



Department of Health

ANDREW M. CUOMO
Governor

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

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

August 22, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Glenn Neil Ledesma, M.D.



Nathaniel White, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower Building- Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Glenn Neil Ledesma, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 17-237) 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 (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 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: JFH
Enclosure

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

COPY

**IN THE MATTER
OF
GLENN NEIL LEDESMA, M.D.**

**DETERMINATION
AND
ORDER**

BPMC-17-237

A hearing was held on July 19, 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"), **ANDREW MERRITT, M.D.**, Chairperson, **DIANE SIXSMITH, M.D.**, and **JANET AXELROD, ESQ.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **JUDE MULVEY, ADMINISTRATIVE LAW JUDGE ("ALJ")**, served as the administrative officer.

The Department appeared by Nathaniel White, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges dated May 18, 2017, were served upon Glenn Neil Ledesma, M.D. ("Respondent"), who did not appear at the hearing.² There were no witnesses at the hearing. 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 sustained the charges that the Respondent committed professional misconduct, in violation of Education Law ("Educ. Law") §§ 6530(9)(b) and 6530(9)(d). The Hearing Committee unanimously voted 3-0 to revoke the Respondent's license to practice medicine in New York.

¹ The location of the hearing was 150 Broadway, Suite 510, Menands, New York.

² Copies of the Notice of Referral Proceeding and Statement of Charges are attached to this Determination and Order as Appendix I. References in brackets refer to exhibits [Ex.].

BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for an expedited 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)(b), "having been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York state," and § 6530(d), "having (his) license to practice medicine revoked, suspended or having other disciplinary action taken..." where the conduct resulting in such disciplinary action taken against his license to practice medicine would, if committed in the state of New York, constitute professional misconduct under the laws of the state of New York.

This case is based on the Decision and Order of the Medical Board of California ("California Board") dated July 22, 2015, which adopted a Proposed Decision dated June 29, 2015. It found the Respondent guilty of professional misconduct resulting from various acts of dishonesty and corruption including that Respondent knowingly made or created a false medical record, failed to maintain adequate and accurate records, committed insurance fraud, engaged in unprofessional conduct and violated the Medical Practice Act. The California Board found that the Respondent's conduct warranted revocation of his state of California Physician and Surgeon license [Ex. 7]. The Department charges that had the Respondent's conduct occurred in New York, it would have constituted practicing the profession with fraudulently, exercising undue influence on a patient, moral unfitness to practice medicine, willfully making or filing a false report or inducing another person to do so, failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, failing to exercise appropriate supervision over persons who are

authorized to practice only under the supervision of the licensee and ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient negligence on more than one occasion and failing to maintain a record of the patient which accurately reflected the evaluation of the patient, as defined in Educ. Law §§ 6530(2), 6530(17), 6530 (20), 6530(21), 6530(32), 6530(33) and 6530(35), respectively [Ex. 1].

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 are the unanimous determinations of the Hearing Committee:

1. Glenn Neil Ledesma, M.D., the Respondent, was licensed to practice medicine in New York on August 29, 1980, by the issuance of license number 143411 by the Education Department. [Ex. 4, 5].

2. On July 22, 2015, the California Board adopted the Administrative Law Judge's proposed Decision and found that the Respondent engaged in acts involving dishonesty and corruption, knowingly made or created a false medical record, knowingly made or created false medical records with fraudulent intent, failed to maintain adequate records, engaged in insurance fraud, engaged in unprofessional conduct, and violated the Medical Practice Act. The findings stemmed from Respondent's professional and private conduct. More specifically, the California Board found that Respondent oversaw a global system of fraudulent billing to insurance carriers and patients that was accomplished by altering providers' handwritten notes to reflect more extensive treatment than was rendered and by changing Current Procedural Terminology ("CPT") codes to ones that generated

higher income than those marked by the healthcare providers. It also found that Respondent's practice instructed transcribers to change charts to indicate that a physician had performed a procedure rather than a Physician's Assistant or Nurse Practitioner, and instructed providers to encourage patients to undergo medically unnecessary treatments to increase their medical bills. The California Board found that Respondent committed insurance fraud over an extended period of time by submitting claims forms attesting that he was unable to perform the duties of his profession and had not engaged in any other occupation when, in fact, Respondent was working in his regular profession as a dermatologist and business owner. The California Board found the Respondent guilty of professional misconduct and ordered revocation of his license to practice medicine in the state of California [Ex. 7].

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

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

VOTE: Sustained (3-0)

SECOND SPECIFICATION

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

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

After attempts to personally serve the Respondent with the Notice of Referral Proceeding and Statement of Charges at the address registered with the New York State Education Department failed, the Department presented evidence to show that the Respondent was served by certified mail at the same address pursuant to PHL § 230(10)(d)(i), as well as at additional addresses located by the Department, establishing jurisdiction. [Ex. 2, 3, 4]. After considering this, the ALJ ruled that the hearing could proceed on the merits despite the Respondent's absence at the hearing.

The Department's evidence showed that the Respondent oversaw a system of fraudulent billing to insurance carriers and patients that was accomplished by altering providers' handwritten notes to reflect more extensive treatment than was rendered and by changing CPT codes to ones that generated higher income than those marked by the healthcare providers, that Respondent's practice instructed transcribers to change charts to indicate that a physician had performed a procedure rather than a Physician's Assistant or Nurse Practitioner, and that the practice instructed providers to encourage patients to undergo medically unnecessary treatments to increase their medical bills. The evidence also demonstrated that Respondent committed insurance fraud by submitting claims forms attesting that he was unable to perform the duties of his profession and had not engaged in any other occupation when, in fact, Respondent was working in his regular profession as a dermatologist and business owner. The Hearing Committee considered how the Respondent used his medical license for financial gain. Most concerning to the Hearing Committee was the Respondent's participation in the altering of patient medical records so that the actual care received was not accurately documented [Ex. 7].

The Hearing Committee found the Respondent's conduct to be egregious. The Hearing Committee noted the Respondent engaged in multiple acts involving dishonesty and corruption, knowingly made or created a false medical record, knowingly made or created false medical records

with fraudulent intent, failed to maintain adequate records, engaged in insurance fraud, failed to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensee, ordered excessive tests, treatment or use of treatment facilities not warranted by the condition of the patient and engaged in unprofessional conduct.

Had Respondent's actions occurred in New York State, the conduct would have violated several disciplinary statutes. The Respondent intentionally engaged in fraudulent conduct in the practice of medicine (see, Education Law § 6530[2]). The Respondent exercised undue influence on a patient, and ordered excessive tests, treatment or use of treatment facilities not warranted by the condition of the patient (see, Education Law § 6530[17], [35]). The Respondent failed to maintain a record for a patient which accurately reflects the evaluation of the patient, as defined in Educ. Law § 6530(32), and willfully made a false report or to induce another person to do so (see, Education Law § 6530[21]). He failed to exercise appropriate supervision over persons who are authorized to practice only under his supervision (Education Law § 6530[33]). The culmination of Respondent's acts demonstrated conduct in the practice of medicine which evidences moral unfitness (see, Education Law § 6530 [20]) [Ex. 6].

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. The Hearing Committee unanimously concluded that the evidence supports revocation of the Respondent's New York medical license.

ORDER

IT IS HEREBY ORDERED THAT:

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

SUSTAINED;

2. The Respondent's license to practice medicine in New York State is REVOKED; and

3. This Determination and Order shall be effective upon service on the Respondent. Service shall be either by certified mail upon the Respondent at his 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
8/14, 2017



Andrew Merritt, M.D.
Chairperson

Janet Axelrod, J.D.
Diane Sixsmith, M.D.

TO: Glenn Neil Ledesma, M.D.









Nathaniel White, Esq.
Associate Counsel
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
GLENN NEIL LEDESMA, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: GLENN NEIL LEDESMA, 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 July 19, 2017 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

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

EXHIBIT

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

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
May 13, 2017



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

• Nathaniel White
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

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

IN THE MATTER
OF
GLENN NEIL LEDESMA, M.D.

STATEMENT
OF
CHARGES

GLENN NEIL LEDESMA, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 29, 1980, by the issuance of license number 143411 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 29, 2015, an Administrative Law Judge of the California Office of Administrative Hearings issued a Proposed Decision after conducting a hearing on various causes for disciplinary action set out in a First Amended Accusation against Respondent. On or about July 22, 2015, the Medical Board of California adopted the Administrative Law Judge's Proposed Decision which revoked Respondent's California Physician and Surgeon license. The Decision and Order became effective on or about August 31, 2015. The Decision and Order concluded that, *inter alia*, Respondent engaged in acts involving dishonesty and corruption; Respondent knowingly made or created a false medical record; Respondent created false medical records with fraudulent intent; Respondent failed to maintain adequate and accurate records; Respondent committed insurance fraud; Respondent engaged in unprofessional conduct; and Respondent violated the Medical Practice Act. Specifically, the California Medical Board found, among other things, that Respondent oversaw a fraudulent billing system where bills were submitted to insurance carriers which reflected more extensive treatment than was provided to the patient(s); that Respondent's practice altered the handwritten notes of its providers to reflect more complex diagnoses and treatments and, in some instances, to reflect treatments that were never rendered and diagnoses that did not exist in order to justify higher billings; that Respondent's practice instructed transcribers to change charts to show that a physician had performed a procedure when it was actually performed by a physician assistant or nurse practitioner; and that Respondent's practice

instructed providers to encourage patients to undergo medically unnecessary treatments to increase their medical bills.

B. The conduct resulting in the California disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following sections of New York State law:

1. New York Education Law § 6530(2) (practicing the profession fraudulently);
2. New York Education Law § 6530(17) (exercising undue influence on the patient);
3. New York Education Law § 6530(20) (conduct in the practice of medicine which evidences moral unfitness to practice medicine);
4. New York Education Law § 6530(21) (willfully making or filing a false report or inducing another person to do so);
5. New York Education Law § 6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient);
6. New York Education Law § 6530(33) (failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee); and/or
7. New York Education Law § 6530(35) (ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §§ 6530[2], [17], [20], [21], [32], [33] and/or [35]) as alleged in the facts of the following:

1. Paragraphs A and B.

SECOND SPECIFICATION

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[2], [17], [20], [21], [32], [33] and/or [35]) as alleged in the facts of the following:

2. Paragraphs A and B.

DATE: May 18, 2017
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct