

**These charges are only allegations which
may be contested by the licensee in an
Administrative hearing.**

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

IN THE MATTER
OF
IVAN GOLDSMITH, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Ivan Goldsmith, M.D.


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 August 14, 2019, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Menands (Albany), NY 12204-2719.¹

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

¹ For GPS purposes, enter "Menands", not "Albany".

Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, 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. Should the parties have objection to proposed witnesses or documentary evidence, the party raising the objection shall contact the Bureau of Adjudication to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

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 not later than 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. The answer 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. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below.

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: Albany, New York
June 26, 2019



TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

**Ian Silverman
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282**

IN THE MATTER
OF
IVAN GOLDSMITH, M.D.

STATEMENT
OF
CHARGES

IVAN GOLDSMITH, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 19, 2012 by the issuance of license number 267673 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 23, 2018 the Board of Medical Examiners of the State of Nevada (Nevada Board) by way of Settlement Agreement publicly reprimanded and placed on probation the Respondent's license to practice medicine for a period of time not to exceed twenty-four months. Respondent was ordered to complete the University of San Diego Physician Assessment and Competency Evaluation Program and if recommended by PACE the fitness for duty evaluation. Respondent was ordered to pay a \$1,000 fine per count for a total of \$4,000 and costs in the amount of \$7,168.05. Respondent was required to take 22 hours of continuing medical education related to best practices in the prescribing of controlled substances. During the probationary period Respondent must successfully complete all requirements and comply with all orders of the Nevada State Board of Pharmacy, specifically their Order issued on September 13, 2018. While on probation Respondent cannot supervise Physician Assistant or collaborate with any Advance Practice Registered Nurse. The Nevada Board found that the Respondent violated a standard of practice and failed to maintain complete medical records.

B. The Nevada Board Order was based upon a complaint alleging that Respondent used his Nevada Prescription Monitoring Program (PMP) account to access the confidential patient information of [REDACTED] the perpetrator of the October 1, 2017 Las Vegas mass shooting. [REDACTED] never was a patient of the Respondent's. From October 2, 2017 to

October 3, 2017 Respondent's PMP account was used to query the PMP database five separate times using different search parameters for each query, to access [REDACTED] confidential patient information and to obtain patient utilization reports detailing [REDACTED] prescription-controlled substance utilization history. On October 3, 2017 the Las Vegas Review Journal published an article which contained [REDACTED] confidential information, including information about two prescriptions [REDACTED] filled, which the reporter attributed to and obtained from the PMP. On or about November 8, 2017 Respondent through his counsel admitted to directing his office staff to use his PMP account to query [REDACTED] confidential patient information and to obtain patient utilization reports on October 2, 2017 and again on October 3, 2017.

C. Respondent's conduct as described above upon which the finding of unprofessional conduct in Nevada was based would, if committed in New York State, constitute professional misconduct under the laws of the State of New York as follows:

1. New York Education Law §6530(3) (practicing the profession with negligence on more than one occasion)
2. New York Education Law §6530 (23) (revealing of personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient, except as authorized or required by law) and/ or
3. New York Education Law §6530 (32) (failing to maintain a record)

SPECIFICATION OF CHARGES

FIRST 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 (3), (23) and/or (32)) as alleged in the facts of the following:

1. The facts in Paragraph A, B and C.

SECOND 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(3), (23) and/or (32)) as alleged in the facts of the following:

2. The facts in Paragraph A, B and C.

DATE: June 24, 2019
Albany, New York


Timothy J. Mahar /
Deputy Counsel
Bureau of Professional Medical Conduct