



Department of Health

ANDREW M. CUOMO
Governor

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

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

December 13, 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David Quist, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2438
Albany, New York 12237

Michael Youssef Baaklini, M.D.


RE: In the Matter of Michael Youssef Baaklini, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No.16-404) 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.

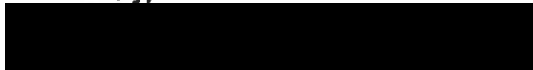
The notice of review served on the Administrative Review Board should be forwarded to:

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:cah

Enclosure

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

IN THE MATTER
OF
MICHAEL YOUSSEF BAAKLINI, M.D.

DETERMINATION
AND
ORDER

BPMC #16-404

COPY

A hearing was held on November 16, 2016, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and Statement of Charges dated September 22, 2016, were served upon MICHAEL YOUSSEF BAAKLINI, M.D., the Respondent. Pursuant to § 230(10)(e) of the Public Health Law, Kendrick A. Sears, M.D., Chairperson, John D. Thomas II, M.D., and Janet R. Axelrod, Esq., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. William J. Lynch, Esq., Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by Richard J. Zahnleuter, Esq., General Counsel, by David Quist, Esq., of Counsel. The Respondent appeared pro se. Evidence was received and transcripts of the proceedings were made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

BACKGROUND

This case was brought pursuant to Public Health Law § 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of New York Education Law § 6530(9). In such cases, a licensee is charged with misconduct based upon a

prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed.

In the instant case, the Respondent is charged with professional misconduct pursuant to New York Education Law § 6530(9)(d). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:	None
For the Respondent:	Respondent

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Michael Youssef Baaklini, M.D., the Respondent, was authorized to practice medicine in New York State on October 14, 1988, by the New York State Education Department's issuance of license number 176517 (Petitioner's Ex. 3).

2. On May 13, 2015, the Respondent entered into a Consent Order with the Board of Medical Licensure and Discipline for the State of Rhode Island and Providence Plantations

("Rhode Island Board"), arising from the Respondent's prescribing of methadone on multiple occasions over several years to a patient with known poly-substance abuse and the Respondent's failure to maintain adequate documentation. The Rhode Island Board reprimanded the Respondent and required him, inter alia, to complete coursework in controlled substance prescribing and medical record keeping, to cease prescribing methadone for the purpose of methadone maintenance, to meet certain requirements in his prescribing documentation, to provide certain education to his patients, to enter into pain agreements with his patients, to utilize patient urine testing to monitor compliance, to consult the prescription monitoring program prior to prescribing any opioid, and to pay a \$1000 administrative fee (Petitioner's Ex. 4).

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the Respondent's conduct would constitute professional misconduct under the laws of New York State, had the conduct occurred in New York State, pursuant to New York Education Law § 6530(3) [negligence on more than one occasion] and § 6530(32) [failing to maintain adequate patient records].

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

Respondent committed professional misconduct as defined in New York Education Law § 6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state where the conduct resulting in the disciplinary

action would, if committed in New York State, have constituted professional misconduct under the laws of New York State.

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The genesis of the disciplinary action by the Rhode Island Board was the Respondent's prescription of methadone to a patient with known poly-substance abuse. In a Consent Order, the Rhode Island Board reprimanded the Respondent and imposed several conditions on his medical practice. The Respondent acknowledged his misconduct before this Hearing Committee and appeared remorseful. He asserted that he had complied with the Rhode Island Board's requirements, and he explained the actions that he has taken to improve his practice of medicine, including acquiring almost 80 credits in continuing medical education, resolving prior issues with his prescription monitoring program, and transitioning his practice entirely to an electronic medical record system.

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 Petitioner recommended a censure and reprimand and a \$1000 fine. The Hearing Committee concluded that no further monetary penalty was required, but that the Respondent should be placed on probation for two years so the Office of Professional Medical Conduct would be able to monitor the Respondent's compliance with the terms and conditions imposed by the Rhode Island Board in the Consent Order.

ORDER

IT IS HEREBY ORDERED THAT:

The Respondent is placed on probation for a period of two years during which he shall comply with the terms of probation annexed hereto as Attachment A.

This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

Sykmose
DATED: Albany, New York
December 12, 2016


Kendrick A. Sears M.D.
Chairperson

John D. Thomas, II, M.D.
Janet R. Axelrod, Esq.

ATTACHMENT A

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
2. Respondent shall maintain active registration of his license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204 with the following information, in writing, and ensure that this information is kept current: a full description of his employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall cooperate fully with and respond in a timely manner to OPMC requests to provide written periodic verification of his compliance with these terms as well as his compliance with the terms of the Consent Order issued by the Rhode Island Board on May 13, 2015. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent shall provide a written authorization for the Rhode Island Board to provide the Director of OPMC with any information or documentation requested by OPMC which relates to Respondent's compliance with the Consent Order issued by the Rhode Island Board on May 13, 2015.
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if he is not currently engaged in, or intends to leave, active medical practice in New York

State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 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 may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. Respondent shall comply with these probationary terms, 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 may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

APPENDIX I

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

IN THE MATTER
OF
MICHAEL YOUSSEF BAAKLINI, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: MICHAEL YOUSSEF BAAKLINI, M.D.
[REDACTED]

PLEASE TAKE NOTICE THAT:

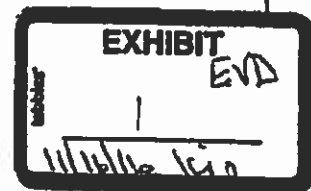
An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on November 16, 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: (518-402-0748), (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 [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
September 22, 2016


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

**David W. Quist
Associate Attorney
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282**

IN THE MATTER

OF

MICHAEL YOUSSEF BAAKLINI, M.D.

STATEMENT
OF
CHARGES

MICHAEL YOUSSEF BAAKLINI, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 14, 1988, by the issuance of license number 176517 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 13, 2015, Respondent entered into a Consent Order with the Board of Medical Licensure and Discipline for the State of Rhode Island and Providence Plantations, arising from Respondent's prescribing of methadone on multiple occasions over several years, outside of a methadone maintenance program, to a patient with known poly-substance abuse, and that Respondent had failed to adequately document such prescribing. Pursuant to the terms of the Consent Order, Respondent was reprimanded, was required to complete coursework in controlled substances prescribing and medical records, and to pay an administrative fee in the amount of \$1,000. Respondent was also required to cease prescribing methadone for purposes of methadone maintenance, to provide for the appropriate and immediate transition of his methadone maintenance patients to a proper methadone maintenance program, to meet certain requirements in his prescribing documentation, to provide certain education to his patients, to enter into pain agreements with his patients and utilize patient urine testing to monitor compliance, and to consult the prescription monitoring program prior to prescribing any opioid.

B. Respondent's conduct upon which such findings of misconduct were based would, if committed in New York State, constitute professional misconduct under the Laws of

New York State, pursuant to New York Education Law §§ 6530(3) [negligence] and (32) [failure to maintain a record].

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) and (32)) as alleged in the facts of the following:

1. The facts in Paragraphs A and B.

DATE: September 27, 2016
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct