



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

February 16, 2018

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Courtney Morgan, M.D.  


Ian Silverman, Esq.  
Bureau of Professional Medical Conduct  
Corning Tower Building – Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Courtney Morgan, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No.18-036) 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 P. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH: cac

Enclosure

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

-----X  
IN THE MATTER  
OF  
COURTNEY MORGAN, M.D.  
-----X

:  
: DETERMINATION  
:  
: AND  
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: ORDER  
:  
: BPMC-18-036  
: X

A hearing was held on December 20, 2017, at the offices of the New York State Department of Health (Department).<sup>1</sup> Pursuant to § 230(10)(e) of the Public Health Law (PHL), DENNIS P. ZIMMERMAN, M.S., CRC, Chairperson, TREVOR A. LITCHMORE, M.D. and LYON M. GREENBERG, M.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. DAWN MacKILLOP-SOLLER, ADMINISTRATIVE LAW JUDGE (ALJ), served as the Administrative Officer.

The Department appeared by Ian Silverman, Associate Attorney. A Notice of Referral Proceeding and Statement of Charges dated October 19, 2017, were served upon Courtney Morgan, M.D. (Respondent), who appeared and testified at the hearing by telephone and represented himself. There were no other 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 sustains the charge that the Respondent committed professional misconduct, in violation of Education Law (Educ. Law) § 6530(9)(b), such that the penalty of a stayed suspension, a period of probation with conditions, completion of continuing medical education courses and license limitations is appropriate.

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

## 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." This case is based on an Order of the Texas Medical Board (Texas Board), finding the Respondent guilty of professional misconduct resulting from his improper prescription practices.

## 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. Courtney Morgan, M.D., the Respondent, was licensed to practice medicine in New York on June 19, 2013, by the issuance of license number 270876 by the Education Department. [Ex. 5].
2. In a Final Order dated March 3, 2017, the Texas Board found the Respondent guilty of professional misconduct based on his prescriptions for controlled substances and other medications, such as Phentermine, cough syrup with Codeine, Viagra and Marinol, without maintaining treatment plans, considering alternative treatments to prescription drugs or adequately recording laboratory results, medical histories and the risks associated with taking prescribed drugs.

The Texas Board also found the Respondent permitted an unauthorized staff member to use his prescription pad and signature stamp to issue prescriptions to patients. [Ex. 7].

3. The Texas Board stayed a revocation of the Respondent's medical license and subjected him to probation for a period of ten years, a practice monitor, completion of six continuing medical education courses, passing of a Medical Jurisprudence Examination and practice restrictions to prohibit treatment of chronic pain patients and practice outside of a pre-approved group practice or institutional setting. The Texas Board also required the Respondent to complete an assessment by the Texas A&M Health Science Center Knowledge, Skills, Training, Assessment, and Research program. [Ex. 7].

### **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)

#### **CONCLUSIONS OF LAW**

The Department's evidence showed the Respondent issued prescriptions for controlled substances and medications to his patients without treatment plans or recording medical, social or family histories, current medications, laboratory results and drug risks. The evidence also established the Respondent permitted an unlicensed staff member access to his prescription pad to issue prescriptions to his patients. Like New York, Texas requires physicians issuing such prescriptions to maintain treatment plans and document patients' medications and risks associated with taking prescribed drugs, such as reactions and side effects. Both states also require physicians to safeguard prescription pads from unauthorized access. The Hearing Committee considered the Respondent's

failure to adhere to these requirements placed his patients at risk for harm. As such, they determined that had his conduct occurred in New York, it would have constituted negligence on more than one occasion, permitting, aiding or abetting an unlicensed person to perform activities requiring a license and a failure to maintain a record for a patient which accurately reflects the evaluation of the patient, as defined in Educ. Law §§ 6530(3), 6530(11) and 6530(32), respectively. [Ex. 7].

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. While the Hearing Committee noted the Respondent's failure to comply with the Texas Board's Final Order and accept responsibility for his improper medical practices in Texas, they found him capable of rehabilitation and noted his devotion to his patients, including those with limited finances. The Hearing Committee considered the Department's recommendation of revocation, but decided that the Respondent's New York medical license be subject to the penalty of a stayed period of suspension for five years, probation for five years with a practice monitor, and completion of Continuing Medical Education courses in medical recordkeeping and prescribing medications. They also found it necessary to impose permanent license limitations to prohibit prescriptions for schedule II and III controlled substances and to practice in a facility that holds a license under PHL Article 28. [T. 28, 55-57].

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The Respondent's license to practice medicine is **SUSPENDED** for five years, the suspension is fully stayed, and Respondent is placed on probation for a period of five years subject to the conditions provided in the Terms of Probation (Appendix II) and tolled while the Respondent is not engaged in practice in the state of New York;
2. The Respondent's medical license in New York is subject to a permanent prescribing

limitation to prohibit prescriptions for schedule II and III controlled substances;

3. The Respondent's license to practice medicine is permanently limited to restrict Respondent to practice in a facility that holds a license under PHL Article 28;

4. The Respondent must comply with the terms of this Determination and Order and all the attached Terms of Probation;

5. The Respondent shall complete Continuing Medical Education courses approved by the Director of the Office of Professional Medical Conduct in prescription practices and medical recordkeeping; and


6. This Order shall be effective upon service on the Respondent in accordance with the Requirements of PHL § 230(10)(h).

DATED: Albany, New York  
February 12, 2018

  
Dennis P. Zimmerman, M.S., CRC  
Chairperson

Trevor A. Litchmore, M.D.  
Lyon M. Greenberg, M.D.

TO: Courtney Morgan, M.D.

  
Ian Silverman, Esq.  
Associate Attorney  
Bureau of Professional Medical Conduct  
Corning Tower Building – Room 2512  
Empire State Plaza  
Albany, New York 12237

# APPENDIX I



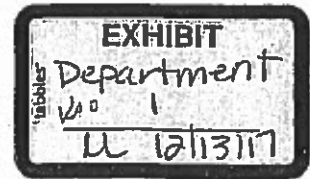
### Terms of Probation

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 Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to PHL § 230(19).
2. Respondent shall maintain active registration of his license 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. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. 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.
6. 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.
7. Respondent shall practice medicine in New York State only when monitored by a licensed physician, board certified in an appropriate specialty (practice monitor), who is proposed by Respondent and subject to the written approval of the Director of the OPMC.
  - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit the Respondent's medical practice at each and every location, on a random, unannounced basis at least monthly and shall examine a selection (no fewer than 20)

of records maintained by the Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to the OPMC.

- b. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of the OPMC.
  - c. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with § 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent commencing practice within the State of New York.
8. The terms set forth in the paragraphs above are the minimum probation terms to be imposed on the Respondent, and other terms may be added by the Director of the OPMC. All compliance costs, including expenses and fees associated with the practice monitor, shall be the Respondent's responsibility.
  9. 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 II**



**IN THE MATTER  
OF  
COURTNEY MORGAN, M.D.**

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Courtney Morgan, M.D.



1902 John Stockbauer Dr., Suite 300  
Victoria TX, 77904



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 December 13, 2017, at 10:30 a.m., at the offices of the New York State Department of Health, 90 Church Street, 4<sup>th</sup> Floor, New York, NY 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.

*Dept. Exhibit 1*

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,

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: New York, New York  
October 19, 2017

  
Roy Nemerson  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

John Thomas Viti  
Associate Counsel  
Bureau of Professional Medical Conduct  
90 Church Street, 4<sup>th</sup> Floor  
New York, NY 10007  
(212) 417-4450

IN THE MATTER  
OF  
COURTNEY MORGAN, M.D.

STATEMENT  
OF  
CHARGES

COURTNEY MORGAN, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 19, 2013, by the issuance of license number 270876 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about March 3, 2017, after a hearing, the Texas Medical Board by a Final Order (herein after the "Order") revoked Respondent's license to practice medicine, stayed that revocation, and placed Respondent on probation for 10 years. The Order required Respondent to surrender his Drug Enforcement Administration controlled substance registration and Respondent was prohibited from obtaining a new one until Respondent received written authorization from the Board. The Order also restricted Respondent's practice to pre-approved groups and institutions for 5 years, and from treating chronic pain for 5 years. The Order required the Respondent to enter into a knowledge, skills, training, assessment, and research program for an assessment. In addition, the Order required the Respondent to engage a practice monitor for 12 consecutive monitoring cycles, complete 24 hours of continuing medical education and to complete a medical jurisprudence examination, attaining a score of 75 or above. The Order was predicated on the findings that Respondent had engaged in conduct which violated Medical Practice Act § 164.051(a)(6) and Board Rule 190.8(1), by failing to practice medicine in an acceptable professional manner with respect to 6 patients; violated Medical Practice Act



§164.051(a)(3) and Board Rule 165.1(a), by failing to properly document treatment of 7 patients; violated Medical Practice Act §164.051(a)(3), §168.101(a), 168.102(a) and 22. Tex. Admin. Code §190.8(1) by failing to obtain a pain management certification for HOP Medical Services; and violated Medical Practice Act §164.051(a)(3)(2013 version), and 22. Tex. Admin. Code §190.8(1)(M) by prescribing phentermine to himself for more than 72 hours.

1. The conduct resulting in the Order would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State Law:

- a. New York Education Law § 6530(3) (Practicing the profession with negligence on more than one occasion.)
- b. New York Education Law § 6530(11) (Permitting, aiding or abetting an unlicensed person to perform activities requiring a license.)
- c. New York Education Law § 6530(16) (A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations, governing the practice of medicine.)
- d. New York Education Law § 6530(26) (Performing professional services which have not been duly authorized by the patient or his or her legal representative.)
- e. New York Education Law § 6530(32) (Failing to maintain a record for each patient which accurately reflects the care and treatment of the patient.)

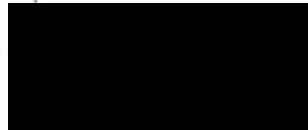
**SPECIFICATION OF CHARGES**

**HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(b) 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, if committed in New York state, constitute professional misconduct under the laws of New York State, namely N.Y. Educ. Law §6530(3), (11), (16), (26) and/or (32) as alleged in the facts of the following:

1. The facts in Paragraph A and its subparagraphs.

DATE: October 19, 2017  
New York, New York



Roy Nemerson  
Deputy Counsel  
Bureau of Professional Medical Conduct