New York  
October 3, 2014

SIGNATURE REDACTED

Therese G. Lynch, M.D., Chair

Eleanor C. Kane, M.D.  
Janet M. Miller, R.N.



# **APPENDIX I**

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

IN THE MATTER OF JOGENDRA CHHABRA, M.D.  
CO-13-10-5557A

NOTICE OF REFERRAL PROCEEDING

TO: Jogendra Chhabra, M.D.  
Norris City Health Clinic  
110 East Main St.  
Norris City, IL 62869

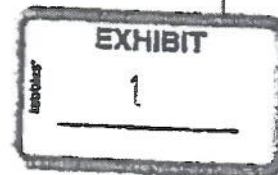
Jogendra Chhabra, M.D.  
ADDRESS REDACTED

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures 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 21<sup>st</sup> of August, 2014, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Albany, NY 12204-2719.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that 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 and/or sworn testimony on your behalf. Such evidence and/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 that 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 F. HORAN, ACTING 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 ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public 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 (10) 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 (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) 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 New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that 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 and/or other evidence that cannot be photocopied.

**YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.**

Department attorney: Initial here JBm

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 (5) 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

June 24, 2014

SIGNATURE REDACTED

MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Jude B. Mulvey  
Associate Counsel  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, NY 12237  
(518) 473-4282

IN THE MATTER  
  
OF  
  
JOGENDRA CHHABRA, M.D.

STATEMENT  
  
OF  
  
CHARGES

Jogendra Chhabra, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 12, 1998, by the issuance of license number 209321 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about April 2, 2014, the State of Illinois, Department of Financial and Professional Regulation, Division of Profession Regulation Medical Disciplinary Board (hereinafter "Illinois Board") adopted the Illinois Board Administrative Law Judge's Report and Recommendation dated March 25, 2014 (hereinafter "Illinois ALJ Report") including its Findings of Fact, Conclusions of Law and Recommendation To the Director, and revoked Respondent's license to practice medicine. The revocation was based on the Illinois ALJ Report which found, inter alia, that Respondent engaged in dishonorable, unethical or unprofessional conduct in the commission of any act including but not limited to commission of an act of sexual misconduct related to the licensee's practice; dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public; immoral conduct in the commission of any act including but not limited to commission of an act of sexual misconduct related to the licensee's practice; and engaged in a pattern of behavior or other behavior which demonstrates incapacity or incompetence to practice. Respondent's Motion for

Rehearing and/or Reconsideration to the Illinois Director of the Division of Professional Regulation was denied on or about April 29, 2014.

B. The conduct resulting in the Illinois 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 (2) (Practicing the profession fraudulently or beyond its authorized scope);
2. New York Education Law § 6530 (3) (Negligence on more than once occasion);
3. New York Education Law § 6530 (5) (Incompetence on more than one occasion);
4. New York Education Law § 6530 (20) (Moral unfitness).

### SPECIFICATION OF CHARGES

#### 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.

#### SECOND SPECIFICATION

Respondent violated New York Education Law § 6530 (9)(d) by having his license to practice medicine revoked after disciplinary action was instituted by a

duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation would, if committed in New York State, constitute professional misconduct, in that Petitioner charges:

2. The facts in Paragraphs A and B.

DATE: June 24, 2014  
Albany, New York

SIGNATURE REDACTED

MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct