



Department of Health

ANDREW M. CUOMO
Governor

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

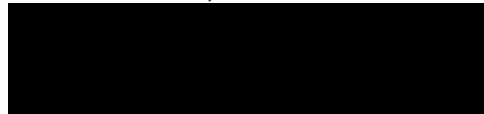
SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

December 12, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Gerard A. Cabrera
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, New York 10007

Alan R. Koslow, M.D.



RE: In the Matter of Alan R. Koslow, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.17-346) 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:

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:ISM

Enclosure

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

**IN THE MATTER
OF
ALAN R. KOSLOW, M.D.**

**DETERMINATION
AND
ORDER**

17-346

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("the Department"). A February 28, 2017 Notice of Referral Proceeding ("NORP") with Statement of Charges ("SOC") was served upon Alan R. Koslow, M.D. ("Respondent") and is attached to this Determination and Order as Appendix 1. A hearing, pursuant to N.Y. Public Health Law ("PHL") §230 and New York State Admin. Proc. Act §§301-307 and 401, was held on October 18, 2017 at the Department's offices at 90 Church Street, New York, New York.

David A. Sherris, M.D., Theodore J. Strange, M.D., FACP, and Elena M. Cottone, P.A.-C, duly designated members of the State Board for Professional Medical Conduct ("Board"), served as the Hearing Committee ("Committee") in this matter. Administrative Law Judge Ann H. Gayle served as the administrative officer. The Department appeared by Gerard A. Cabrera, Associate Counsel. The Respondent appeared *Pro Se* by telephone. Evidence was received and a transcript (pages 1-39) of this hearing was made.

After consideration of the entire record, the Committee issues this Determination and Order; all findings, conclusions, determinations and orders are unanimous.

STATEMENT OF CASE

This case was brought pursuant to PHL §230(10)(p) which provides for a hearing with circumscribed issues when a licensee is charged with misconduct based upon a criminal conviction under federal or state law and/or upon an administrative adjudication in another state regarding conduct that would amount to a crime and/or professional misconduct if committed in New York. N.Y. Education Law ("Educ. Law") §6530(9). The scope of the hearing is limited to a determination of the penalty, if any, to be imposed upon the licensee. In the instant case, Respondent is charged with one specification of professional misconduct pursuant to Educ. Law §6530(9)(d) for having had disciplinary action taken by a professional disciplinary agency of another state.

FINDINGS OF FACT

Citations in brackets refer to transcript page numbers ["T"] and exhibits ["Ex"] found persuasive by the Committee in arriving at the following Findings of Fact. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

1. Respondent was authorized to practice medicine in New York State on June 18, 1987, by the issuance of license number 170371, by the New York State Education Department. [Ex 2]
2. Respondent did not dispute that he failed to file an answer to the NORP and SOC at least ten days prior to the first day of hearing. Pursuant to PHL §230.10(p), the charges were deemed admitted. [Ex 1; T 12-15]

3. On or about December 11, 2015, the Iowa Board of Medicine (“Iowa Board”) issued a disciplinary final order (File No. 02-06-563) approving a settlement agreement with Respondent based on charges which included, but were not limited to, demonstrating professional incompetency in performing surgery on three patients without the appropriate surgical indications or technique, exercising poor candidate selection for surgeries, inadequate intraoperative postsurgical management, poor notetaking and recordkeeping, and disruptive behavior with other staff. Respondent was cited and warned, fined, placed on probation, required to practice with a monitor, and ordered to complete multiple education and training programs. [Ex 3]

CONCLUSIONS OF LAW

Respondent was charged with professional misconduct under Educ. Law §6530(9)(d) by having his license to practice medicine revoked, suspended or having other disciplinary action taken, where the conduct resulting in the revocation, suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state (Specification of Charges). The conduct upon which the Iowa Board’s findings was based and the disciplinary action was taken, *i.e.*, practicing the profession with incompetence on more than one occasion, if committed in New York state would constitute professional misconduct under the laws of New York state, to wit, Educ. Law §§6530(5). Pursuant to PHL §230.10(p), by failing to file an answer at least ten days prior to the first day of hearing, the charges and specification of misconduct against Respondent were deemed admitted.

The Specification of Charges is sustained.

DETERMINATION AS TO PENALTY

The Department represented to the Committee that based on the Iowa Board's findings, the only appropriate penalty is a revocation of Respondent's license [T 21-22].

Respondent represented to the Board that he would not practice vascular medicine, and he proposed the imposition of a penalty that would allow him to maintain his New York license. Respondent requested that he be allowed to perform administrative work such as reviewing charts for insurance companies, and to provide limited patient care such as administering wound care, with or without the ability to perform debridement, and performing and reading vascular ultrasound tests. [T 29- 30, 31-33]

The conduct upon which the Iowa Board's findings was based and the disciplinary action taken leads this Committee to conclude that allowing Respondent to engage in direct patient care would place patients at risk. The Committee is also troubled by Respondent's lack of compliance with the Iowa Board's Order including that Respondent commenced efforts to comply with that Order but then put it "on hold" while he is not actively practicing medicine. [T 30-31].

The Committee, in considering the full range of penalties available pursuant to PHL Law §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) a fine up to \$10,000 per specification sustained; (8) a course of education or training; (9) performance of public service; and, (10) probation, concludes that the appropriate penalty for Respondent's serious incompetence is a limitation of Respondent's license to allow administrative work only [§230-

a(3)]; a course of education in recordkeeping and communication [§230-a(8)]; and (3) probation for 5 years [§230-a(9)]. The Committee has determined that CME, probation, and no direct patient care disciplines Respondent and protects the public.

ORDER

IT IS HEREBY ORDERED THAT:

1. The charge of misconduct under Educ. Law §6530(9)(d) for having had disciplinary action taken by a professional disciplinary agency of another state is sustained.
2. Pursuant to PHL §230-a (3), there shall be a permanent limitation on Respondent's license precluding him from engaging in any direct patient care. Respondent may perform administrative review of charts for insurance companies and other similar entities. Any and all practice/employment of Respondent, including performing administrative review of patient charts, shall be subject to Board approval.
3. Pursuant to PHL §230-a (8), Respondent is required to complete Board-approved CME courses in (1) recordkeeping and (2) communication within one year of the effective date of this Order. (The CME course(s) shall be completed in the first six months of the effective date of this Order if such approved courses are offered in that time frame.)
4. Pursuant to PHL §230-a (9), Respondent shall be placed on Probation for a period of five (5) years. Terms of Probation are attached to this Determination and Order as Appendix 2.
5. This order shall be effective upon Respondent as required under PHL §230(10)(h).

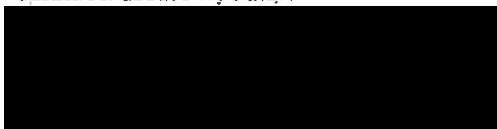
DATED: Buffalo, New York
December 8, 2017



DAVID A. SHERRIS, M.D., Chair
THEODORE J. STRANGE, M.D., FACF
ELENA M. COTTONE, P.A.-C

To: Gerard A. Cabrera
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, New York 10007

Alan R. Koslow, M.D.



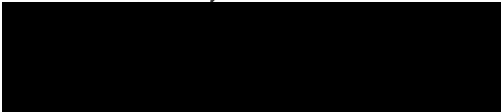
APPENDIX 1

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

IN THE MATTER
OF
ALAN R. KOSLOW, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Alan R. Koslow, M.D.



PLEASE TAKE NOTICE THAT:

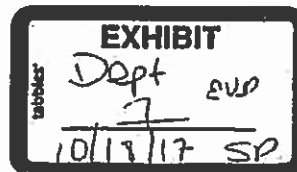
An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on April 19, 2017, at 10:30 a.m., at the offices of the New York State Department of Health, 90 Church Street, 4th Floor, New York New York 10007.

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 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau

DEPT 1.



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.

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 [REDACTED]

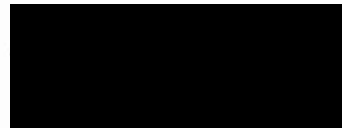
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name

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
February 22, 2017



ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Gerard A. Cabrera
Associate Counsel
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, NY 10007
212-417-4450

IN THE MATTER

OF

ALAN R. KOSLOW, M.D.

STATEMENT

OF

CHARGES

Alan R. Koslow, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 18, 1987, by the issuance of license number 170371 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 11, 2015, the Iowa Board of Medicine issued a disciplinary final order (File No. 02-06-563) approving a settlement agreement entered into with Respondent, based on charges including but not limited to: demonstrating professional incompetency in performing surgery on three patients without the appropriate surgical indications or technique; exercising poor candidate selection for surgeries; inadequate intraoperative and postsurgical management; poor notetaking and recordkeeping; and disruptive behavior with other staff. The Respondent was cited and warned, fined, placed on probation, required to practice with a monitor, and ordered to complete multiple education and training programs.


1. The conduct resulting in the Iowa disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:
 - a. New York State Education Law § 6530(5) (practicing the profession with incompetence on more than one occasion).

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 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 (namely N.Y. Educ. Law § 6530(5)) as alleged in the facts of the following:

1. Paragraphs A and its subparagraphs.

DATE: February 27, 2017
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct

APPENDIX 2

TERMS OF PROBATION

1. Respondent's conduct shall conform to moral and professional standards of conduct and to governing law. Any act of professional misconduct by Respondent as defined by New York Education Law §§6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York Public Health Law §230 (10) or (19), or both.
2. Respondent shall remain in continuous compliance with all requirements of New York Education Law §6502, including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in New York Education Law §6502(4) to avoid registration and payment of fees.
3. Respondent shall provide to the Director of the Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York, 12204, (OPMC's address) at least every six months and as otherwise requested, or within thirty days of any change in the information, the following information in writing:
 - a. a full description of the Respondent's employment and practice;
 - b. all professional and residential addresses and telephone numbers within and outside New York State;
 - c. any and all information concerning investigations, arrests, charges, convictions or disciplinary actions by any local, state, or federal agency; and
 - d. any and all information concerning investigations, terminations, or disciplinary matters by any institution or facility.
4. Respondent shall provide to the Director of OPMC, at OPMC's address, copies of all applications relating to the practice of medicine, including but not limited to, privileges, insurance, and licensure, in any jurisdiction, concurrent with their submission.
5. Respondent shall cooperate fully with, and will respond within two weeks to, OPMC requests to provide written periodic verification of Respondent's compliance with these terms of probation. Upon the Director of OPMC's request, Respondent shall meet personally with a person designated by the Director.

6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty-day period. Respondent shall then notify the Director again at least fourteen days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume, and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in the Determination and Order or as are necessary to protect the public health.
7. The Director of OPMC, or his/her designee, may review Respondent's professional performance. This review may include but shall not be limited to:
 - a. A review of office records, patient records, hospital charts, and/or electronic records that Respondent maintains and/or reviews;
 - b. Interviews with or periodic visits with Respondent and/or staff at practice locations or at OPMC offices.
8. Respondent shall maintain complete and legible medical records that contain all information required by State rules and regulations in his administrative review of charts.
9. Respondent shall comply with these Terms of Probation, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with or a violation of these terms, the Director of OPMC and/or the Board for Professional Medical Conduct may initiate a violation of probation proceeding, and/or any other proceeding authorized by law, against the Respondent.