



Department of Health

ANDREW M. CUOMO
Governor

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

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

December 17, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Hannah E.C. Moore, Assistant Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237

Raymond Magliulo, D.O.


RE: In the Matter of Raymond Magliulo, D.O.

Dear Parties:

Enclosed please find the Determination and Order (No. 19-305) 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

**IN THE MATTER
OF
RAYMOND MAGLIULO, D.O.**

DETERMINATION

AND

**ORDER
19-305**

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 June 28, 2019, were served upon Raymond Magliulo, D.O. ("Respondent"). The NORP and SOC 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 October 23, 2019, at the Department's offices at 90 Church Street, New York, New York.

C. Deborah Cross, M.D., Chair, David M. Kirshy, M.D., and Michael Colon, 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 ("ALJ"), served as the administrative officer. The Department appeared by Hannah E.C. Moore, Assistant Counsel. Respondent, having been duly served with the NORP and SOC in conformity with the requirements of PHL §230.10(d), did not appear (Exhibits 1-4). Evidence was received and a transcript (pages 1-22) of this hearing was made.

After consideration of the entire record, the Committee issues this Determination and Order; all findings, conclusions, determinations and orders herein 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). The scope of the hearing is limited to a determination of the penalty, if any, to be imposed upon the licensee. In the instant case, Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(a)(i) for having been convicted of an act constituting a crime under New York law.

FINDINGS OF FACT

Citations in parentheses refer to transcript page numbers ("T") and exhibits ("Ex") that were accepted into evidence.

1. On July 19 and 20, 2019, Respondent was served with a NORP and SOC; he did not appear at the hearing in person or by a representative¹. (Ex 3; Ex 4; T 5-8)
2. Respondent was authorized by the New York State Education Department to practice medicine in New York State on July 9, 1990, by the issuance of license number 183013. (Ex 2; Ex 8)
3. On April 17, 2019, Respondent was convicted, following a jury trial, of Endangering the Welfare of an Incompetent or Physically Disabled Person in the First Degree, pursuant to New York Penal Law §260.25, a class E felony. On September 30, 2019, Respondent was

¹ The hearing was originally scheduled for August 14, 2019, in Menands, New York. Upon request of Respondent's then attorney, with no objection by the Department, the then assigned ALJ adjourned the Matter to October 23, 2019, in New York City. A request for an adjournment of the October 23 hearing, made by a different attorney acting on behalf of Respondent, was denied by this ALJ. In a letter dated October 18, 2019, yet another attorney acting on Respondent's behalf informed the Department's counsel and the ALJ that Respondent would not attend the October 23 hearing. (T 5, 9-10)

sentenced as follows: Imprisonment for 1 to 3 years, Order of Protection for 11 years, fees of \$75.00 and a surcharge of \$300. (Ex 6; Ex 7a)

CONCLUSIONS OF LAW

The Department charged Respondent with one Specification of professional misconduct pursuant to Educ. Law §6530(9)(a)(i) for having been convicted of an act constituting a crime under New York law.

The Committee concludes that this Specification is sustained based on Respondent's conviction following a jury trial.

DETERMINATION AS TO PENALTY

The Committee, in considering the full range of penalties available pursuant to PHL Law §230-a, including: (1) censure and reprimand; (2) suspension of the license, wholly or partially; (3) limitation on practice; (4) revocation of the license; (5) annulment of the license or registration; (6) limitation on registration or further licensure; (7) monetary penalties; (8) a course of education or training; (9) performance of public service; and, (10) probation, concludes that a revocation of Respondent's license is warranted.

Respondent was convicted of a felony for committing sexual acts against a vulnerable victim/his neighbor. The Committee finds that the very nature of Respondent's egregious misconduct and the severity of Respondent's crime demands a revocation of his license to practice medicine in New York State as it is the only appropriate penalty to protect the people of New York State.

ORDER


IT IS HEREBY ORDERED THAT:

1. The charge of misconduct under Educ. Law §6530(9)(a)(i) for having been convicted of an act constituting a crime under New York law is **SUSTAINED**.

2. Pursuant to PHL §230-a(4) Respondent's license to practice medicine shall be REVOKED.
3. 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

December 16, 2019


C. DEBORAH CROSS, M.D., Chair /
DAVID M. KIRSHY, M.D.
MICHAEL COLON, ESQ.

APPENDIX 1

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

IN THE MATTER
OF
RAYMOND MAGLIULO, D.O.

NOTICE OF
REFERRAL
PROCEEDING

TO: Raymond Magliulo, D.O.
[REDACTED]

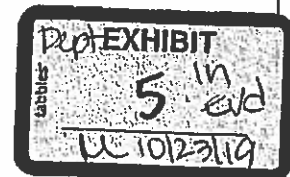
PLEASE TAKE NOTICE THAT:

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 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 and at such other adjourned dates, times and places as the committee may direct.

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

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



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, 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 [REDACTED]

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 28, 2019

[REDACTED]
TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Hannah E.C. Moore
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
2512 Corning Tower
Empire State Plaza
Albany, New York 12237-0032
518.473.4282

IN THE MATTER
OF
RAYMOND MAGLIULO, D.O.

STATEMENT
OF
CHARGES

RAYMOND MAGLIULO, D.O., the Respondent, was authorized to practice medicine in New York State on or about 07/09/1990, by the issuance of license number 183013 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 4, 2019, in the State of New York, Suffolk County Court, Respondent was convicted, following a jury trial, of Endangering the Welfare of an Incompetent or Physically Disabled Person in the First Degree (Penal Law § 260.25), a class E felony.

SPECIFICATION OF CHARGES
CRIMINAL CONVICTION (NYS)

1. Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

1. The facts in Paragraph A.

DATE: June 27, 2019
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct

To: Hannah E.C. Moore, Assistant Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237-0032

Raymond Magliulo, D.O.

