



## 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 4, 2018

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Marek Walczyk, M.D.

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

**RE: In the Matter of Marek Walczyk, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No.18-077) 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: cac  
Enclosure

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

In the matter of

**Marek Walczyk, M.D.**  
NYS license # 224322

**Determination  
and Order**

**BPMC-18-077**

A commissioner's order of summary action, notice of referral proceeding and statement of charges, all dated December 26, 2017, were served on Respondent Marek Walczyk, M.D. The statement of charges, as amended on February 7, 2018, 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 15, 2018.

Pursuant to Public Health Law 230(10)(e), Heidi B. Miller, P.A.-C., M.P.H., Chair, Sanford H. Levy, M.D., and Lyon M. Greenberg, M.D., 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 Mark S. Nash, Esq. Marek Walczyk, M.D. (the Respondent) did not appear, although duly served with notice of the hearing in conformity with the requirements of PHL 230(10)(d). (Exhibit 3.) 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 revoking 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)(b)&(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:	1-7

Witnesses for the Respondent:	None
Respondent exhibits:	None

A transcript of the hearing was made.

### FINDINGS OF FACT

1. Respondent Marek Walczyk, M.D. was authorized to practice medicine in New York State on March 28, 2002 under license number 224322. (Exhibit 4.)

2. The Respondent pleaded guilty, in the United States District Court, Northern District of Illinois, Eastern Division, to one felony count of Unlawful Procurement of Citizenship or Naturalization (18 U.S.C. § 1425(a) & (b)). On May 22, 2017, the Respondent was sentenced to three years of probation, community service, and criminal monetary penalties in the amount of \$100,100. The Respondent was also prohibited from performing any work related to certification of information provided in connection with citizenship and immigration services. (Exhibits 5, 6.)

3. On February 23, 2017 the Illinois Department of Professional Regulation issued a consent order based upon the Respondent's guilty plea in the Illinois district court. The consent order imposed the discipline of an indefinite suspension of the Respondent's medical license. (Exhibit 7.)

#### **HEARING COMMITTEE DETERMINATION**

After reviewing records obtained from the United States District Court, Northern District of Illinois (Exhibits 5, 6), the hearing committee unanimously determined (3-0) that, as alleged in the amended statement of charges, the Respondent violated Ed.L 6530(9)(a)(ii) which defines professional misconduct, in pertinent part, as:

9. (a) Being convicted of committing an act constituting a crime under... (ii) federal law.

The Illinois Department of Professional Regulation also found misconduct and imposed discipline on the Respondent's Illinois medical license because he was convicted of a crime under federal law. The hearing committee unanimously agreed (3-0) that the misconduct found by the Illinois Board would, if committed in New York, constitute misconduct pursuant to Ed.L 6530(9)(a)(ii).

The hearing committee unanimously determined (3-0) that, as alleged in the statement of charges, the Respondent violated Ed.L 6530(9)(b), which defines professional misconduct, in pertinent part, as:

10. (b) Having been found guilty of improper practice or 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.

The hearing committee also unanimously determined (3-0) that the Illinois Board's decision and order suspending of his Illinois medical license 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... 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... or the surrender of the license 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. Although duly served with notice of the hearing in conformity with PIIL 230(10)(d), the Respondent failed to appear and failed to offer any evidence or argument to persuade the committee to a different conclusion. The hearing committee unanimously (3-0) determined that revocation of the Respondent's license pursuant to PIIL 230-a(4) is an appropriate penalty.

**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

4-3-18

By:

  
Heidi B. Miller, P.A.-C., M.P.H., Chair

Sanford H. Levy, M.D.  
Lyon M. Greenberg, M.D.

To: Mark S. Nush, Esq.  
Bureau of Professional Medical Conduct  
Coming Tower, Empire State Plaza  
Albany, New York 12237-0032

Marek Walczyk, M.D.



## APPENDIX I



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

IN THE MATTER  
OF  
MAREK WALCZYK, M.D.

AMENDED  
STATEMENT  
OF  
CHARGES

Marek Walczyk, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 28, 2002, by the issuance of license number 224322 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about February 10, 2017, in the United States District Court, Northern District of Illinois, Eastern Division, Respondent was found guilty, based on a plea of guilty, of Attempted Unlawful Procurement of Naturalization or Citizenship, in violation of Title 18, United States Code, §1425(a), a Class C felony, and on or about May 22, 2017, was sentenced to three (3) years of probation, community service in an amount not to exceed 400 hours, a fine of \$100,000.00, and an assessment of \$100.00. A permanent limitation was imposed upon Respondent prohibiting him from performing any work related to the certification of information provided on United States Citizenship and Immigration Services Medical Certification for Disability Exceptions (Form N-648).



B. On or about February 23, 2017, the State of Illinois, Department of Financial and Professional Regulation, Division of Professional Regulation (hereinafter, "Illinois Board", by a Consent Order (hereinafter, "Illinois Order"), indefinitely suspended Respondent's Illinois Physician and Surgeon License No.036.107779 based upon Respondent's plea of guilty to Attempted Unlawful Procurement of Naturalization or Citizenship.

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**CRIMINAL CONVICTION (Federal)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. The facts in Paragraph A.

**SECOND SPECIFICATION**

**HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(b) by 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 would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §6530[9][a][ii]) as alleged in the facts of the following:

2. The facts in Paragraphs A and B.

**THIRD 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(9)(a)(ii)) as alleged in the facts of the following:

3. The facts in Paragraphs A and B.

DATE: February 7, 2018  
Albany, New York

  
MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct