



Department of Health

ANDREW M. CUOMO
Governor

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

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

January 22, 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Yasar Aksoy, M.D.


Timothy Mahar, Esq.
NYS Department of Health
Corning Tower Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Yasar Aksoy, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 18-016) 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: nm
Enclosure

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

-----X
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IN THE MATTER :
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OF :
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YASAR AKSOY, M.D. :
:
-----X

DETERMINATION

AND

ORDER

BPMC-18-016

A hearing was held on December 19, 2017, at the offices of the New York State Department of Health (Department).¹ Pursuant to § 230(10)(c) of the Public Health Law (PHL), **DENNIS P. ZIMMERMAN, M.S., CRC**, Chairperson, **TREVOR A. LITCHIMORE, 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 Timothy Mahar, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges dated October 16, 2017, were served upon Yasar Aksoy, M.D. (Respondent), who did not appear at the hearing.² 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 unanimously votes 3-0 to sustain the charge that the Respondent committed professional misconduct, in violation of Education Law (Educ.

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

² After attempts at personal service at the Respondent's registered address and one additional address the Department had for the Respondent, the Department sent the Notice of Hearing and Statement of Charges by certified mail pursuant to PHL § 230(10)(d)(i). As such, the ALJ determined that jurisdiction was established and the hearing could proceed despite the Respondent's absence. [Appendix I; Ex. 2].

Law) § 6530(9)(d), such that the penalty of revocation of his medical license in New York State 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)(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 a Consent Order of the West Virginia Board of Medicine (“West Virginia Board”) entered on June 9, 2017, finding the Respondent guilty of professional misconduct resulting from his improper operation of a pain management clinic and his prescription practices for controlled substances. The Department charges that had the Respondent’s conduct occurred in New York, it would have constituted practicing the profession fraudulently, practicing the profession with negligence on more than one occasion, practicing the profession with gross negligence on a particular occasion, a willful or grossly negligent failure to comply with substantial provisions of state or local laws governing the practice of medicine and failing to maintain a record for each patient which accurately reflects the evaluation of the patient, as defined in Educ. Law §§ 6530(2), 6530(3), 6530(4), 6530(16) and 6530(32), 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. References in brackets refer to exhibits [Ex.] The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. Yasar Aksoy, M.D., the Respondent, was licensed to practice medicine in New York on October 15, 1984, by the issuance of license number 160532 by the Education Department. [Ex. 3].

2. In a Consent Order entered on June 9, 2017, the West Virginia Board found the Respondent guilty of professional misconduct and ordered the permanent surrender of his medical license. The Consent Order was based on the Respondent's unlicensed operation of a pain management clinic in violation of state law and his refusal to close the practice despite a cease operations order by the West Virginia Department of Health and Human Resources' Office of Health Facility Licensure and Certification Chronic Pain Program and a Raleigh County Circuit Court Temporary Restraining Order, which also enjoined the Respondent from prescribing schedule II or III controlled substances. The West Virginia Board also found the Respondent nonetheless continued to prescribe controlled substances and failed to produce upon request the medical records for ten patients, falsely claiming that they were given to the patients at discharge. [Ex. 4].

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)(d).

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Department's evidence established the Respondent's use of his medical license to knowingly render treatment to patients at an unlicensed pain management clinic in violation of state

law and his disregard of orders directing him to close the practice and discontinue prescribing opioids to patients. In ignoring these directives, the Department's evidence showed the Respondent's efforts to evade local authorities in his use of a pharmacy 67 miles away to fill an "opioid product" for one patient and to issue a different patient a prescription for "one hundred tablets of Percocet 10/325" – a dangerous dosage amount that placed this patient at risk for severe harm. The Respondent's willful refusal to abide by the orders also occurred amid his blatantly false claim to the West Virginia Board that medical records it requested were unavailable because he gave them to patients upon closing the clinic, which he never did. [Ex. 4].

Like New York, West Virginia requires physicians follow state laws and court orders involving their prescription and treatment practices and to respond to board requests to produce patients' medical records, which they are also obligated to adequately maintain. *See* W. Va. Code R. § 30-3-14(c)(11), (17). The Respondent failed to satisfy any of these requirements. The Respondent's failures, had they occurred in New York, would have constituted practicing the profession fraudulently, practicing the profession with negligence on more than one occasion, practicing the profession with gross negligence on a particular occasion, a willful or grossly negligent failure to comply with substantial provisions of state or local laws governing the practice of medicine and failing to maintain a record for each patient which accurately reflects the evaluation of the patient, as defined in Educ. Law §§ 6530(2), 6530(3), 6530(4), 6530(16) and 6530(32), respectively. The Hearing Committee agreed with the Department's recommendation that the only remedy to protect the public is revocation of the Respondent's New York medical license. [Ex. 4, 5].

ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is **SUSTAINED**;

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

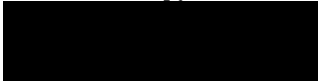
3. This Determination and Order shall be effective upon service on the Respondent. Service shall be either by certified mail or upon the Respondent at his last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York
January 19, 2018

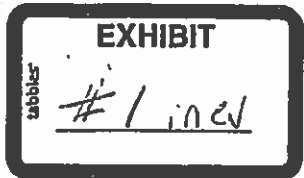

Dennis P. Zimmerman, M.S., CRC
Chairperson

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

TO: Yasar Aksoy, M.D.


Timothy Mahar, Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, 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
YASAR AKSOY, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Yasar Aksoy, 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 December 20, 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

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

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. Should the parties have objection to proposed witnesses or documentary evidence, the party raising the objection shall contact the Bureau of Adjudication to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

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 not later than 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. The answer 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. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below.

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
October 16, 2017



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

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

IN THE MATTER
OF
YASAR AKSOY, M.D.

STATEMENT
OF
CHARGES

YASAR AKSOY, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 15, 1984, by the issuance of license number 160532 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about May 30, 2017, Respondent entered into a Consent Agreement with the West Virginia Board of Medicine in which he surrendered his West Virginia medical license and waived his right to, among other things, contest in a formal hearing charges which included the following, which Respondent stipulated to in the Consent Agreement: (1) prescribing controlled substances contrary to accepted medical standards in violation of W. Va. Code § 30-3-14 (c) (13); (2) failing to practice medicine with the level care, skill and treatment recognized by a reasonable, prudent physician in violation of W. Va. Code 30-3-14 (c) (17) and W. Va. Code R. § 11-1A-12.1.x; (3) failing to maintain written medical records to justify a course of treatment in violation of W. Va. Code § 30-3-14(c) (11) and W. Va. Code R. § 11-1A-12.1.u and jj; (4) engaging in conduct of a character likely to deceive, defraud or harm the public or which is dishonorable, unethical or unprofessional in violation of W. Va. Code § 30-3-14(c) (17) and W. Va. Code R. § 11-1A-12.1.e; and (5) prescribing on one or more occasions controlled substances after May 15, 2017 in violation of a Temporary Restraining Order issued by the

Raleigh County, West Virginia Circuit Court on that date which, among other things, ordered Respondent to cease issuing prescriptions for opioid drug products or other Schedule II or III Controlled substances whose purpose is to alleviate pain, in violation of W. Va. Code § 30-3-14 (c) (17) and W. Va. Code R. § 11-1A-12.1.bb. On or about May 31, 2017, the same day Respondent consented to surrender his West Virginia medical license, the West Virginia Board of Medicine determined that Respondent's continued practice of medicine following his violation of the Restraining Order constituted an immediate danger to the public

B. The consent Order was accepted and adopted by the West Virginia Board of Medicine on or about June 9, 2017 and upon entry of the order, Respondent's West Virginia Medical license was permanently surrendered, among other things.

C. The conduct resulting in the West Virginia Consent Order would constitute misconduct under the laws of New York state, pursuant to the following sections of New York law:

- 1) New York Education Law § 6530(2) [practicing the profession fraudulently or beyond its authorized scope], and/or
- 2) New York Education Law § 6530 (3) [practicing the profession with negligence on one or more occasions], and/or
- 3) New York Education Law § 6530 (4) [practicing the profession with gross negligence on a particular occasion], and/or
- 4) New York Education Law § 6530 (16) [a willful or grossly negligent failure to comply with substantial provisions of state or local laws governing the practice of medicine], and/or
- 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].

SPECIFICATION OF CHARGES

First Specification

Disciplinary Action in another State

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530 (9) (d) by reason of his license to practice having been revoked, suspended or having other disciplinary action taken after 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 would, if committed in New York State, constitute a professional misconduct under the laws of New York State, as alleged in the facts following:

1. The facts in paragraphs A, B and C.

DATE: October 16, 2017
Albany, New York



MICHAEL A. HISER, ESQ.
Deputy Counsel
Bureau of Professional Medical Conduct