



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 10, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Anna R. Lewis
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, New York 10007

Jerome Calloway, M.D.


RE: In the Matter of Jerome Calloway, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 19-142) 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.

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 Respondent or the Department may seek a review of a committee determination.

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 Judge 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,

A solid black rectangular box redacting the signature of James F. Horan.

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**

**IN THE MATTER
OF
JEROME CALLOWAY, M.D.**

**DETERMINATION
AND
ORDER
19-142**

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct (“the Department”). A Notice of Referral Proceeding (“NORP”) and Statement of Charges (“SOC”), both dated March 5, 2019, were served upon Jerome Calloway, M.D. (“Respondent”) and are attached to this Determination and Order as Appendix 1. A hearing, pursuant to N.Y. Public Health Law (“PHL”) §230 and New York State Admin. Proc. Act §§301-307 and 401, was held on April 15, 2019, at the Department’s offices at 90 Church Street, New York, New York.

Airlie A.C. Cameron, M.D., Chair, Linda A. Brady, M.D., and Richard S. Goldberg, Esq., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee (“Committee”) in this matter. Ann H. Gayle, Administrative Law Judge, served as the administrative officer. The Department appeared by Anna R. Lewis, Associate Attorney. Respondent, having been duly served with the NORP and SOC in conformity with the requirements of PHL §230.10(d), did not appear (Exhibit 1). Evidence was received and a transcript (pages 1-27) of this hearing was made.

After consideration of the entire record, the Committee issues this Determination and Order; all findings, conclusions, and determinations are unanimous.

STATEMENT OF CASE

This case was brought pursuant to PHL §230(10)(p) which provides for a hearing with circumscribed issues when a licensee is charged with misconduct based upon a criminal conviction under federal or state law and/or upon an administrative adjudication in another state regarding conduct that would amount to a crime and/or professional misconduct if committed in New York. N.Y. Education Law ("Educ. Law") §6530(9). In the instant case, Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(a)(iii) for having been convicted of an act constituting a crime under California law. Due to Respondent's failure to file a written answer to the SOC at least ten days prior to the first day of hearing, the charges and allegations were deemed admitted (PHL §230.10(p)). The scope of the hearing is limited to a determination of the penalty, if any, to be imposed upon the licensee.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the full record in this matter. Citations in brackets, which refer to transcript page numbers ["T"] and exhibits ["Ex"] that were accepted into evidence, represent evidence found persuasive by the Committee in arriving at a particular finding.

1. On October 17, 2014, Respondent, Jerome Calloway, M.D., was authorized, by the issuance of license number 277533 by the New York State Education Department, to practice medicine in New York State. [Ex 2]
2. On November 15, 2017, Respondent was convicted of reckless driving, a misdemeanor under California Vehicle Code §23103/23103.5-M. Respondent was sentenced to three years' probation, a conditional sentence of three years with one day already served in the Alameda County Jail, a fine of \$954.00, and attendance and completion of ten hours of

DUI school in New York; no time frame for completion of the DUI school was given. [Ex 3]

CONCLUSIONS OF LAW

The Department charged Respondent with one Specification of professional misconduct pursuant to Educ. Law §6530(9)(a)(iii) for having been convicted of an act constituting a crime under the law of another jurisdiction and which, if committed in this state would have constituted a crime under New York state law, namely New York Vehicle and Traffic Law §1212 (reckless driving). This Specification is sustained based on Respondent's November 15, 2017 conviction pursuant to his no contest plea in the November 7, 2017 Misdemeanor Advisement of Rights, Waiver and Plea Form, and on the charges having been deemed admitted pursuant to PHL §230.10(p).

DISCUSSION and DETERMINATION AS TO PENALTY

The Department recommended a censure and reprimand, \$1,500.00 fine, and an order that Respondent comply with the California order, or any appropriate penalty (T 7-8, 16, 19). The Committee, in considering the full range of penalties available pursuant to PHL Law §230-a, concludes that the appropriate penalty for Respondent's misconduct is a censure and reprimand, a fine, and a course of education that would consist of attendance and completion of ten hours of DUI school in New York. The Committee finds that while Respondent's misconduct is serious, there are no known recurrences of the crime for which Respondent was convicted eighteen months ago (November 2017) for his actions that occurred one year prior to the conviction (October 2016), and the crime was not related to the practice of medicine; it is believed that Respondent was on vacation in California when this occurred (T 16).

ORDER

IT IS HEREBY ORDERED THAT:

1. The charge of misconduct under Educ. Law §6530(9)(a)(iii) for having been convicted of an act constituting a crime under the law of another jurisdiction is sustained.
2. Pursuant to PHL §230-a(1) Respondent's license shall be subject to a censure and reprimand;
3. Pursuant to PHL §230-a (7) a fine in the amount of \$1,500.00 shall be imposed; Respondent shall pay this \$1,500.00 fine within forty-five (45) days of the effective date of this Order; and
4. Pursuant to PHL §230-a (8) Respondent is ordered to undergo a course of education consisting of attendance and completion of ten hours of DUI school in New York state; this course shall be completed within six (6) months of the effective date of this Order.
5. This order shall be effective upon service on the Respondent by personal service or by certified mail as required under PHL §230(10)(h)

DATED: New York, New York
May 31, 2019


AIRLIE A.C. CAMERON, M.D., Chair
LINDA A. BRADY, M.D.
RICHARD S. GOLDBERG, ESQ, ESQ.

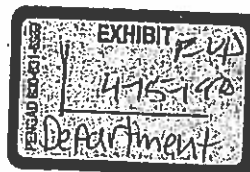
APPENDIX 1

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

IN THE MATTER
OF
JEROME CALLOWAY, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Jerome Calloway, M.D.
[REDACTED]



PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on April 15, 2019, at 10:00 a.m., at the offices of the New York State Department of Health, 90 Church Street, 4th Floor, New York, NY 10007.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN,

Dept. Exh. #1

DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. You may also file a written brief and affidavits with the Committee. All such documents shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated

above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
March 5, 2019


HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

ANNA R. LEWIS
Associate Counsel
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, NY 10007
(212) 417-4450

IN THE MATTER
OF
JEROME CALLOWAY, M.D.

STATEMENT
OF
CHARGES

JEROME CALLOWAY, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 31, 1973, by the issuance of license number 118428 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 7, 2017, in the Superior Court of the State of California, Respondent was convicted, based upon a plea of guilty, to California Vehicle Code §23103/23103.5-M, reckless driving, a misdemeanor. Respondent was sentenced to three years' probation, conditional sentence of three years with one day already served in the Alameda County Jail, a fine of \$954.00, and attendance and completion of ten hours of DUI school in New York. No time frame for completion of the DUI school was given.

1. The conduct resulting in the Order against Respondent would constitute misconduct under the laws of New York State pursuant to VTL §1212 (Reckless driving).

SPECIFICATION OF CHARGES
CRIMINAL CONVICTION (Other State)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(iii) by having been convicted of committing an act constituting a

crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law as alleged in the facts of the following:

1. Paragraphs A. and A.1.

DATE: March 5, 2019
New York, New York



Henry Weintraub
Chief Counsel
Bureau of Professional Medical Conduct

To: Anna R. Lewis
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, New York 10007

Jerome Calloway, M.D.

