



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 28, 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Gerard A. Cabrera, Esq.
Bureau of Professional Medical Conduct
NYS Department of Health
90 Church Street, 4th Floor
New York, New York 10007

Yasemin Aktas, P.A.


RE: In the Matter of Yasemin Aktas, P.A.

Dear Parties:

Enclosed please find the Determination and Order (No.18-155) 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., 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

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IN THE MATTER : :
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OF : :
: :
YASEMIN AKTAS, P.A. : :
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DETERMINATION
AND
ORDER

18-155

A hearing was held on May 24, 2018, at the offices of the New York State Department of Health (Department), 90 Church Street, New York, New York. Pursuant to § 230 of New York Public Health Law (PHL) and New York State Administrative Procedure Act §§ 301-307 and 401, MICHAEL REICHGOTT, M.D., Ph.D., Chairperson, RAMANATHAN RAJU, D.O. and RICHARD S. GOLDBERG, J.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. KIMBERLY A. O'BRIEN, ADMINISTRATIVE LAW JUDGE (ALJ), served as the Administrative Officer. The Department appeared by GERARD A. CABRERA, ESQ. A Notice of Hearing and Statement of Charges dated April 13, 2018, were served on YASEMIN AKTAS, P.A. (Respondent), who did not appear at the hearing in person or by a representative. The Respondent failed to file an answer, and the charges were deemed admitted, PHL § 230(10)(c)(2). Accordingly, the charges that the Respondent committed professional misconduct, in violation of Education Law (Educ. Law) § 6530(15) by failing to comply with an Order issued pursuant to PHL § 230(7)(a) is sustained. The Committee was required to determine only what penalty should be imposed on the Respondent. At the hearing, each member of the Committee was provided with copies of the three exhibits that were received into evidence¹, the Department presented one

¹ The Department's three exhibits were admitted into the record at a pre-hearing conference that was held on May 17, 2018, outside the presence of the Committee. While Respondent received notice of the conference, she did not appear in person or by a representative [ALJ Ex. 1].

witness Paul Seher, Supervising Medical Investigator, and a stenographic reporter was present a transcript was made.

FINDINGS OF FACT

The findings of fact were made by the Hearing Committee after a review of the record in this matter. The references in brackets refer to transcript pages [Tr.] and exhibits [Ex.]. The following findings of fact are the unanimous determinations of the Hearing Committee:

1. Respondent was licensed to practice as a physician's assistant in New York on June 20, 2003, by the issuance of license number 009355 [Ex. 2].
2. Respondent is currently registered through the last day of April 2021 [Ex. 2 at p.19].
3. In a letter dated August 1, 2017, the Office of Professional Medical Conduct notified Respondent that based on information received from the Medical Society of the State of New York, Committee for Physician Health, there is reason to believe that she may be impaired by alcohol, drugs, physical disability or mental disability; and an OPMC Committee will meet on September 26, 2017 to determine whether to issue an order to obtain medical records and whether to direct her to submit to a medical and/or psychiatric evaluation (meeting). Respondent was invited to attend the meeting, but she was advised that the meeting would take place if she did not attend (letter). On August 4, 2017, Respondent personally signed for a copy of the letter which was sent by certified mail. A copy of the letter was also sent by regular mail. Respondent did not appear at the meeting in person or by a representative [Ex. 3; Tr. 13-14, 18-21].
4. On September 26, 2017 the Committee issued an Order pursuant to PHL § 230(7)(a) ordering Respondent to submit to an examination by a designated examining physician,

to be commenced not later than October 27, 2017, and failure to comply with the Order “shall be professional misconduct.” The Order was delivered to Respondent on October 3, 2017 [Ex. 3 at p. 1].

5. On May 4, 2018, Respondent was served with the Notice of Hearing and Statement of Charges, and she failed to appear at the May 24, 2018 hearing either in person or by a representative and she did not answer the charges [Tr. 21-23; Ex.1].

CONCLUSIONS

The Department presented evidence of the conduct that led to the issuance of the Commissioner’s Order and Respondent’s failure to comply with that Order. The Hearing Committee considered this evidence in reaching a determination about the appropriate penalty to impose. The Hearing Committee also considered the fact that Respondent was served with the Notice of Hearing and the Statement of Charges, which notified her about the hearing and that her license to practice medicine in New York was at risk, but she did not appear at the hearing in person or by a representative; she did not file an answer to the charges; and she offered nothing to mitigate the penalty. The Hearing Committee considered the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties. Based on the foregoing, the Hearing Committee unanimously agreed that revocation was the only appropriate penalty to protect the people of the State of New York.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent’s license to practice medicine is REVOKED; and

APPENDIX I

IN THE MATTER
OF
YASEMIN AKTAS, P.A.

STATEMENT
OF
CHARGES

YASEMIN AKTAS, P.A., the Respondent, was authorized to perform medical services as a physician assistant in New York State on or about June 20, 2003 by the issuance of license number 009355 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about September 26, 2017, upon affording an opportunity for Respondent to be heard, and at which proceeding Respondent did not appear, an Order was signed by the Chair of a Committee on Professional Conduct of the State Board for Professional Medical Conduct, requiring Respondent to undergo a medical and psychiatric examination no later than October 27, 2017, pursuant to Public Health Law Section 230(7)(a).

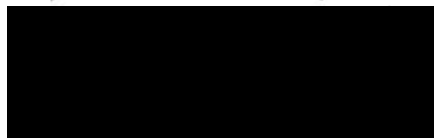
1. Respondent has failed to comply with the Order.

SPECIFICATION OF CHARGES

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

1. Paragraph A and A. 1.

DATE: April 13, 2018
New York, New York



Henry Weintraub
Chief Counsel
Bureau of Professional Medical Conduct