



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

June 22, 2017

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Yonas Zegeye, M.D.  
5 Harvard Circle  
Suite 104  
West Palm Beach, Florida 33409

John Viti, Esq.  
NYS Department of Health  
90 Church Street – 4<sup>th</sup> Floor  
New York, New York 10007

**RE: In the Matter of Yonas Zegeye, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No.17-173) 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: nm  
Enclosure

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

COPY

-----X  
IN THE MATTER  
OF  
YONAS ZEGEYE, M.D.

DETERMINATION  
AND  
ORDER

-----X  
BPMC-17-173

The New York State Department of Health (“Department”) charged Yonas Zegeye, M.D. (“Respondent”), with professional misconduct in violation of New York State Education Law § 6530(9)(d). The Department alleges that actions taken by Respondent, for which his medical license was disciplined in another state, constitute professional misconduct under the laws of New York State.

A hearing was held on April 20, 2017. Administrative Law Judge Jankhana Desai presided over the hearing. Pursuant to Section 230(10)(e) of the Public Health Law (“PHL”), Ruth Horowitz, Ph.D., Chairperson, Florence Kavaler, M.D., and Rose Berkun, M.D., duly designated members of the State Board for Professional Medical Conduct (“BPMC”), served as the Hearing Committee (“Committee”).

The Department appeared by John Viti, Associate Counsel for the Bureau of Professional Medical Conduct. Respondent did not appear at the hearing. Evidence was received, and a transcript of the proceeding was made. After consideration of the entire record, the Committee issues this Determination and Order.

**BACKGROUND**

This case was brought pursuant to PHL § 230(10)(p), a statute that provides for a direct referral proceeding when a licensee is charged solely with a violation of Educ. Law § 6530(9). In

this case, Respondent is charged with professional misconduct pursuant to Educ. Law § 6530(9)(d), for “having his ... license to practice medicine revoked, suspended or having other disciplinary action taken...” where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State. Respondent’s licenses were disciplined in the states of Florida and Pennsylvania, and the Department charged that the underlying conduct in Florida and Pennsylvania violated Educ. Law § 6530(3) (practicing the profession with negligence on more than one occasion.)

The scope of this direct referral hearing is limited to whether there was a relevant administrative determination in another state and if so, an assessment of the nature and severity of the penalty to be imposed upon the licensee.

#### PROCEDURAL HISTORY

Respondent did not appear at the hearing, either in person or by counsel. The Department’s evidence established that the Department had met the requirements of law for due diligence in the service of process, that jurisdiction has been established over Respondent, and that the hearing could proceed on the merits notwithstanding Respondent’s absence.

The Notice of Hearing states the following:

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 and allegation not so answered shall be deemed admitted.

Respondent failed to file any answer to the charges and allegations in the Statement of Charges. At the Department’s request, and pursuant to PHL § 230(10)(p), the charges and allegations were deemed admitted.

## FINDINGS OF FACT

The Committee made the following findings of fact unanimously:

1. Respondent was authorized to practice medicine in New York State on December 3, 1982, by the issuance of license number 152635, by the New York State Education Department.

2. On October 25, 2013, the Florida Board of Medicine ("Florida Board") filed a State of Florida Department of Health Administrative Complaint ("Florida Administrative Complaint") that alleged that Respondent, with regard to a patient potentially suffering a cerebrospinal fluid leak, failed to appropriately pursue diagnostic testing on June 4 and 6, 2012, and failed to appropriately advise the patient to seek hospital admission on June 6, 2012, thereby violating Florida statutes. (Exhibit 7.)

3. On January 29, 2015, Respondent entered into a Settlement Agreement with the Florida Board in which Respondent neither admitted nor denied the allegation of facts stated in the Florida Administrative Complaint. (Exhibit 7.)

4. On April 28, 2015, the Florida Board rendered a Final Order ("Florida Order") that revised and incorporated the Settlement Agreement. The Florida Order required Respondent to comply with the following terms and conditions: (1) Pay a \$10,000.00 fine, (2) pay \$8,638.77 in costs, (3) complete five hours of Continuing Medical Education, and (4) undergo an evaluation by Florida CARES, a state program. (Exhibit 7.)

5. On July 28, 2015, the State Board of Medicine for the Commonwealth of Pennsylvania ("Pennsylvania Board") by Order ("Pennsylvania Order") approved and adopted a Consent Agreement ("Pennsylvania Consent Agreement") requiring the Respondent to pay a

civil penalty of \$5,000.00. The Pennsylvania Order was predicated on the Florida Order.  
(Exhibit 7.)

6. By signing the Pennsylvania Consent Agreement, Respondent acknowledged that another state, namely Florida, had taken disciplinary action against his medical license.  
(Exhibit 7.)

### VOTE OF THE COMMITTEE

The Committee unanimously sustained the specification of misconduct contained in the Statement of Charges as it applied to Factual Allegation A1, which dealt with the Florida Order. The Committee did not sustain the specification of misconduct as it applied to Factual Allegation B1, since the Pennsylvania Order was not based on practicing the profession with negligence on more than one occasion. Rather, it was based solely on the Florida Order. Therefore, the conduct resulting in the Pennsylvania Order did not constitute professional misconduct under Educ. Law § 6530(3) (practicing the profession with negligence on more than one occasion.)

Based on the foregoing, the Committee unanimously sustained the charge that Respondent committed professional misconduct as defined in Educ. Law § 6530(9)(d).

### COMMITTEE DETERMINATION

The 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. The Committee found that the original Florida Administrative Complaint alleged negligence with respect to only one patient. The Committee noted that although there were multiple problems in judgment, they all involved one case. This was significant in light of the fact that Respondent had been practicing medicine for nearly 35 years. The Committee concluded that neither the severity nor frequency of the conduct warranted a severe punishment.

Consequently, the Committee determined that the public would be sufficiently protected by placing Respondent's New York State medical license on probation should Respondent decide to return to New York to practice medicine.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The specification of professional misconduct, as set forth in the Statement of Charges, pertaining to Factual Allegation A1 is **SUSTAINED**.
2. The specification of professional misconduct, as set forth in the Statement of Charges, pertaining to Factual Allegation B1 is **DISMISSED**.
3. If Respondent, at any time, attempts to reactivate his medical license in New York, he will, as a condition of reactivation, be placed on probation for a period of 18 months in accordance with terms set forth in Appendix "A" attached to this Determination and Order.
4. Prior to reactivation of his medical license, Respondent must show proof of completion of the terms and conditions of the Florida Order.
5. This Determination and Order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required by PHL 230(10)(h).

DATED: June 16, 2017

  
\_\_\_\_\_  
Ruth Horowitz, Ph.D., Chairperson

Rose Berkun, M.D.  
Florence Kavalier, M.D.

## APPENDIX A

### Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Albany, New York 12204; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. The period of 18 months probation shall begin upon Respondent's reactivation of his medical license in New York. If Respondent reactivates his license and is therefore placed on probation, the period of probation will be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Respondent must show proof of completion of the terms and conditions of his Florida Order prior to the activation of his New York State medical license.
6. Respondent shall comply with these Terms of Probation, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with 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.



To:

Yonas Zegeye, M.D.  
5 Harvard Circle, Suite 104  
West Palm Beach, FL 33409

John Viti  
Associate Counsel  
Bureau of Professional Medical Conduct  
90 Church Street, 4th Floor  
New York, NY 10007

## APPENDIX B

IN THE MATTER  
OF  
YONAS ZEGEYE, M.D.

STATEMENT  
OF  
CHARGES

YONAS ZEGEYE, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 3, 1982, by the issuance of license number 152635 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about April 28, 2015, The State of Florida, Board of Medicine ("Florida Board") issued a Final Order, after having opened an investigation into the conduct and medical practice of Respondent. The Florida Order required the Respondent to pay a \$10,000.00 fine, \$8,638.77 in cost, required the Respondent to complete CME and to undergo an evaluation by Florida CARES. The Final Order approved a Florida Board Counter Settlement Agreement that revised and incorporated a State of Florida Department of Health, Settlement Agreement ("Settlement Agreement") dated on or about January 29, 2015. The Settlement Agreement in which the Respondent neither admitted or denied the allegations of facts, was based on a State of Florida Department of Health Administrative Complaint (the "Complaint") that alleged that the Respondent, with regard to a patient potentially suffering a cerebrospinal fluid leak, failed to appropriately pursue diagnostic testing on or about both June 4 and June 6, 2012, and failed to appropriately advise the patient to seek hospital admission on or about June 6, 2012, and thereby violated Florida Statue Chapter 458.331, grounds for disciplinary action; and more specifically Florida Statue Chapter 458.331(1)(t):

"Committing medical malpractice as defined in Chapter 456.50. The Board shall give great weight to the provisions of Chapter 776.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act."

1. The conduct resulting in the Order would, collectively, constitute misconduct under the laws of New York State, pursuant to New York Education Law Section 6530(3) (Practicing the profession with negligence on more than one occasion).

B. On or about July 28, 2015, the State Board of Medicine for the Commonwealth of Pennsylvania ("PA Board") by Order ("PA Order"), approved and adopted a Consent Agreement ("PA Consent Agreement"), after having opened an investigation into the conduct and medical practice of Respondent, required the Respondent to pay a Civil Penalty of \$5,000.00. The PA Order was predicated on a Final Order issued by State of Florida, Board of Medicine cited in Paragraph A, above. Respondent acknowledged that he violated the State of Pennsylvania Medical Practice Act §41(4), 63 P.S. §422.41(4), in that Respondent had a license or other authorization to practice the profession suspended, revoked, refused or otherwise disciplined by the proper licensing authority of another state, territory, possession or country, or branch of the federal government.

1. The conduct resulting in the Order would constitute misconduct under the laws of New York State, pursuant to New York Education Law Section 6530(3) (Practicing the profession with negligence on more than one occasion).

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**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(3), as alleged in the facts of the following:

1. The facts in Paragraph A and its subparagraph.
2. The facts in Paragraph B and its subparagraph.

DATE: January 25, 2017  
New York, New York



Roy Nemerson  
Deputy Counsel  
Bureau of Professional Medical Conduct