



Department of Health

ANDREW M. CUOMO
Governor

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

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

February 24, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ian H. Silverman, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Empire State Plaza
Corning Tower Building, Room 2512
Albany, New York 12237

Andrew M. Knoll, M.D., J.D.
Cohen Compagni Beckman Appler
and Knoll, PLLC
507 Plum Street, Suite 310
Syracuse, New York 13204

RE: In the Matter of Mirza Beg, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 20-037) 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.

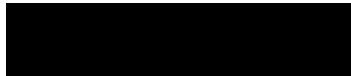
The notice of review served on the Administrative Review Board should be forwarded to:

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,



James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: cmg
Enclosure

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

COPY

-----X
IN THE MATTER :
OF :
MIRZA BEG, M.D. :
-----X

DETERMINATION
AND
ORDER
20-037

Pursuant to New York State Public Health Law (PHL) § 230(10)(d)(i), the New York State Department of Health, Bureau of Professional Medical Conduct (Department) served Mirza Beg, M.D. (Respondent) with a Notice of Hearing and Statement of Charges. The hearing was held at the offices of the New York State Department of Health, located at 217 South Salina Street, Syracuse, New York. **GAIL HOMICK-HERRLING**, Chairperson, **ASHWANI CHHIBBER, M.D.**, and **BARRY RABIN, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to PHL § 230(10)(e). **TINA M. CHAMPION**, Administrative Law Judge, served as the Administrative Officer.

The Department appeared by Ian H. Silverman, Associate Counsel. The Respondent appeared by Andrew M. Knoll, Esq. Evidence was received, witnesses were sworn or affirmed, and a transcript of the proceeding was made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

PROCEDURAL HISTORY

Notice of Hearing and Statement of Charges:	November 18, 2019
Answer:	December 19, 2019
Pre-Hearing Conference:	January 6, 2020
Hearing Date:	January 14, 2020
Witnesses for Department:	Patient A Patient A's Mother Joseph T. Wayne, MD MPH FACP
Department Exhibits:	1-7
Witness for Respondent:	Mirza Beg, M.D.
Respondent Exhibits:	A-D
Deliberations Held:	January 14, 2020
Transcript Received:	January 30, 2020

STATEMENT OF CASE

The Department charged the Respondent with eleven specifications of professional misconduct as defined in NY Educ. Law § 6530 involving Patient A. The Department recommends that the Respondent's license to practice medicine be revoked. The Respondent acknowledges committing professional misconduct (Tr. pp. 157-158) and seeks forgiveness and a penalty that falls short of revocation such that the Respondent may practice medicine in the State of New York. A copy of the Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following findings are the unanimous determinations of the Hearing Committee after consideration of the entire record in this matter.

1. The Respondent was authorized to practice medicine in New York State on July 29, 2004 by issuance of license number 233544 by the New York State Education Department. (Dept. Ex. 3.)

2. At all times relevant to this proceeding, the Respondent was practicing medicine as a pediatric gastroenterologist at Karjoo Family Center for Pediatric Gastroenterology in Syracuse, New York and provided medical care to Patient A from on or about November 2009 to on or about February 2018. (Dept. Ex. 1; Resp. Ex. A.)

3. The Respondent began treating Patient A for ulcerative colitis in 2009 during an approximately 26-day hospital stay around Patient A's tenth birthday. Patient A's last office visit with the Respondent was on September 26, 2017, a couple of months prior to Patient A's eighteenth birthday. (Tr. pp. 17, 66-68.)

4. Patient A continued to receive prescriptions from the Respondent's medical office for a few months after the date of her last appointment until she began receiving medical care from another doctor. (Tr. p. 68.)

5. The Respondent deviated from the standard of care with Patient A by engaging in multiple electronic conversations via text with Patient A from September 26, 2017 through October 4, 2017, during which time Patient A was a minor, including:

- a. conversations regarding the use of alcohol with or for Patient A;
- b. conversations of a sexual nature and including sending memes with sexually explicit images and/or language; and
- c. conversations in which he expresses love and inappropriate affection for Patient A. (Dept. Ex. 4.)

6. On April 4, 2019, the Respondent entered into a Stipulation and Application for an Interim Order of Conditions, which was so ordered by the New York State Board for Professional Medical Conduct on April 5, 2019. The Interim Order of Conditions precluded the Respondent from practicing medicine in New York State and has remained in effect during the pendency of this proceeding. (Resp. Ex. C.)

7. The Respondent has been practicing medicine as a pediatric gastroenterologist in a group practice in Saudi Arabia since July 2019. (Tr. pp. 96-99.)

CONCLUSIONS OF LAW

As required by PHL § 230(10)(f), the Hearing Committee based its conclusions on whether the Department met its burden of establishing that the allegations contained in the Statement of Charges were more probable than not.

The Department offered into evidence the testimony of Patient A, Patient A's mother, and expert witness Joseph T. Wayne, M.D. Patient A testified that the Respondent was one of the doctors that helped treat her and helped her get better when she became sick with ulcerative colitis around ten years of age. She testified that she had liked the Respondent very much, had trusted him, and had traded cellphone numbers with the Respondent at her last appointment so that they could remain in contact on a professional level for the purpose of checking in occasionally regarding Patient A's health. (Tr. pp. 18, 20, 53.) Patient A testified regarding specific messages she received from the Respondent that, among other things, pertained to alcohol usage and contained sexual images and/or language. Patient A testified that she found messages from the Respondent to be "unusual," "strange," "weird," and "wrong," and that they made her "uncomfortable" and "confused."

Patient A's mother testified as to Patient A's medical condition, treatment history with the Respondent, and last visit with the Respondent on September 26, 2017. (Tr. pp. 64-69.) She testified that she was aware that Patient A and the Respondent had exchanged cellphone

numbers at the last office visit and understood that the purpose of exchanging numbers was "intended as support of [Patient A's] future career [in the medical field] and maybe to make her comfortable if she was not feeling well." (Tr. p. 69). Patient A's mother testified that she and Patient A had trust in the Respondent. (Tr. p. 70.) Patient A's mother testified that on September 30, 2017 she began receiving text messages from the Respondent, which messages started out as friendly and with what she believed was an honest intention of helping Patient A with college. She testified that the messages then began to take on a more personal tone and become "more familiar, a little racy," and were "adult conversation." (Tr. p. 70-72.) She testified that in early October 2017 Patient A told her that Patient A had been receiving "inappropriate" texts from the Respondent and that she read the messages sent by the Respondent to Patient A. (Tr. p. 80.) Patient A's mother testified about how she was angry and confused by the Respondent "cross[ing] the line" with Patient A because he had taken "such good care of her." (Tr. p. 81.) She further testified as to the negative effect that the text messages from the Respondent had on Patient A and, specifically, Patient A's heightened anxiety with receiving medical treatment and her inability to go into an exam room alone. (Tr. pp. 82-83.)

Dr. Wayne, an internal medicine pediatric-trained physician who has been a full-time medical education physician for at least 30 years and is currently a professor of medicine and pediatrics testified as an expert witness for the Department. The sum and substance of his testimony was that the method and content of the Respondent's communication with Patient A was inappropriate and unprofessional, and not within the standard of care. (Tr. pp. 86-95.) He further testified that he would expect that Patient A would be "shaken with other providers" and "leery of other providers." Dr. Wayne opined that the Respondent's actions cross "the boundary that is definitely psychologically harmful to [Patient A]." (Tr. p. 93.) The Department also introduced into evidence the Expert Review Report of Dr. Wayne, which is consistent with the testimony he provided at hearing. (Dept. Ex. 7.)

The Respondent testified that he graduated from medical school in Pakistan in 1989 and worked in pediatrics until coming to the United States in 1995. He then completed a general residency at Upstate Medical University in Syracuse in 2001, and a fellowship in pediatric gastroenterology at Hasbro Children Hospital in Rhode Island in 2004. The Respondent returned to working at Upstate Medical University in 2004 and continued there until February 2018 when he was placed on administrative leave because of the subject matter of this hearing. In July 2019, he joined a group practice in Saudi Arabia as a pediatric gastroenterologist. (Tr. pp. 96-99.) He testified that 2017 was one of the toughest years of his life and referenced being busy with work, studying for the pediatric gastroenterology board exam, his mother's passing, marital problems, and issues with his children as life stressors. (Tr. pp. 102-106.) The Respondent testified that he exchanged cellphone numbers with Patient A with the intent that she could contact him directly with any health problems. (Tr. p. 115.) He further testified that the intent for cellphone communication evolved into something different because

at that time of my life period when these 10 days texts happened, I was just going into a whatever period of my life, because of my all kids and my wife with the issue and loss of my -- my wife and my partner as my text buddy or whatever you can say. I just, I think my intention was to help her, but then it become that I was kind of like -- I was treating myself as -- as a victim and she was my surrogate text buddy.

(Tr. pp. 117-118.) The Respondent further elaborated that

I think what I involuntarily, what I was doing is that I lost my routine, my person, my wife, and the routine text messages between my kids and myself was kind of like all gone. So these two individuals for me at that time were replaced by my family -- by my other family members. But the context of the text messages were some way I can say that yes, I do, or I did share these types of Memes with my wife. But at that time I think I was totally blank at who I am sending these to.

(Tr. p. 118.) He acknowledged that his text conversations with Patient A and her mother were wrong, discussed at length steps he took after being placed on administrative leave (taking a boundaries and ethics course, psychological evaluation and inpatient therapy, AA meetings,

abstinence from alcohol, and outpatient therapy), and stated that what happened with Patient A would never happen again if he is allowed to return to practice in New York. (Tr. pp. 129-135.)

Having considered the complete record in this matter, the Hearing Committee concludes that the Department has established seven of the eleven specifications contained in the Statement of Charges. The Hearing Committee made these conclusions of law pursuant to the factual findings listed above, and all conclusions resulted from a unanimous vote of the Hearing Committee.

The Department's First through Third Specifications charge the Respondent with professional misconduct for engaging in conduct in the profession of medicine that evidences moral unfitness to practice, in violation of New York Education Law § 6530(20). The Respondent's engaging in conversations pertaining to alcohol use, conversations of a sexual nature, and conversations in which he expresses inappropriate affection for Patient A demonstrates the Respondent's moral unfitness to practice medicine. Accordingly, these specifications are sustained.

The Department's Tenth Specification charged the Respondent with professional misconduct for practicing the profession of medicine with negligence on more than one occasion with respect to Patient A, in violation of New York Education Law § 6530(3). Negligence is defined as the failure to exercise the care that would be exercised by a reasonably prudent physician under the circumstances and involves a deviation from acceptable medical standards in the treatment of patients. Bogdan v. State Board for Professional Medical Conduct, 195 A.D.2d 86 (3d Dept. 1993). The Respondent's engaging in conversations pertaining to alcohol use, conversations of a sexual nature, and conversations in which he expressed love and inappropriate affection for Patient A, a minor at the time that the conversations occurred, supports a finding of negligence on more than one occasion. Those actions by the Respondent are deviations from acceptable medical standards for interactions with patients. Accordingly, this specification is sustained.

The Department's Fourth through Sixth Specifications charge the Respondent with professional misconduct for practicing the profession of medicine with gross negligence on a particular occasion with respect to Patient A, in violation of New York Education Law § 6530(4). Gross negligence is defined as negligence which involves a serious or significant deviation from acceptable medical standards that creates the risk of potentially grave consequences. Post v. State of New York Department of Health, 245 A.D.2d 985 (3d Dept. 1997). There is no need to prove that a physician was conscious of the impending dangerous consequences of his conduct. Minielly v. Commissioner of Health, 222 A.D.2d 750 (3d Dept. 1995). The Respondent's conduct with Respondent A was negligence as discussed above, involved a serious and significant deviation from acceptable medical standards, and created the risk of potentially grave consequences to Patient A. With respect to alcohol use, there is no dispute that alcohol use by Patient A was contraindicated and dangerous for her both because she was a minor and because of her diagnosis of ulcerative colitis. With respect to conversations of a sexual nature and expressions of inappropriate affection, Patient A was an impressionable minor with great trust in the Respondent and there was potential for her to suffer psychological harm with grave consequences as a result of the conversations and her potential response thereto. Accordingly, these specifications are sustained.

The Department's Eleventh Specification charged the Respondent with professional misconduct for practicing the profession of medicine with incompetence on more than one occasion with respect to Patient A, in violation of New York Education Law § 6530(5). Incompetence is defined as the lack of the requisite skill or knowledge to practice medicine safely. Dhabuwala v. State Board for Professional Medical Conduct, 225 A.D.2d 609 (3d Dept. 1996). Despite the reprehensible inappropriateness and negligence involved in the Respondent's conversations with Patient A, the hearing record does not support a finding that the Respondent does not possess the requisite skill or knowledge to practice medicine safely. To the contrary, Patient A and her mother both testified that they were happy with the medical care that they

received from the Respondent over the years, and there is no indication in the hearing record that the Respondent is lacking any skill or knowledge as a physician in his actual practice of medicine with Patient A or any other patients. The Respondent also readily acknowledged that he knew that Patient A's use of alcohol would not be good for her health given her ulcerative colitis, demonstrating that while inappropriate and negligent, he still possessed a certain degree of medical competency and the Hearing Committee has no basis upon which to question the Respondent's skill and knowledge. Accordingly, this specification is not sustained.

The Department's Seventh through Ninth Specifications charge the Respondent with professional misconduct for practicing the profession of medicine with gross incompetence with respect to Patient A, in violation of New York Education Law § 6530(6). Gross incompetence is incompetence (the lack of the requisite skill to practice medicine safely) that can be characterized as serious or significant, carrying potentially grave consequences. Dhabuwala, 225 A.D.2d 609; Post, 245 A.D.2d 985. As discussed above with respect to the Department's Eleventh Specification, the hearing record does not support a finding that the Respondent does not possess the requisite skill or knowledge to practice medicine safely. Accordingly, this specification is not sustained.

DETERMINATION AS TO PENALTY

The Hearing Committee considered the full spectrum of penalties available pursuant to statute, including revocation, suspension, probation, censure, and the imposition of civil penalties.

The Hearing Committee recognizes that the evidence at the hearing identifies what appears to be an isolated absence of judgment by the Respondent with one patient that spans a very short time frame in comparison to the Respondent's years in practice and number of patients. It also recognizes that the Respondent's interactions with Patient A that are the subject of this hearing occurred at a time in the Respondent's life when he was reportedly under significant stress from life events. However, the Hearing Committee has overwhelming concerns that there

is no mechanism available by which to insulate the Respondent from further life stressors in his personal life that may trigger a similar break in judgment with patients in the future. Therefore, the Hearing Committee cannot conceive any means short of revocation that would ensure the protection of those receiving medical treatment from the Respondent.

The Hearing Committee also acknowledges the steps that the Respondent has taken to improve himself since the occurrence with Patient A – including taking a boundaries and ethics course – but does not credit the Respondent’s testimony that the “main thing why this happened for me was, I was not clear-cut about this ethic and boundary issue.” (Tr. p. 134.) Even discounting common sense that he was acting inappropriately in his communications with Patient A, the Respondent has practiced in New York State for over a decade and would have learned at least basic appropriate boundaries during his time in practice. The Respondent nonetheless breached the high level of trust that Patient A had for him as her physician and she has been significantly harmed because of that breach in trust and the inappropriate communications that he had with her. The Respondent’s interactions with Patient A were completely unacceptable, unjustifiable, and unforgiveable in the practice of medicine.

The Hearing Committee finds that the Respondent repeatedly put his own selfish desires above the well-being of Patient A. The Hearing Committee finds thoroughly disingenuous any claims by the Respondent that he was unaware as to the meaning of or inference that certain text messages with emojis, words, or memes imparted on Patient A. On cross examination, the Respondent made multiple admissions that belied prior assertions of naivety. For example, the Respondent testified that he did not “understand the actual meaning of these emoji” but admitted that he would not send a “kissy face” emoji to a male colleague. (Tr. p. 146.) The Respondent testified that the “majority of these Memes are copy based for no reason...these funny Memes were floating around” but then specifically acknowledged that a sexually explicit Meme and his following text message applying it to Patient A was not funny. (Tr. pp. 145-146.) The Respondent also testified that his spelling of a common word in a manner with sexual connotation was done

in a manner of being "funny" but admitted that he would not think it funny if a 50-year-old man sent that message to his daughter. (Tr. 149.)

The Hearing Committee finds that although the Respondent acknowledged that his conduct was unprofessional, he lacked a level of remorse for the impact it had on Patient A. The Hearing Committee was left with an impression from the Respondent that although the Respondent knew what he did was wrong, he was attempting to justify it based on the events that were occurring in his personal life. Quite simply, the Hearing Committee unanimously finds that the Respondent did not fully take ownership without excuses or justifications for his conduct and his complete absence of judgment in his interactions with Patient A.

Physicians must comply with the highest ethical standards, which become of incredible importance when practicing in the area of pediatrics and interacting with an automatically impressionable and vulnerable population due to their age of minority. The Hearing Committee concludes that the Respondent's interactions with Patient A demonstrate that he is an extreme risk to his patients. Accordingly, the Hearing Committee concurs with the Department's recommendation that the Respondent's license be revoked.


ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

1. The First through Sixth and Tenth Specifications of professional misconduct, as set forth in the Statement of Charges, are sustained; and
2. The Seventh through Ninth and Eleventh Specifications of professional misconduct, as set forth in the Statement of Charges, are not sustained; and
3. Pursuant to PHL § 230-a(4), the Respondent's license to practice medicine is revoked; and
4. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon the Respondent at his last known address and such service shall be

effective upon receipt or seven days after mailing, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Syracuse, New York
February 17, 2020


Gail Homick-Herrling, Chairperson
Ashwani Chhibber, M.D.
Barry Rabin, M.D.

Ian H. Silverman
Associate Counsel
Bureau of Professional Medical Conduct
Division of Legal Affairs
NYS Department of Health
Corning Tower Room 2512
Empire State Plaza
Albany, New York 12237

Andrew M. Knoll, M.D., J.D.
Cohen Compagni Beckman Appler & Knoll, PLLC
507 Plum Street, Suite 310
Syracuse, New York 13204

APPENDIX I

IN THE MATTER
OF
MIRZA BEG, M.D.

STATEMENT
OF
CHARGES

MIRZA BEG, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 29, 2004 by the issuance of license number 233544 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A [patients are identified in the attached Appendix], a seventeen-year-old female patient, from on or about November of 2009 to on or about February of 2018, at Respondent's office, Karjoo Family Center for Pediatric Gastroenterology, located at 725 Irving Avenue, Syracuse, New York 13210 [hereafter "Respondent's office"]. Respondent's contact with and care of Patient A was contrary to accepted standards of medicine, in that:

1 Respondent during the visit on or about September 26, 2017, stated to Patient A that "he wanted to keep in touch with her" or words to that effect, and exchanged cell phone numbers with Patient A. Thereafter, Respondent engaged in multiple conversations with Patient A, then a minor, via text of a personal and non-medical nature, including conversations regarding the use of alcohol with or for Patient A, a minor.

2. Respondent also conducted electronic conversations regarding sex with Patient A, including sending to Patient A pictures with captions (i.e., "memes") depicting women in various stages of undress and memes with sexually explicit language.
3. Respondent also conducted electronic conversations in which Respondent expresses his love for Patient A.

SPECIFICATION OF CHARGES
FIRST THROUGH THIRD SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

1. The facts in Paragraph A, and A1.
2. The facts in Paragraph A, and A2.
3. The facts in Paragraph A, and A3.

FOURTH THROUGH SIXTH SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

4. The facts in Paragraph A, and A1.

5.The facts in Paragraph A, and A2.

6.The facts in Paragraph A, and A3.

SEVENTH THROUGH NINTH SPECIFICATION

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

7.The facts in Paragraph A, and A1.

8.The facts in Paragraph A, and A2.

9.The facts in Paragraph A and A3

TENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

10.The facts in Paragraph A, and A1, and/or Paragraph A, and A2 and/or Paragraph A, and A3.

ELEVENTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

11. The facts in Paragraph A, and A1, and/or Paragraph A, and A2 and/or Paragraph A, and A3.

DATE: November 17, 2019
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct