



**Department
of Health**

ANDREW M. CUOMO
Governor

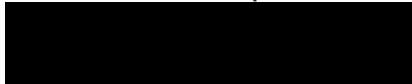
HOWARD A. ZUCKER, M.D., J.D.
Commissioner

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

March 16, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Christiana Lietzke, M.D.



Marc S. Nash, Esq.
NYS Department of Health
Coming Tower Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Christiana Lietzke, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 17- 085) 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 (l), (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.

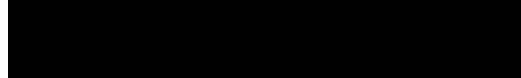
The notice of review served on the Administrative Review Board should be forwarded to:

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: nm
Enclosure

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

COPY

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: **IN THE MATTER** : **DETERMINATION**
: :
: **OF** : **AND**
: :
: **CHRISTIANA LIETZKE, M.D.** : **ORDER**
: :
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BPMC-17-085

A hearing was held on February 16, 2017, at the offices of the New York State Department of Health ("Department").¹ Pursuant to § 230(10)(e) of the Public Health Law ("PHL"), **WILLIAM A. TEDESCO, M.D.**, Chairperson, **DEBORAH WHITFIELD, M.A., Ph.D.**, and **LYON M. GREENBERG, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **DAWN MacKILLOP-SOLLER, ADMINISTRATIVE LAW JUDGE ("ALJ")**, served as the Administrative Officer.

The Department appeared by Marc Nash, Esq. A Notice of Referral Proceeding and Statement of Charges dated September 26, 2016, were served upon Christiana Lietzke, M.D. ("Respondent").² The Respondent appeared at the hearing and represented herself. The Hearing Committee received and examined documents from the Department, and a stenographic reporter prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustains the charges that the Respondent committed professional misconduct, in violation of Education ("Educ.") Law §§ 6530(9)(a)(iii) and 6530(9)(d), and unanimously votes 3-0 to suspend the Respondent's license to

¹ The location of the hearing was 150 Broadway, Suite 510, Menands, New York. The references in brackets refer to exhibits ["Ex."] or transcript page numbers ["T."].

² The Notice of Referral Proceeding and Statement of Charges were personally served on the Respondent on October 7, 2016, at a location in Jefferson City, Tennessee, pursuant to PHL § 230(10)(d)(i). As such, the ALJ determined that jurisdiction was established. [Ex. 2; Appendix I].

practice medicine in the state of New York until the Respondent complies with the conditions imposed by this Order.

BACKGROUND

The Department brought the 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 professional misconduct pursuant to Educ. Law § 6530(9)(a)(iii) by having been convicted of a crime under the laws of another jurisdiction, "and which, if committed within this state, would have constituted a crime..." under New York state law. The Respondent is also charged pursuant to Educ. Law § 6530(9)(d) by having her "license to practice medicine revoked, suspended or having other disciplinary action taken..." where the conduct resulting in the disciplinary action would, if committed in the state of New York, constitute professional misconduct under New York state laws.

In the General Sessions Court of Jefferson County, in the state of Tennessee, the Respondent pled guilty to Evading Arrest, in violation of Tennessee Code 39-16-603. [Ex. 4]. Also, the North Carolina Medical Board ("North Carolina Board") issued an Order indefinitely suspending the Respondent's medical license based on her inability to practice medicine with reasonable skill and safety due to a [REDACTED] condition [REDACTED] [Ex. 6]. The Department charges that the Respondent's conduct in Tennessee, which resulted in a criminal conviction in that state, would have constituted a crime, had it occurred in New York, in violation of New York Penal Law ("PL") § 270.25. The Department also charges that had the Respondent's conduct occurred in New York, it would have constituted having a psychiatric condition which impairs the licensee's ability to practice, as defined in Educ. Law § 6530(8). [Ex. 1]. Whether the criminal conviction in Tennessee and the North Carolina Board's disciplinary action constitute misconduct hinges on

whether the underlying conduct would be considered professional misconduct if committed in New York.

FINDINGS OF FACT

The Findings of Fact were made by the Hearing Committee after a review of the record in this matter. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence. The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. Christiana Lietzke, M.D., the Respondent, was licensed to practice medicine in New York on February 28, 2014, by the issuance of license number 273981 by the Education Department.

[Ex. 3].

2. On or about May 28, 2014, in the General Sessions Court of Jefferson County, in the state of Tennessee, the Respondent pled guilty to Evading Arrest, a misdemeanor, in violation of Tennessee Code 39-16-603. The Respondent was sentenced to revocation of her driver's license for a period of one year, incarceration of 11 months and 24 days, suspended, and a fine in the amount of \$500.00. [Ex. 4, 4A].

3. In a Findings of Fact, Conclusions of Law and Order by the North Carolina Board dated April 28, 2016, which incorporates the findings in an Order of Summary Suspension of License dated December 8, 2015, the North Carolina Board directed the Respondent to complete an evaluation by the North Carolina Physicians Health Program ("NCPHP"), which resulted in [REDACTED]

[REDACTED] The NCPHP recommended a comprehensive assessment through Vanderbilt Comprehensive Assessment Program ("VCAP"), which the Respondent failed to complete. The VCAP determined that based on the test results and untreated [REDACTED] disorder, the Respondent was "unfit to practice medicine." The North Carolina Board concluded that the Respondent was incapable

of practicing medicine "with reasonable skill and safety to patients" and indefinitely suspended her medical license. [Ex. 5, 6].

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

The Hearing Committee determined that the evidence supports sustaining the charge of having committed misconduct under Educ. Law § 6530(9)(a)(iii).

VOTE: Sustained (3-0)

SECOND SPECIFICATION

The Hearing Committee concluded that the evidence supports sustaining the charge of having committed misconduct as defined in Educ. Law § 6530(9)(d).

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Department presented the Hearing Committee with evidence to show that based on the Respondent's misdemeanor conviction of Evading Arrest pursuant to Tennessee Code 39-16-603, the Respondent committed professional misconduct, as defined in Educ. Law § 6530(9)(a)(iii). The Department's evidence demonstrated that the Respondent's conduct of intentionally fleeing law enforcement in a motor vehicle in connection with her arrest, which constituted a crime under the laws of the state of Tennessee, would have constituted a crime under New York state law, had it occurred here. Similar to Tennessee, New York deems it a misdemeanor crime for an individual subject to a potential arrest to flee a police officer in a motor vehicle. PL § 270.25. Since these two laws are substantially the same, the Hearing Committee concludes that the Respondent's conduct in

Tennessee would have constituted a crime under New York state law, had it been committed in New York. [Ex. 4A].

The Department's evidence also established the Respondent's conduct in failing to cooperate with the North Carolina Board's directives to undergo and complete evaluation testing and engage in treatment for [REDACTED] which led to the indefinite suspension of her medical license. [Ex. 6]. Like North Carolina, New York prohibits physicians from practicing medicine if impaired by a psychiatric condition affecting the ability to practice. Educ. Law § 6530(8). The Hearing Committee noted the Respondent's demeanor at the hearing, including her inability to logically respond to questions pertaining to the Department's claims and her [REDACTED]

[REDACTED] [Ex. A; T. 25-26, 29, 31, 34-38]. In considering the importance of sound judgment and rational decision making in the practice of medicine, the Hearing Committee determined that the Respondent's professional misconduct in the form of an untreated [REDACTED] condition that prevented her from providing safe and reasonably skilled medical care to patients in North Carolina, which resulted in disciplinary action, had it occurred in New York, would have constituted having a psychiatric condition which impairs her ability to practice, as defined in Educ. Law § 6530(8).

The Hearing Committee considered the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties, and found that the sustained specifications indicate the Respondent's unstable judgment and erratic behavior resulting from a [REDACTED] disorder that she refuses to address or treat. As such, the Hearing Committee unanimously concluded that the evidence supports the penalty of suspension pursuant to PHL § 230-a(2)(c) and (e) with the conditions identified in the Order below.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are

SUSTAINED;

2. Respondent's license to practice medicine in the State of New York is hereby **SUSPENDED** under PHL § 230-a(2)(c) and (e), until such time as the Respondent completes the following:

(a) submits to and cooperates with a psychiatric evaluation by a physician, physicians or facility proposed by the Respondent but subject to the prior written approval by the Director of the Office of Professional Medical Conduct; and

(b) causes the evaluator to report in writing to the Director of the Office of Professional Medical Conduct regarding the Respondent's fitness to practice medicine.

3. This Determination and Order shall be effective upon service on the Respondent. Service shall be either by certified mail or upon the Respondent at her last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York
3/13, 2017


William A. Tedesco, Chairperson

Deborah Whitfield, M.A., Ph.D.
Lyon M. Greenberg, M.D.

Christiana Lietzke, M.D. - Direct Referral

TO: Christiana Lietzke, M.D.



**Marc S. Nash, Esq.
Senior Attorney
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237**

APPENDIX I

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

IN THE MATTER
OF
CHRISTIANA LIETZKE, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Christiana Lietzke, M.D.

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 December 14, 2016, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Menands (Albany), NY 12204-2719.¹

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

¹ For GPS purposes, enter "Menands", not "Albany".



Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0746), (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 at least 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. You may also file a written brief and affidavits with the Committee. All such documents 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, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

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.

**THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO OTHER SANCTIONS SET OUT IN NEW
YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED
TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN
THIS MATTER.**

DATED: Albany, New York
September 26, 2016


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

**Marc S. Nash
Senior Attorney
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-1708**

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

IN THE MATTER

OF

CHRISTIANA LIETZKE, M.D.

**STATEMENT
OF
CHARGES**

CHRISTIANA LIETZKE, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 28, 2014 by the issuance of license number 273981 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about May 28, 2014, in General Sessions Court for Jefferson County, Tennessee, Respondent was found guilty to one count of Evading Arrest, a Class A misdemeanor.**
- B. Respondent's crime as described above would, if committed in New York State, have constituted a crime under New York State law, specifically N.Y. Penal Law § 270.25, Unlawful fleeing a police officer in a motor vehicle in the third degree (a Class A misdemeanor).**
- C. On or about December 8, 2015, the North Carolina Medical Board (hereinafter "North Carolina Board") issued an Order of Summary Suspension of Respondent's medical license based upon information which indicated Respondent suffered from a medical condition, which when left untreated, rendered Respondent unable to practice medicine with reasonable skill and safety to patients; and at that time, based upon information and belief, Respondent was not receiving sufficient treatment for her**

medical condition. The Order of Summary Suspension was corrected on or about March 18, 2016, but the findings and conclusion remained the same.

D. Following a hearing held on April 21, 2016, the North Carolina Board, by a Findings of Fact, Conclusion of Law, and Order on or about April 28, 2016, indefinitely suspended Respondent's license to practice medicine and surgery. In reaching this conclusion, the North Carolina Board found that Respondent, based upon her presentation and conduct during an extended evaluation process in which she failed to complete some testing and had walked out of the last appointment with the Medical Director, was unfit to practice medicine. The North Carolina Board further found Respondent had presented symptoms consistent with [REDACTED] disorder [REDACTED] [REDACTED] which disorders Respondent refused to treat with medication.

E. The conduct resulting in the North Carolina 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(8) (Having a psychiatric condition which impairs the licensee's ability to practice);

SPECIFICATION OF CHARGES

FIRST 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. Penal Law § 270.25) as alleged in the facts of the following:

1. The facts in Paragraphs A and B.

SECOND SPECIFICATION

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent violated New York State Education Law § 6530(9)(d) by having disciplinary action taken, where the conduct resulting in the disciplinary action involving the license would, if committed in New York State, constitute professional misconduct under the laws of New York State Law, in that Petitioner charges:

2. The facts in Paragraphs C, D, E, and/or E.1.

DATE: September 26, 2016
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct