



**Department  
of Health**

**KATHY HOCHUL**  
Governor

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

**KRISTIN M. PROUD**  
Acting Executive Deputy Commissioner

August 10, 2022

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Deborah Beth Medows, Esq.  
New York State Department of Health  
Bureau of Professional Medical Conduct  
90 Church Street, 4<sup>th</sup> Floor  
New York, New York 10007

Richard Michael Hinds, MD  


**RE: In the Matter of Richard Michael Hinds, MD**

Dear Parties:

Enclosed please find the Determination and Order (No. 22-183) 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,



Sean D. O'Brien  
Acting Chief Administrative Law Judge  
Bureau of Adjudication

SDO: cmg  
Enclosure

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

**COPY**

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<b>IN THE MATTER</b>	:	<b>DETERMINATION</b>
	:	<b>AND</b>
<b>OF</b>	:	<b>ORDER</b>
	:	
<b>RICHARD MICHAEL HINDS, MD</b>	:	<b>BPMC-22-183</b>
	:	
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The New York State Department of Health, Bureau of Professional Medical Conduct (Department) served Richard Michael Hinds, MD (Respondent) with a Notice of Hearing dated May 12, 2022 and Statement of Charges dated May 2, 2022, pursuant to Public Health Law (PHL) § 230(10)(d)(i). (Department Exhibits 1, 2.) The Respondent filed an answer to the charge and allegations in the Statement of Charges on June 15, 2022. (ALJ Exhibit I.)

This hearing was held and completed on June 29, 2022 via Cisco WebEx videoconference. Pursuant to PHL § 230(10)(e), **ELISA J. WU, MD**, Chairperson, **THEODORE J. STRANGE, MD, FACP**, and **DAVID F. IRVINE, DHSc, PA**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee. **NATALIE J. BORDEAUX** served as the administrative officer. The Department appeared by Deborah Beth Medows, Esq. The Respondent appeared on his own behalf.

The Department presented Joseph D. Zuckerman, MD, Professor of Orthopedic Surgery and Chair of the Department of Orthopedic Surgery at NYU School of Medicine, as its sole witness. The Respondent testified on his own behalf.

The Hearing Committee received and examined documents from the Department (Department Exhibits 1-5) and from the Respondent (Respondent Exhibits 1-4.) A transcript of the hearing was made.

After considering the entire hearing record, the Hearing Committee hereby issues this Determination and Order. All findings, conclusions, and determinations are unanimous. The Hearing Committee sustains the charge that the Respondent committed professional misconduct under Education Law § 6530(21):

Willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, or willfully impeding or obstructing such filing, or inducing another person to do so.

### **FINDINGS OF FACT**

1. Respondent Richard Michael Hinds, MD was authorized to practice medicine in the State of New York on or about September 26, 2019, by the issuance of license number 301367.

(Department Exhibit 2.)

2. By notice dated December 6, 2018, the Respondent, then a resident participating in the NYU Orthopedic Surgery Residency Training Program, was advised of a determination made by Kenneth Egol, MD, Director of the Residency Training Program, and Joseph D. Zuckerman, MD, Chairman of the NYU Department of Orthopedic Surgery, to place the Respondent on summary suspension, effective immediately, for a period of two weeks, until December 20, 2018. The notice further advised, in pertinent part:

During your suspension period, you will have no responsibilities to your training program and you are to remain offsite...At the end of the suspension period, the Program will notify you in writing as to what further action, if any, is to be taken...One of the following may occur:

- a) Termination of your suspension, with a statement provided to you stating that such suspension occurred and there is no present need for additional disciplinary action;
- b) Termination of your suspension and continuation of your probation...;
- or
- c) Termination of your participation in the residency program...

A decision to suspend requires reporting to the appropriate State agency...

(Department Exhibit 4.)

3. By email dated December 13, 2018, the Respondent advised Drs. Egol and Zuckerman that he was appealing the December 6 suspension. He submitted a written response to the allegations set forth in the summary suspension notice the following day. (Respondent Exhibit 2.)

4. On December 18, 2018, the Respondent emailed Dr. Zuckerman to emphasize his willingness to address any issues necessary to complete the Residency Training Program, but also advised him that “if you decide that there are no options for me to become an orthopaedic surgeon, I humbly ask for the opportunity to resign so that I may be able to work in medicine as a doctor.” (Respondent Exhibit 3.)

5. On December 19, 2018, Dr. Zuckerman replied that he would like to meet with the Respondent that day to discuss his request to resign. (Respondent Exhibit 3.)

6. During the December 19 meeting with Dr. Zuckerman, the Respondent tendered a letter of resignation from the Residency Training Program and withdrawal of his request for an appeal of the December 6, 2018 summary suspension determination. (Department Exhibit 5.)

7. On July 31, 2019, the Respondent submitted an application for medical licensure to the New York State Education Department, in which he responded “no” to question 15:

Has any hospital or licensed facility restricted or terminated your professional training, employment, or privileges or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such measures? (Department Exhibit 3.)

### DISCUSSION

Pursuant to PHL § 230(10), the Hearing Committee determined that the Department met its burden of proving by a preponderance of the evidence the Department’s factual allegations and charge of misconduct.

The Department's factual allegations A and B are undisputed: A) a December 6, 2018 letter of summary suspension was issued to the Respondent (Department Exhibit 4); and B) the Respondent resigned from the Residency Training Program (ALJ Exhibit I, Department Exhibit 5, Respondent Exhibit 3; T 22-24, 38-39, 48.)

The Respondent disputed factual allegation C: that he willfully made or filed a false report by answering "no" to question 15 on his July 31, 2019 application for medical licensure. He argued that his response to question 15 (Has any hospital or licensed facility restricted or terminated your professional training, employment, or privileges or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such measures?) was not willfully false because that question did not mention the word "suspension" and he did not regard a suspension as a restriction. (ALJ Exhibit I; T 9-10, 47-51, 63.)

Regarding the allegation of willfully making a false report on a license application, a Respondent's awareness of the true state of the facts at the time the false response is given is sufficient to support the inference of guilty knowledge. *Fodera v. Daines*, 925 N.Y.S.2d 720, 724 (App. Div. 3d Dep't 2011); *Saldanha v. DeBuono*, 681 N.Y.S.2d 874, 875 (App. Div. 3d Dep't 1998). The Respondent resigned after receiving notice that he was placed on summary suspension for a period of two weeks, during which he was to remain offsite (a restriction during his residency training), and after which his suspension would be terminated or his participation in the Residency Training Program would be terminated. (Department Exhibit 4.) The Hearing Committee agreed that the Respondent was well aware that the suspension with the possibility of termination constituted a restriction of his training and he resigned from his training because of it.

The Respondent claimed that he was given no other option but to sign a resignation letter on December 19, 2018 (Department Exhibit 5), which was prepared for him by the Residency Training Program. (ALJ Exhibit I; T 40.) However, he also testified that he resigned one day earlier (December 18) in his email to Dr. Zuckerman (ALJ Exhibit I, Respondent Exhibit 3; T 22-26, 38-39, 41, 48, 64.) In that message, the Respondent explicitly asked for reconsideration of his suspension or, in the alternative, the opportunity to resign in order to avoid further damage to his ability to practice medicine. (Respondent Exhibit 3.) Whether his resignation occurred on December 18 or 19 is of no significance. Nor is the Respondent's claim to have resigned under pressure responsive to the charge. It remains clear that he resigned in order to resolve the suspension and avoid the possibility of termination of his professional training.

The Respondent's assertion that he interpreted question 15 on his application differently from its plain meaning is not credible given his explanation of the pertinent facts. The Hearing Committee therefore inferred that the Respondent acted willfully in completing and filing his application for medical licensure, knowing that his response to question 15 was false, and determined to sustain the charge of professional misconduct under Education Law § 6530(21).

The Department requested the imposition of a censure and reprimand and a \$10,000 fine as penalties for the Respondent's false response on his medical license application. (T 9.) The Respondent sought leniency. He cited his attempt to obtain legal advice before completing his medical licensure renewal application as proof that he has learned from his mistakes. (Respondent Exhibit 4; T 42, 48, 50, 53.)

The Hearing Committee agreed that a censure and reprimand was warranted in this case but declined to impose any fine. Although the Hearing Committee considered the Respondent's professional misconduct troubling, the Hearing Committee saw no value in assessing a monetary

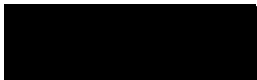
penalty. The Hearing Committee was satisfied that the imposition of a censure and reprimand was sufficient admonishment of the Respondent's actions.

**ORDER**


**IT IS HEREBY ORDERED THAT:**

1. The specification of professional misconduct set forth in the Statement of Charges is **SUSTAINED**.
2. The Respondent's license to practice medicine in the State of New York is subject to **CENSURE AND REPRIMAND** pursuant to PHL § 230-a(1).
3. This Determination and Order shall be effective upon service of the Respondent in accordance with PHL § 230(10)(h).

DATED: August 10, 2022  
New York, New York

  
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**ELISA J. WU, MD, Chair**  
**THEODORE J. STRANGE, MD**  
**DAVID F. IRVINE, DHSc, PA**

To: Deborah Beth Meadows, Esq.  
New York State Department of Health  
Bureau of Professional Medical Conduct  
90 Church Street, 4<sup>th</sup> Floor  
New York, New York 10007

Richard Michael Hinds, MD  




**EXHIBIT "A"**

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

**IN THE MATTER**  
**OF**  
**RICHARD MICHAEL HINDS, M.D.**

STATEMENT  
OF  
CHARGES

RICHARD MICHAEL HINDS, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 26, 2019, by the issuance of license number 301367 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about December 6, 2018, the NYU Langone Medical Center sent a letter to Respondent to inform Respondent of NYU's intention to place him on summary suspension, effective immediately, due to concerns with his performance.
- B. On or about December 18 or 19, 2018, Respondent, in a letter to the Chair of the Department of Orthopedic Surgery, resigned immediately from the NYU Orthopedic Residency Training Program. Respondent submitted a resignation letter that stated: "please accept my resignation from the NYU Orthopedic Residency Training Program, effective today, December 19, 2018.

I am also withdrawing my request for an appeal of the summary suspension, imposed on December 6, 2018.”

- C. On or about July 31, 2019, Respondent willfully made or filed a false report by answering negatively on his New York State Education Department Application for Licensure form to the question “has any hospital or licensed facility restricted or terminated your professional training, employment, or privileges or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such measures?”

### **SPECIFICATION OF CHARGES**

#### **FILING A FALSE REPORT**

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law § 6530 (21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department or willfully impeding or obstructing such filing, or inducing another person to do so, as alleged in the facts of:

1. Paragraphs A, B, and C.

DATE: May 2, 2022  
New York, New York

  
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Henry Weintraub  
Chief Counsel  
Bureau of Professional Medical Conduct