



Department of Health

ANDREW M. CUOMO
Governor

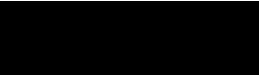
HOWARD A. ZUCKER, M.D., J.D.
Commissioner

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

September 13, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kolawole Odulaja, M.D.



Law Office of Wale Mosaku, P.C.
26 Bond Street, Third Floor
Brooklyn, New York 11201

Ian H. Silverman, Esq.
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Kolawole Odulaja, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 19-236) 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,



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

-----X
: IN THE MATTER : DETERMINATION
: OF : AND
: KOLAWOLE ODULAJA, M.D. : ORDER
: 19-236
-----X

A hearing was held on August 14, 2019, 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), RICHARD F. KASULKE M.D., Chairperson, MICHAEL C. IANNUZZI, M.D., and ELENA M. COTTONE, PA-C, duly designated members of the State Board for Professional Medical Conduct (BPMC), served as the Hearing Committee in this matter. JEAN T. CARNEY, ADMINISTRATIVE LAW JUDGE (ALJ), served as the Administrative Officer.

The Department appeared by Associate Counsel Ian H. Silverman. The Respondent appeared in person and through his attorney, Wale Mosaku, Esq. Jurisdiction over the Respondent was obtained by service of the Notice of Referral Proceeding and Statement of Charges. The Hearing Committee received and examined documents from the Department (Exhibits 1-8), from the Respondent (Exhibits A, B, and C); and 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 §§6530(9)(d), and that pursuant to PHL §230-a, the penalty of Reprimand and a permanent restriction on his license prohibiting the Respondent from prescribing controlled substances is appropriate.

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 Education Law §6530(9).

The Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(d), having had his license to practice medicine revoked, or suspended, or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in such action would, if committed in New York State, constitute professional misconduct under the laws of New York State.

Under PHL §230(10), the Department had 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. The Respondent was authorized to practice medicine in New York State on November 14, 2000, by the issuance of license number 219745. (Exhibit 5).

2. On June 2, 2017, the BPMC issued a Consent Order, based on a Consent Agreement, placing the Respondent on probation for two years with the provision that “[t]he probation period shall toll when the Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more”. (Exhibit 7).

3. On March 2, 2018, the Texas Medical Board (TMB) issued an Agreed Order finding that the Respondent had violated the standard of care and Board Rules governing the treatment of pain for 15 patients; and failed to maintain adequate medical records. The TMB ordered the Respondent to surrender his Drug Enforcement Agency (DEA) Controlled Substances Registration Certificate, and his Texas Department of Public Safety (DPS) Controlled Substances Registration Certificate. (Exhibit 6).

4. Previously, the TMB had issued a consent Order on June 10, 2016, publicly reprimanding the Respondent and requiring him to comply with certain terms and conditions including: practice monitoring; passing the Medical Jurisprudence Exam; and continuing medical education regarding medical recordkeeping, identifying drug seeking behavior, and prescribing controlled substances for chronic pain. (Exhibit B).

5. On June 14, 2019, the TMB issued an Order Granting Termination of the Agreed Orders from 2016 and 2018. (Exhibit 7).

VOTE OF THE HEARING COMMITTEE

The Hearing Committee concludes that the evidence supports sustaining the charge of having committed misconduct as defined in Educ. Law §6530(9)(d).

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATIONS

The Department met its burden of proving by a preponderance of the evidence that the Respondent committed professional misconduct as alleged in the Statement of Charges. The evidence shows that the Respondent had disciplinary action taken by the TMB wherein he was ordered to surrender his controlled substance certificates. The TMB had previously publicly reprimanded the Respondent, placing certain conditions on his license to practice, which resulted in action being taken by the BPMC. The Respondent argues that because the TMB terminated their orders against him, the current charges brought by the BPMC should be dismissed as moot. However, the TMB Orders were not vacated, and the fact remains that disciplinary action was taken against the Respondent. The consequences of the Respondent's actions constitute professional misconduct under the laws of New York State as defined in Educ. Law §6530(9)(d).

In considering the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of


monetary penalties; the Hearing Committee noted that the BPMC Consent Order dated June 2, 2017 remains in full force and effect, and while it is admirable that the Respondent complied with the terms and conditions imposed on him by the TMB, his actions prompted disciplinary action. Therefore, the Hearing Committee determines that censure and reprimand, and placing a permanent restriction on the Respondent's medical license in New York State preventing him from prescribing controlled substances are appropriate penalties.

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 is censured and reprimanded; and
3. The Respondent's license to practice medicine is permanently restricted to prohibit him from prescribing controlled substances; and
4. This Order shall be effective upon service on the Respondent in accordance with the Requirements of PHL §230(10)(h).

DATED: Albany, New York
Sept, 09, 2019


Richard F. Kasulke, M.D., Chairperson
Michael C. Iannuzzi, M.D.
Elena M. Cottone, PA-C

To: Kolawole Odulaja, M.D.



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APPENDIX I

IN THE MATTER
OF
KOLAWOLE ODULAJA, M.D.

STATEMENT
OF
CHARGES

KOLAWOLE ODULAJA, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 14, 2000 by the issuance of license number 219745 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 2, 2018, the Texas Medical Board issued an Agreed Order whereby the Respondent was ordered to (1) surrender his Drug Enforcement Administration Controlled Substances Registration Certificate and Texas Department of Public Safety Controlled Substances Registration Certificate; (2) not register or otherwise obtain Controlled Substances Registrations until Respondent has received written authorization from the Board; (3) not supervise or delegate prescriptive authority to a physician assistant or advanced practice nurse or supervise a surgical assistant. The Texas Board's action was based upon a finding that the Respondent violated the standard of care in regards to the treatment of pain for 15 patients. Specifically, the Respondent failed to maintain adequate medical records and committed negligence in performing medical services.

B. Respondent's conduct as described above, upon which the disciplinary action in Texas 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 (2) (practicing the profession with negligence on more than one occasion) and/or
2. New York Education Law §6530 (32) (failing to maintain a record).

SPECIFICATION OF CHARGES

FIRST 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(2) and/or (32)) as alleged in the facts of the following:

1. The facts in Paragraph A and B.

DATE: May 20, 2019
Albany New York



Timothy J. Mahar, Esq.
Deputy Counsel
Bureau of Professional Medical Conduct