



Department of Health

ANDREW M. CUOMO
Governor

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

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

September 29, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David W. Quist, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Empire State Plaza
Albany, New York 12237

Lesly Pompy, MD


RE: In the Matter of Lesly Pompy, MD

Dear Parties:

Enclosed please find the Determination and Order (No. 20-248) 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.

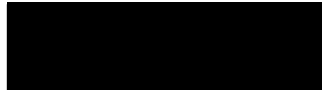
The notice of review served on the Administrative Review Board should be forwarded to:

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: cmg
Enclosure

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

COPY

In the matter of

Lesly Pompy, MD
NYS license # 180640

Determination
and Order

BPMC-20-248

A notice of referral proceeding and statement of charges dated July 30, 2020 were served on Respondent **Lesly Pompy, MD**. The statement of charges alleged professional misconduct in violation of New York State Education Law (Ed.L) 6530. (Exhibit 1.) A hearing was held at the New York State Department of Health on September 9, 2020, by videoconference.

Pursuant to Public Health Law (PHL) 230(10)(e), **Jagdish M. Trivedi, MD**, Chair, **Richard F. Kasulke, MD**, and **Gail S. Homick-Herrling**, 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 **David W. Quist, Esq.** **Lesly Pompy, MD**, (the Respondent) appeared pro se. After consideration of the entire record, the hearing committee issues this determination and order sustaining the charges and revoking the Respondent's license to practice medicine.

JURISDICTION

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 limited 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). Penalties which may be imposed are set forth at PHL 230-a. Hearing procedures are set forth in Department of Health regulations at 10 NYCRR Part 51.

EVIDENCE

Petitioner exhibits:

1-6

Witness for the Respondent:

Lesly Pompy, MD

Respondent exhibits:

A

The Respondent submitted at various times before the hearing commenced, ten other documents that were excluded from the hearing record as irrelevant and/or as attempts to relitigate the underlying Michigan Board and other court determinations.

A transcript of the hearing was made.

FINDINGS OF FACT

1. Respondent Lesly Pompy, MD was authorized to practice medicine in New York State on November 6, 1989 under license number 180640. (Exhibit 3.)
2. On June 2, 2020, the Michigan Board of Medicine issued a Final Order suspending the Respondent's medical license for six months and one day, and fined him \$5,000. Reinstatement after the six-month suspension was not automatic. The order was based on findings that the Respondent was negligent; incompetent; lacked good moral character in his treatment and prescribing of controlled substances to numerous patients; possessed and prescribed drugs for other than lawful purposes; and failed to comply with a Michigan Board subpoena. (Exhibits 4, 5.)

HEARING COMMITTEE DETERMINATION

The Michigan Board of Medicine found misconduct and imposed discipline on the Respondent's medical license after finding that he deviated from the appropriate standard of care in the treatment of numerous patients, particularly with regard to his practices in prescribing and handling controlled substances.

The hearing committee agreed that the unprofessional conduct found by the Michigan Medical Board would, if committed in New York, constitute misconduct pursuant to Ed.L 6530(3) (negligence on more than one occasion) and (5) (incompetence). The hearing committee accordingly agreed that, as alleged in the statement of charges, the Michigan Board order imposing a license suspension and a fine established 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... 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... would, if committed in New York state, constitute professional misconduct under the laws of New York state.

The Petitioner recommended revocation of the Respondent's license. The hearing committee agreed that the Michigan Medical Board findings established serious misconduct. The hearing committee also concluded that the Respondent's presentation at this hearing showed little awareness of, or concern for, the gravity of his misconduct or the problems with his manner of practicing medicine that led to it. The hearing committee unanimously determined (3-0) that revocation of the Respondent's New York license is the appropriate penalty to be imposed in order to protect patients in New York.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in New York State is **revoked**.

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

9, 23, 2020

By:

[REDACTED]
Jagdish M. Trivedi, MD, Chair

Richard F. Kasulke, MD
Gail S. Homick-Herrling

To: David W. Quist, Esq.
Bureau of Professional Medical Conduct
Corning Tower, Empire State Plaza
Albany, New York 12237-0032

Lesly Pompy, MD
[REDACTED]

APPENDIX I

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

IN THE MATTER
OF
LESLY POMPY, M.D.

STATEMENT
OF
CHARGES

LESLY POMPY, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 6, 1989, by the issuance of license number 180640 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 2, 2020, the Michigan Board of Medicine ("Board") issued a Final Order suspending Respondent's medical license for six months and a day and fined him \$5,000. The Order also stated that reinstatement of a license which has been suspended for more than six months is not automatic.

B. The Board's Disciplinary Subcommittee accepted the Findings of Fact and Conclusions of Law contained in a Proposal for Decision, issued by the administrative law judge on or about April 29, 2019, following an administrative hearing addressing allegations in a First Superseding Administrative Complaint executed on or about May 9, 2018. The Proposal for Decision documented that Respondent was 1) negligent in some respects; 2) negligent and incompetent in numerous other respects; 3) lacked good moral character, in his treatment of, and his prescribing of controlled substances to, numerous patients by actions such as failing to address evidence of abuse or diversion and by failing to enforce pain management contracts, 4) that Respondent possessed and prescribed drugs for other than lawful purposes, and 5) that he failed to comply with the Board's lawfully issued subpoena.

C. The conduct resulting in the Board's Order against Respondent would constitute misconduct under the laws of New York State pursuant to New York Education Law §§ 6530(3) (negligence) and/or (5) (incompetence).

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) (negligence) and/or (5) (incompetence).

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

DATE: July 30, 2020
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct