



**Department  
of Health**

**KATHY HOCHUL**  
Governor

**MARY T. BASSETT, M.D., M.P.H.**  
Commissioner

**KRISTIN M. PROUD**  
Acting Executive Deputy Commissioner

April 27, 2022

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

Alan C. Nussbaum, M.D.  


Alan C. Nussbaum, M.D.  


**RE: In the Matter of Alan C. Nussbaum, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 22-088) 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.

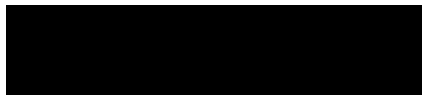
The notice of review served on the Administrative Review Board should be forwarded to:

Jean T. Carney, 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 Ms. Carney 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,



Dawn MacKillop-Soller  
Acting Chief Administrative Law Judge  
Bureau of Adjudication

DXM: cmg  
Enclosure

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

COPY

-----X  
IN THE MATTER  
OF  
ALAN C. NUSSBAUM, M.D.  
-----X

DETERMINATION  
AND  
ORDER  
BPMC-22-088

A hearing was held on April 7, 2022, via WEB EX. Pursuant to Public Health Law (PHL) Section 230(10)(e), Henry T. Spector, M.D., Chairperson, Linda A. Brady, M.D., and Curtis W. Hart, M. Div., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Sean D. O'Brien, Administrative Law Judge (ALJ), served as the Administrative Officer.

The New York State Department of Health (Department) appeared by Nathaniel White, Associate Counsel. A Statement of Charges dated February 23, 2022, were duly served upon Alan C. Nussbaum, M.D., (Respondent), who did not appear at the Hearing.

The Hearing Committee received testimony from one witness and examined documents from the Department (Exhibits 1-13). 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. Law) Section 6530(15) by failing to comply with an Order issued pursuant to PHL Section 230(7), and that the penalty of revocation of his medical license is appropriate.

## BACKGROUND

The Department brought this case pursuant to PHL Section 230(10). The Respondent is charged with professional misconduct pursuant to Educ. Law Section 6530(15) by failing to comply with an Order issued pursuant to PHL Section 230(7). Per PHL Section 230(10), the Department has the burden of proving its case by a preponderance of the evidence. Any licensee found guilty of professional misconduct under the procedures prescribed in PHL Section 230 "shall be subject to penalties as prescribed in [PHL Section 230-a] except that the charges may be dismissed in the interest of justice."

## FINDINGS OF FACT

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

1. Alan C. Nussbaum, M.D., the Respondent, was licensed by the New York State Education Department to practice medicine on February 23, 1990, by the issuance of license number 181570. (Exhibits 5, 6).
2. On or about June 25, 2020, a Committee of the New York State Board for Professional Medical Conduct (Board) issued an Order per PHL Section 230(7)(a) after the Committee made a finding there was reason to believe the Respondent may be impaired by alcohol, drugs, physical disability, or mental disability. (Exhibit 7).
3. The Respondent failed to comply with Committee's Order which directed the Respondent to submit to or cooperate with an examination by the Medical Director at the Geisinger Marworth Treatment Center, Waverly, PA. or their designee by failing to provide the required releases. (Exhibits 7, 8, 9, 10,12)
4. The Respondent failed to provide the required releases and/or consents, per the Order, including providing the Office of Professional Medical Conduct (OPMC) Examining Physician

information about the Respondent's compliance or non-compliance with paragraphs 4(b) and 5 of the Order. (Exhibits 7, 8, 9, 10, 11, 12).

5. The Respondent further failed to comply with the Order by not providing OPMC the necessary authorizations to obtain the Respondent's medical records and other protected health information within seven days of the Order's effective date. (Exhibits 7, 8, 9, 10, 12).

6. The Respondent failed to appear at the Hearing on April 7, 2022, and did not file an Answer within ten days of the Hearing. Per PHL Section 230(10)(c) all Charges and Specifications contained in the Statement of Charges dated February 23, 2022, are deemed admitted.

#### **VOTE OF THE HEARING COMMITTEE**

The Hearing Committee decided, by a vote of 3-0, that the evidence supports sustaining the charges of the Respondent having committed professional misconduct as defined in Educ. Law Section 6530(15).

#### **HEARING COMMITTEE DETERMINATIONS**

The Department charged the Respondent with professional misconduct pursuant to Educ. Law § 6530(15). The charge contains two specifications pertaining to Respondent's failure to comply with an order issued per PHL Section 230(7).

A Committee of the Board on June 25, 2020, made a finding that there was reason to believe the Respondent may be impaired by alcohol, drugs, physical disability, or mental disability. As a result of that finding, the Committee ordered the Respondent to submit to an examination by the Medical Director at Geisinger Marworth Treatment Center, Waverly, PA, or their designee within 30 days of the Order. The Committee further ordered the Respondent to provide OPMC releases to obtain the Respondent's medical and pharmacy records and other protected health information deemed necessary by OPMC's Examining Physician. As of the date of the present Hearing, the Respondent has failed to comply with the terms and conditions of the Committee's June 25, 2020, Order.

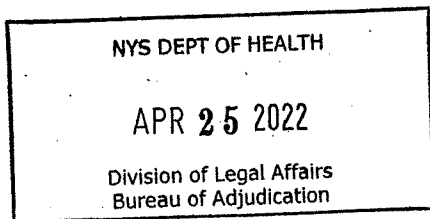
The Department has recommended that the Respondent's license to practice medicine in New York State be revoked. The Respondent has disregarded an Order of the Board. By his failure to comply with the Board's Order the Respondent has placed his interests above those of the public. Given the Respondent's failure to comply with the Order and his failure to appear at the hearing to respond to the charges and allegations and the Hearing Committee's concern for public safety, the Hearing Committee unanimously agrees with Department's recommendation of revocation.

**ORDER**

Now, after reviewing the evidence from the hearing, 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 the State of New York is revoked; and
3. This Order shall be effective upon service on the Respondent in accordance with the Requirements of PHL § 230(10)(h).

Dated: April \_\_\_\_\_, 2022  
Albany, New York



[Redacted Signature]  
Henry T. Spector, M.D., Chairperson  
Linda A Brady, M.D.  
Curtis W. Hart, M. Div.

Nathaniel White, Associate Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Room 2512, Corning Tower, ESP  
Albany, New York 12237

Alan C. Nussbaum, M.D.



Alan C. Nussbaum, M.D.



**IN THE MATTER**  
**OF**  
**ALAN NUSSBAUM, M.D.**

**STATEMENT**  
**OF**  
**CHARGES**

ALAN NUSSBAUM, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 23, 1990 by the issuance of license number 181570 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about June 25, 2020, a Committee of the New York State Board for Professional Medical Conduct ("Board") issued an Order pursuant to New York Public Health Law section 230(7)(a) after the Committee made a finding that there was reason to believe the Respondent may be impaired by alcohol, drugs, physical disability, or mental disability. The Order directed the Respondent to submit to and cooperate with an examination by the Medical Director at Geisinger Marworth Treatment Center, or their designee, and that the Respondent must schedule and commence the examination no later than thirty days from the effective date of the Order. The Order also required that the Respondent provide any releases or consents with respect to confidentiality that the Examining Physician, the Board, or the Office of Professional Medical Conduct ("OPMC") deemed necessary, including to authorize the Examining Physician to directly provide OPMC with information about the Respondent's compliance or noncompliance with the Order. Respondent failed to comply with the Order in that:



1. The Respondent failed to schedule and commence the examination within thirty days of the effective date of the Order.
2. The Respondent failed to submit to and cooperate with an examination by the Medical Director at Geisinger Marworth Treatment Center or their designee.
3. The Respondent failed to provide releases and/or consents as directed by the Order, including as directed in paragraph 4(b), to authorize the Examining Physician to provide OPMC directly with information about the Respondent's compliance or noncompliance with the Order, and paragraph 5, requiring the Respondent to authorize and cause the Examining Physician to provide OPMC directly with information about the Respondent's compliance or noncompliance with the Order.

B. On or about June 25, 2020, a Committee of the Board issued an Order pursuant to New York Public Health Law section 230(7)(b) after the Committee made a finding that there was reason to believe the Respondent may be impaired by alcohol, drugs, physical disability, or mental disability. The Order authorized OPMC to obtain medical records or other protected health information pertaining to the Respondent's physical or mental condition which the Committee found may be relevant to the Respondent's alleged impairment. The Order directed the Respondent to provide OPMC with the necessary authorizations to obtain the medical records and/or other protected health information from the providers and/or facilities specified in the Order. The Order required the Respondent to provide the necessary authorizations within seven days of the effective date of the Order. On or about July 17, 2020, OPMC provided the Respondent with medical authorizations to effectuate the release of medical records and/or other protected health information for the physicians and/or providers as specified in the Order. Respondent failed to comply with the Order in that:

1. Respondent failed to complete and return to OPMC the necessary authorizations to obtain the Respondent's medical records and/or other protected health information within seven days of the effective date of the Order.

**SPECIFICATION OF CHARGES**

**FIRST AND SECOND SPECIFICATIONS**

**Failure to Comply with an Order**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(15) by failing to comply with an order issued pursuant to §230(7) of the Public Health Law, as alleged in the facts of:

1. Paragraph A and its subparagraphs.
2. Paragraph B and its subparagraphs.

DATE: February 23, 2022  
Albany, New York

  
JEFFREY J. CONKLIN  
Acting Deputy Counsel  
Bureau of Professional Medical Conduct