



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

June 11, 2018

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Marc S. Nash, Esq.  
Bureau of Professional Medical Conduct  
Corning Tower Building – Room 2512  
Empire State Plaza  
Albany, New York 12237

Reese James, D.O.  


**RE: In the Matter of Reese James, D.O.**

Dear Parties:

Enclosed please find the Determination and Order (No.18-134) 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  
REESE JAMES, D.O.**

**DETERMINATION  
AND  
ORDER**

**BPMC-18-134**

A hearing was held on May 16, 2018, at the offices of the New York State Department of Health (Department), 150 Broadway, Menands, New York. Pursuant to § 230(10)(e) of the Public Health Law (PHL), **ANDREW J. MERRITT, M.D.**, Chairperson, **STEVEN I. SHERMAN, D.O., M.S.** and **DAVID F. IRVINE, DHSc, P.A.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. **DAWN MacKILLOP-SOLLER, ADMINISTRATIVE LAW JUDGE (ALJ)**, served as the Administrative Officer.

The Department appeared by Marc S. Nash, Senior Attorney. A Notice of Referral Proceeding and Statement of Charges dated March 6, 2018, were duly served pursuant to PHL § 230(10)(d)(i) upon Reese James, D.O. (Respondent), who did not appear at the hearing. (Exhibits 2-4.) The Hearing Committee received and examined documents from the Department (Exhibits 1-7) 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. Law) 6530(9)(d), and to revoke his New York medical license.

**BACKGROUND**

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a 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. Under PHL § 230(10), the Department has the burden of proving its case by a preponderance of the evidence.

### **FINDINGS OF FACT**

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

1. Reese James, D.O., the Respondent, was licensed to practice medicine in New York on June 19, 2001, by the issuance of license number 221478 by the Education Department. (Exhibit 5.)

2. In a Consent Order effective August 3, 2017, the State of Michigan, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Board of Osteopathic Medicine and Surgery Disciplinary Committee (Michigan Board) suspended the Respondent's license for a period of one year with permission to petition for reinstatement. The Michigan Board also subjected the Respondent to a fine in the amount of \$35,000 and ordered the permanent surrender of his controlled substances license. (Exhibit 6.)

3. The Michigan Board's determination was based on the Respondent's prescription practices in 2015, 2016 and 2017 for controlled substances, such as hydrocodone, oxycodone, oxymorphone, carisoprodol and alprazolam, in large dosage amounts and increasing frequencies. The Respondent prescribed his patients such drugs without performing complete physical examinations and proper drug screenings or documenting drug histories, treatment plans, and clinical justifications for prescriptions. (Exhibit 7.)

## **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 Michigan Board found the Respondent prescribed his patients highly addictive controlled substances without performing detailed physical examinations or regular drug screenings and without documenting medical rationales for prescribing the drugs. For one patient, the Respondent prescribed alprazolam, oxycodone and carisoprodol despite the patient's receipt of multiple opioid prescriptions from other providers. In another case, the Respondent prescribed a "full month" of oxycodone and oxymorphone at the excessively high "aggregate morphine equivalent" of 270 mg. daily. (Exhibit 7.) The Respondent significantly escalated such prescriptions even when urine drug screens, which he performed erratically, revealed unauthorized controlled substances or negative results for prescribed drugs. In many cases, his office notes were missing or incomplete.

Like New York, Michigan requires physicians prescribing controlled substances to perform physical evaluations and proper drug monitoring. Both states also obligate physicians to document patients' medical records with reasons for prescriptions and medical histories, practices the Respondent never followed. The Respondent's failures, had they occurred in New York, would have constituted a failure to maintain a record for each patient which accurately reflects the evaluation of the patient and practicing the profession with negligence on more than one occasion, as defined in Educ. Law 6530(32) and 6530(3), respectively.

The Hearing Committee considered the full spectrum of penalties available under PHL § 230-a, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties. The Respondent's continued prescriptions for dangerous combinations of controlled substances, including opioids, muscle relaxants and benzodiazepines, while ignoring drug seeking and diversion warning signs, placed his patients at risk for serious harm. The Hearing Committee unanimously agreed with the Department's recommendation that the Respondent's New York license to practice medicine be revoked.

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 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: Albany, New York  
6/8, 2018

  
Andrew J. Merritt, M.D.  
Chairperson

Steven I. Sherman, D.O., M.S.  
David F. Irvine, DHSc, P.A.

TO: Reese James, D.O.  


Marc S. Nash, Esq.  
Senior Attorney  
Bureau of Professional Medical Conduct  
Corning Tower Building – 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  
  
REESE JAMES, D.O.

STATEMENT  
  
OF  
  
CHARGES

REESE JAMES, D.O., the Respondent, was authorized to practice medicine in New York State on or about June 9, 2001, by the issuance of license number 221478 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Respondent, on or about August 3, 2017, entered into a Consent Order with the Michigan Board of Osteopathic Medicine and Surgery (hereinafter "Michigan Board"), at which time Respondent's license was suspended for one year, Respondent's controlled substance license was permanently surrendered, and Respondent was fined Thirty-Five Thousand Dollars (\$35,000.00). In ordering this discipline, the Michigan Board found that Respondent, in his treatment of twelve patients from 2015 to 2017, prescribed controlled substances without a history or examination, failed to document a rationale for prescribing, and failed to document positive urine drug screen results.
- B. The conduct resulting in the Michigan 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 Laws:



1. New York Education Law § 6530(3) (Practicing the profession with negligence on more than one occasion); and/or
2. New York Education Law § 6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, provided).

### **SPECIFICATION OF CHARGES**

### **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) and (32)) as alleged in the facts of the following:

1. The facts in Paragraphs A and B and B.1 and/or A and B and B.2.

DATE: March 6, 2018  
Albany, New York



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MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct