



Department of Health

ANDREW M. CUOMO
Governor

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

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

January 3, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Pooja A. Rawal, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
Empire State Plaza
Corning Tower Building, Room 2512
Albany, New York 12237

Donovan Dixon, M.D.
[REDACTED]
FCI Fort Dix
Federal Correctional Institution
P.O. Box 2000
Joint Base MDL, New Jersey 08640

RE: In the Matter of Donovan Dixon, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 20-004) 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

-----X
IN THE MATTER :
OF :
DONOVAN DIXON, M.D. :
-----X

DETERMINATION
AND
ORDER
20-004

A hearing was held on November 13, 2019, at the offices of the New York State Department of Health (Department), 150 Broadway, Menands, New York. Pursuant to Public Health Law (PHL) § 230(10)(e), Jose M. David, M.D., Chairperson, James G. Egnatchik, M.D., and Paul J. Lambiase, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Tina M. Champion, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by Pooja A. Rawal, Senior Attorney. A Notice of Referral Proceeding and Statement of Charges, both dated July 29, 2019, were duly served upon Donovan Dixon, M.D., (Respondent), who did not appear at the hearing.^{1,2}

The Hearing Committee received and examined documents from the Department (Exhibits 1-6). A stenographic reporter prepared a transcript of the proceeding.

After consideration of the entire record, the Hearing Committee sustains the charges that the Respondent committed professional misconduct in violation of Education Law (Educ. Law) § 6530(9), and votes that the penalty of revocation of his medical license is appropriate.

¹ This matter was initially scheduled for a hearing on September 11, 2019 and was adjourned to November 13, 2019 at the request of the Department and with notice to the Respondent. (Ex. 2.)

² The ALJ received a letter dated November 7, 2019 from the Respondent asking that the matter be dismissed based on failure to state a claim upon which relief can be granted, lack of subject matter jurisdiction, and lack of personal jurisdiction. The request was denied and the hearing proceeded as scheduled. (Transcript at pp. 5-6.)

BACKGROUND

The Department brought this 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) for "[h]aving 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." Pursuant to PHL § 230(10), the Department has the burden of proving its case by a preponderance of the evidence. Any licensee found guilty of professional misconduct under the procedures prescribed in PHL § 230 "shall be subject to penalties as prescribed in [PHL § 230-a] except that the charges may be dismissed in the interest of justice."

FINDINGS OF FACT

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

1. Donovan Dixon, M.D., the Respondent, was authorized to practice medicine in New York State on August 25, 2005 by the issuance of license number 237457 by the New York State Education Department. (Ex. 3.)
2. In August 2018, in the United States District Court for the Eastern District of North Carolina, the Respondent was found guilty of one (1) felony count of Conspiracy to Unlawfully

Dispense and Distribute Oxycodone, Oxymorphone, Methadone, and Alprazolam (21 U.S.C. §§ 841[b][1][C], 846) and twenty (20) felony counts of Unlawful Dispensation and Distribution of Oxycodone (21 U.S.C. §§ 841[a][1] and [b][1][C]). The Respondent was sentenced to two hundred forty (240) months imprisonment per count, to run concurrently, followed by three (3) years supervised release, to run concurrently, and ordered to pay a \$2,100.00 assessment. (Ex. 6.)

3. On February 20, 2019, the North Carolina Medical Board (NCMB) revoked the Respondent's medical license based upon the felony convictions. (Ex. 5.)

VOTE OF THE HEARING COMMITTEE

The Hearing Committee decides, by a vote of 3-0, that the evidence supports sustaining the charges of the Respondent having committed professional misconduct as defined in Educ. Law § 6530(9)(d).

HEARING COMMITTEE DETERMINATIONS

The Department charged the Respondent with professional misconduct pursuant to Educ. Law § 6530(9)(d). The charge contains one specification pertaining to the Respondent's having had disciplinary action taken by a duly authorized professional disciplinary agency of another state. The Department alleges, and the Hearing Committee concludes, that the conduct resulting in the disciplinary action, if committed in New York State, would constitute professional misconduct under the laws of New York State as defined in Educ. Law § 6530(9)(a)(ii) – having been convicted of committing an act constituting a crime under federal law.

The Department has recommended that the Respondent's license to practice medicine in New York State be revoked. The Respondent, by virtue of his profession, had an ethical obligation to help the public and has instead abused his medical license to unlawfully dispense and distribute controlled substances. Further, although the Respondent's incarceration prevented his personal appearance at this proceeding, he failed to retain an attorney to appear on his behalf and represent him or to


submit a written statement expressing remorse for his criminal conduct. The Hearing Committee unanimously agrees with the Department's recommendation.

ORDER

Now, after reviewing the evidence from the hearing, 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 in the State of New York 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: December 30, 2019
Albany, New York


Jose M. David, M.D., Chairperson
James G. Egnatchik, M.D.
Paul J. Lambiase

Pooja A. Rawal
Senior Attorney
New York State Department of Health
Bureau of Professional Medical Conduct
Room 2512, Corning Tower, ESP
Albany, New York 12237

Donovan Dixon, M.D.


FCI Fort Dix
Federal Correctional Institution
P.O. Box 2000
Joint Base MDL, NJ 08640

APPENDIX I

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

IN THE MATTER
OF
DONOVAN DIXON, M.D.

STATEMENT
OF
CHARGES

DONOVAN DIXON, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 25, 2005, by the issuance of license number 237457 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 20, 2019, the North Carolina Medical Board ("NCMB") revoked the medical license of the Respondent based on his federal felony conviction. On or about August 27, 2018, the Respondent was adjudicated guilty to one felony count of Conspiracy to Unlawfully Dispense and Distribute Oxycodone, Oxymorphone, Methadone, and Alprazolam (21 U.S.C. §§ 841(b)(1)(C), 846) and to twenty felony counts of Unlawful Dispensation and Distribution of Oxycodone (21 U.S.C. §§ 841(a)(1), 841(b)(1)(C)). The Respondent was sentenced to 240 months imprisonment per count, to run concurrently, followed by three years supervised release, per count, to run concurrently, and ordered to pay a \$2,100.00 assessment.

B. The conduct resulting in the NCMB's disciplinary action against the Respondent would constitute misconduct under the laws of New York State pursuant to the following section of New York State Law:

1. New York Education Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law).

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 as alleged in the facts of the following:

1. The facts in Paragraphs A, B, and B1.

DATE: July 29, 2019
Albany, New York


TIMOTHY MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct