



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

April 04, 2018

### CORRECTED LETTER

Anna Konopka, M.D.  


Mark S. Nash, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237-0032

**RE: In the Matter of Anna Konopka, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (18-079) 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

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: cac  
Enclosure

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

In the matter of

**Anna Konopka, M.D.**  
NYS license # 099913

**Determination  
and Order**

18-079

A notice of referral proceeding and statement of charges, both dated January 8, 2018, were served on Respondent **Anna Konopka, M.D.** The statement of charges alleged professional misconduct in violation of New York State Education Law 6530. A hearing was held at offices of the New York State Department of Health, 259 Monroe Avenue, Rochester, New York, on March 14, 2018.

Pursuant to Public Health Law 230(10)(c), **Charles J. Vacanti, M.D.**, Chairperson, **Paul C. Harrington, M.D.**, and **Paul J. Lambiase**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee. **John Harris Terepka**, Administrative Law Judge, served as the administrative officer.

The Department of Health (the Petitioner) was represented by **Marc S. Nash, Esq.** **Anna Konopka, M.D.** (the Respondent) appeared, with the Petitioner's consent, by telephone conference call. Evidence was received and a transcript of the proceedings was made. After consideration of the entire record, the hearing committee issues this determination and order sustaining the charges and imposing discipline on the Respondent's license to practice medicine.

### JURISDICTION

As is set forth in Public Health Law 230(1)&(7) and Education Law 6530, the legislature created the State Board for Professional Medical Conduct in the Department of Health and authorized it to conduct disciplinary proceedings in matters of professional medical conduct. In this case, the Respondent, a physician, has been charged with misconduct pursuant to Ed.L 6530(9)(d).

Pursuant to PHL 230(10)(p), a hearing on circumscribed issues, or "direct referral proceeding," is authorized when a licensee is charged solely with a violation of Ed.L 6530(9). Charges of misconduct under Ed.L 6530(9) are based upon a criminal conviction or an administrative violation, in New York State or another jurisdiction, establishing conduct that would constitute a crime or professional misconduct if committed in New York. The scope of the hearing is limited to whether there is a relevant conviction or administrative determination and if so, to a determination of the nature and severity of the penalty to be imposed. PHL 230(10)(p). Hearing procedures are set forth in Department of Health regulations at 10 NYCRR Part 51.

### EVIDENCE

Witnesses for the Petitioner:	None
Petitioner exhibits:	1 - 5
Witnesses for the Respondent:	Anna Konopka (by telephone, unsworn) Anne Batt (by telephone, unsworn)
Respondent exhibits:	A, B

A transcript of the hearing was made.

### FINDINGS OF FACT

1. Respondent Anna Konopka, M.D. was authorized to practice medicine in New York State on September 20, 1967 under license number 099913. (Exhibit 3.)

2. On May 12, 2017, the Respondent entered into a consent agreement with the New Hampshire Board of Medicine, which reprimanded Respondent's license, directed her to participate in continuing medical education, and ordered her to refer any pediatric cardiac arrhythmia patients to a qualified pediatric cardiologist prior to providing treatment. This disciplinary action arose from charges she had negligently treated a patient. (Exhibit 4.)

3. On September 12, 2017, the Respondent voluntarily surrendered her New Hampshire medical license in settlement of pending allegations regarding her record keeping, prescribing practices and medical decision making. (Exhibit 5.)

### **HEARING COMMITTEE DETERMINATION**

The May 2017 New Hampshire allegations involved charges of numerous acts of negligence in the treatment of a minor patient. The Respondent settled these allegations by a consent agreement in which disciplinary action was imposed. (Exhibit 4, page 3.) In September 2017, in the face of additional allegations regarding record keeping, prescribing practices and medical decision making, the Respondent voluntarily surrendered her medical license. (Exhibit 5.)

After reviewing the consent decree and the voluntary surrender of license (Exhibits 4, 5), the hearing committee unanimously agreed that the conduct resulting in the New Hampshire Board's disciplinary actions would constitute misconduct in New York pursuant to Education Law 6530(3), practicing the profession with negligence on more than one occasion.

The hearing committee also unanimously determined (3-0) that the New Hampshire determinations establish that the Respondent violated Ed.L. 6530(9)(d) which defines professional misconduct, in pertinent part, as:

9. (d) Having his or her license to practice medicine revoked, suspended or having other disciplinary action taken... 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 professional misconduct under the laws of New York state.

The Respondent denied all misconduct, claiming:

In the past three years, peculiar attacks started against me with fabricated accusations by individuals and organizations and people I do not know and have never seen. I defended myself on all occasions successfully. (Exhibit A, page 1.)

The credible evidence establishes otherwise. Of particular concern to the hearing committee is the Respondent's refusal to acknowledge any deficiencies in her medical practice. For this reason, the committee deemed it inappropriate to permit the Respondent to practice in New York State without first undergoing a significant penalty and then submitting to appropriate supervision. The hearing committee determined to censure and reprimand, and suspend her medical license for five years. Thereafter, should she return to practice in New York, she will be subject to a two year probationary period which shall include a requirement that she engage a practice monitor. The terms of probation with practice monitor are set forth in the attached appendix to this decision and order.

The hearing committee's vote sustaining the charge and imposing sanctions was unanimous (3-0).

### **ORDER**

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

1. The Respondent's license to practice medicine in New York State is censured and reprimanded.
2. Respondent's license is suspended for five years.
3. Suspension is to be followed by a two year probation period with a practice monitor, in accordance with the provisions set forth in the Terms of Probation annexed to this decision.

This order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required under PHL 230(10)(h).

Dated: Albany, New York

29 March 2018

By:

[REDACTED]

Charles J. Vacanti, M.D., Chair

Paul C. Harrington, M.D.

Paul J. Lambiase

To: Marc S. Nash, Esq.  
Bureau of Professional Medical Conduct  
Corning Tower, Empire State Plaza  
Albany, New York 12237-0032

Anna Konopka, M.D.

[REDACTED]

## TERMS OF PROBATION

1. Respondent's conduct shall conform to the moral and professional standards of conduct in her profession and in governing law. Any act of professional misconduct by Respondent as defined by New York Education Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York Public Health Law § 230 (10) or (19), or both.
2. Respondent shall remain in continuous compliance with all requirements of New York Education Law § 6502, including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in New York Education Law § 6502(4) to avoid registration and payment of fees.
3. Respondent shall provide to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, Suite 355, 150 Broadway, Albany, New York, 12204, at least every six months and as otherwise requested, or within thirty days of any change in the information, the following information in writing:
  - a. a full description of the Respondent's employment and practice;
  - b. all professional and residential addresses and telephone numbers within and outside of New York State;
  - c. any and all information concerning investigations, arrests, charges, convictions or disciplinary actions by any local, state, or federal agency;
  - d. any and all information concerning investigations, terminations, or disciplinary matters by any institution or facility.
4. Respondent shall provide to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, Suite 355, 150 Broadway, Albany, New York, 12204, copies of all applications relating to the practice of medicine, including but not limited to, privileges, insurance, and licensure, in any jurisdiction, concurrent with their submission.



5. Respondent shall cooperate fully with, and will respond within two weeks to, OPMC requests to provide written periodic verification of Respondent's compliance with these terms of probation. Upon the Director of OPMC's request, Respondent shall meet personally with a person designated by the Director.
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty-day period. Respondent shall then notify the Director again at least fourteen 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.
7. The Director of OPMC, or his/her designee, may review Respondent's professional performance. This review may include but shall not be limited to:
  - a. A review of office records, patient records, hospital charts, and/or electronic records; and
  - b. Interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients, and contain all information required by State rules and regulations concerning controlled substances.
9. Within thirty days of the effective date of this Determination and Order, Respondent shall practice only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to written approval of the Director of 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 Respondent's medical practice on a random unannounced basis at least monthly and shall examine a selection (no less than 20) of records maintained by Respondent. The review will determine whether

Respondent's charting is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation from accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.

- b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
  - 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 Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC within 30 days after the date of this Determination and Order.
10. Respondent shall comply with these Terms of Probation, 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 for Professional Medical Conduct may initiate a violation of probation proceeding, and/or any other proceeding authorized by law, against the Respondent.

APPENDIX I

IN THE MATTER  
OF  
ANNA KONOPKA, M.D.

STATEMENT  
OF  
CHARGES

ANNA KONOPKA, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 20, 1967, by the issuance of license number 099913 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about May 12, 2017, Respondent and the New Hampshire Board of Medicine (hereinafter, "New Hampshire Board") entered into a Consent Decree which reprimanded Respondent's license, directed Respondent to meaningfully participate in fourteen total hours of continuing medical education in the areas of pediatric asthma, pharmacology, and pediatric cardiology, and refer any patient diagnosed with pediatric cardiac arrhythmia to a qualified pediatric cardiologist prior to providing non-life sustaining treatment. This disciplinary action is based upon evidence which could prove that Respondent negligently treated a minor patient diagnosed with asthma, and then, cardiac arrhythmia.
- B. On or about September 12, 2017, subsequent to the New Hampshire Board commencing an investigation into Respondent's practice as referenced above in paragraph A, Respondent voluntarily surrendered her New Hampshire license to practice medicine with an effective date of October 13, 2017.
- C. The conduct resulting in the New Hampshire 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);

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**HAVING HAD DISCIPLINARY ACTION TAKEN**

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(3)) as alleged in the facts of the following:

1. The facts in Paragraphs A and C and C.1 and/or B and C and C.1.

DATE: January 8, 2018  
Albany, New York

  
MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct