



Department of Health

ANDREW M. CUOMO
Governor

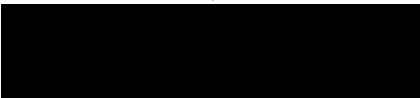
HOWARD A. ZUCKER, M.D., J.D.
Commissioner

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

December 6, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ariel Abrahams, M. D.



Marc S. Nash, Esq.
Senior Attorney
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Ariel Abrahams, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 17-341) 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: ISM
Enclosure

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

**IN THE MATTER
OF
ARIEL ABRAHAMS, M.D.**

**DETERMINATION
AND
ORDER**

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 J. MERRITT, M.D.**, Chairperson, **DIANE M. SIXSMITH, M.D., M.P.H.** and **JANET R. 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 Marc S. Nash, Senior Attorney. A Notice of Referral Proceeding and Statement of Charges dated January 25, 2017, were served upon Ariel Abrahams, M.D. ("Respondent"), who appeared by telephone and represented himself.² The Respondent testified on his own behalf. The Hearing Committee received and examined documents from the Department and a stenographic reporter prepared a transcript of the proceeding. The Hearing Committee completed deliberations on November 29, 2017, and after consideration of the entire record, unanimously voted 3-0 to sustain the charge that the Respondent committed professional misconduct, in violation of

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. After several attempts at personal service at the Respondent's registered address, the address on file with the Department, the Department sent the Notice of Hearing and Statement of Charges by certified mail, demonstrating service pursuant to Public Health Law § 230(10)(d)(i). As such, jurisdiction was established. [Appendix I; Ex. 2-4].

Education Law (Educ. Law) §§ 6530(9)(d) and 6530(9)(b), such that the penalty of revocation of his medical license is appropriate.

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 the 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 a Decision of the Medical Board of California (California Board) dated February 1, 2016, finding the Respondent guilty of professional misconduct resulting from the care and treatment he provided to his patient in labor, which resulted in a complicated delivery and a stillbirth. The Department charges that had the Respondent's conduct occurred in New York, it would have constituted practicing the profession with negligence on more than one occasion and gross negligence on a particular occasion, as defined in Educ. Law §§ 6530(3) and 6530(4), respectively.

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 references in brackets refer to exhibits [Ex.] and transcript page numbers [T.].

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. Ariel Abrahams, M.D., the Respondent, was licensed to practice medicine in New York on July 1, 1998, by the issuance of license number 211084 by the Education Department. [Ex. 5].

2. In a Decision dated February 1, 2016, the California Board adopted the Proposed Decision dated November 10, 2015, which found the Respondent guilty of professional misconduct and prohibited him from supervising physician assistants and engaging in the solo practice of medicine. The California Board also ordered completion of a five-year period of probation and education courses to include Continuing Medical Education requirements and a practice monitor or participation in a professional enhancement program. The Respondent was also required to complete clinical training and educational programs and a comprehensive assessment of his physical and mental health. [Ex. 6].

3. The California Board based its determination on the Respondent's medical judgment involving his care and treatment of a multiparous patient in November of 2008 after she presented to the labor and delivery department of La Palma Intercommunity Hospital. The California Board found that the Respondent failed to timely and properly report to the hospital to assess the patient and arrange for a cesarean section after receiving reports of progressing labor and fetal decelerations, resulting in delivery complications "with the baby's head wedged in the pelvic vault compromising the baby and making resuscitation more difficult" and a stillbirth. The Respondent's patient suffered uterine tears that required surgery, blood transfusions and treatment in the intensive care unit. [Ex. 6].

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

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

VOTE: Sustained (3-0)

SECOND SPECIFICATION

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

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Department's evidence established the Respondent's protracted delay in providing proper care to his patient in labor by failing to perform physical assessments and arrange for a cesarean section after he learned that the baby showed signs of distress in utero. The Respondent's medical mismanagement of his patient resulted in dangerous complications, including the baby being stillborn at birth – a fatal outcome considered by the Hearing Committee as potentially avoidable had the Respondent made different medical decisions. Like New York, California requires physicians rendering care to patients in labor to perform physical examinations and monitoring and to timely prepare for delivery to avoid such harmful consequences. The Respondent's failures, had they occurred in New York, would have constituted practicing the profession with negligence on more than one occasion and practicing the profession with gross negligence on a particular occasion, as defined in Educ. Law §§ 6530(3) and 6530(4), respectively. [Ex. 6].

Particularly troubling to the Hearing Committee was the Respondent's refusal to accept any responsibility for his conduct and his willingness to "falsify hospital records" to shift blame off

himself to other hospital staff members. [Ex. 6]. Also noted by the Hearing Committee was the Respondent's overly argumentative demeanor and incoherent responses at the hearing, his ongoing noncompliance with the California Board's directives and his criticisms of the California Board in reprimanding him at all. [T. 10-15, 22-25, 36, 39-47]. As such, in considering the full spectrum of penalties available by statute, including revocation, suspension, censure and reprimand, probation and the imposition of a fine, the Hearing Committee unanimously concluded that the evidence supports the penalty of 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 or 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
12/15/17, 2017


Andrew J. Meritt, M.D.
Chairperson

Diana M. Sixsmith, M.D., M.P.H.
Janet R. Axelrod, Esq.

TO: Ariel Abrahams, M.D.



Marc S. Nash, Esq.
Senior Attorney
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

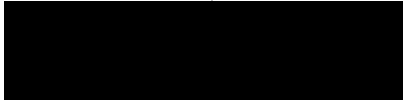
APPENDIX I

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

IN THE MATTER
OF
ARIEL ABRAHAMS, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Ariel Abrahams, M.D.



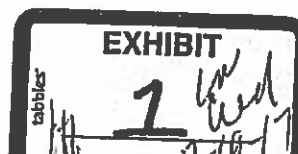
PLEASE TAKE NOTICE THAT:

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 March 16, 2017 at 10:30 a.m., at the offices of the New York State Department of Health, 259 Monroe Ave, Rochester, NY 14607.

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



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
January 25, 2017



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Marc S. Nash
Senior Attorney
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-1706

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

IN THE MATTER

OF

ARIEL ABRAHAMS, M.D.

STATEMENT

OF

CHARGES

ARIEL ABRAHAMS, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1998, by the issuance of license number 211084 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 1, 2016, the Medical Board of California (hereinafter, "California Board") issued a Decision which modified the Proposed Decision dated November 10, 2015, only to strike the condition of an actual suspension and adopted the balance of the Proposed Decision. The Proposed Decision placed Respondent on five years' probation in which Respondent was to complete a clinical training or education program consisting of a comprehensive assessment of Respondent's health and skills and annually take at least 40 hours of education courses aimed at correcting areas of deficient practice or knowledge. The other terms of probation stated Respondent's practice will be monitored, he is prohibited in engaging in a solo practice of medicine, and he is not to supervise physician assistants. This disciplinary action was based upon the conclusion that Respondent committed acts of gross negligence and repeated acts of negligence with regard to his failure to recognize a patient's labor, his failure to timely go to the hospital, and his failure to perform a caesarean section earlier than it was performed.

B. The Conduct resulting in the California Board's 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(3) (Practicing the profession with negligence on more than one occasion); and/or
2. New York Education Law § 6530(4) (Practicing the profession with gross negligence on a particular occasion); and/or

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

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(3) and/or (4), in that Petitioner charges:

1. The facts in Paragraphs A and B and B1 and/or A and B and B2

SECOND SPECIFICATION

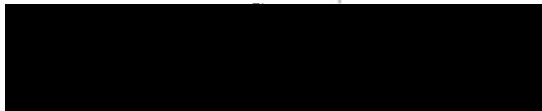
DISCIPLINARY ACTION IN ANOTHER STATE

Respondent violated New York State Education Law § 6530(9)(d) by having disciplinary action taken, where the conduct resulting in the disciplinary action involving

the license would, if committed in New York State, constitute professional misconduct under the laws of New York State Law, in that Petitioner charges:

2. The facts in Paragraphs A and B and B1 and/or A and B and B2.

DATE: January 25, 2017
Albany, New York



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct