



## Department of Health

ANDREW M. CUOMO  
Governor

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

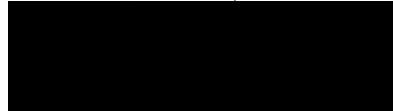
SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

January 7, 2020

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

Muhammed Mirza, M.D.



**RE: In the Matter of Muhammed Mirza, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 20-006) 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 used to redact 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

COPY

-----X  
IN THE MATTER  
OF  
MUHAMMED MIRZA, M.D.  
-----X

DETERMINATION  
AND  
ORDER  
20-006

A hearing was held on December 18, 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), Mary E. Rappazzo, M.D., Chairperson, Kenneth J. Steier, D.O., and Janet R. Axelrod, Esq., 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 Marc Nash, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges, both dated November 4, 2019, were duly served upon Muhammed Mirza, M.D., (Respondent), who did not appear at the hearing.

The Hearing Committee received and examined documents from the Department (Exhibits 1-4). A stenographic reporter prepared a transcript of the proceeding.

After consideration of the entire record, the Hearing Committee unanimously votes 3-0 to sustain the charges that the Respondent committed professional misconduct in violation of Education Law (Educ. Law) § 6530(9)(d), and that the penalty of probation is appropriate.

**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. Muhammed Mirza, M.D., the Respondent, was licensed to practice medicine in New York on February 20, 1992 by issuance of license number 188425 by the Education Department. (Ex. 3.)
2. The Respondent's license to practice medicine in New York is currently inactive. (Ex. 3.)
3. On May 1, 2019, the New Jersey Board of Medical Examiners (Board) entered into a Final Consent Order with the Respondent that suspended the Respondent's license for one year with three months to be served as an active period of suspension (commencing on May 8, 2019) and the remainder to be served as a period of probation. The Respondent was also required to take an ethics course and assessed a civil penalty and costs totaling \$29,944.21. (Ex. 4.)

4. The Final Consent Order was based upon an investigation that found that on or about September 15, 2017 the Respondent was noncompliant with the terms of an agreement<sup>1</sup> the Respondent entered into with the Board on April 20, 2012. The Final Consent Order recited that pursuant to the agreement, the Respondent was required to have a female employee from his medical practice serve as a chaperone during all his examinations and consultations with female patients, that the chaperone initial the patients' charts indicating that she was present during the examinations, and that the chaperone may not be a family member of the Respondent or the patient. The investigation found that the Respondent allowed his daughter to serve in the role of chaperone and did not require her to initial the female patients' charts. (Ex. 4.)

5. The Final Consent Order also recited that the Respondent entered into the 2012 agreement with the Board following his arrest on February 4, 2010 in Jersey City, New Jersey for "criminal sexual contact against a former female patient." (Ex. 4.)

#### **VOTE OF THE HEARING COMMITTEE**

The Hearing Committee decided, by a vote of 3-0, that the evidence supports sustaining the charge 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(29) – violating any term of probation or

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<sup>1</sup> The Statement of Charges refers to this document as a Board Order; however, the Department amended the Statement of Charges on the record at the hearing to reflect that the underlying document with conditions that was violated is an agreement rather than an order.

condition or limitation imposed on the licensee pursuant to section two hundred thirty of the public health law.

The Department has recommended that the Respondent's license to practice medicine in New York State be revoked. Although the Hearing Committee takes seriously noncompliance with any condition imposed by another duly authorized professional disciplinary agency, it does not feel that revocation is appropriate in this matter and that it would be an unnecessarily harsh penalty for the action resulting in the Final Consent Order in New Jersey. In declining to revoke the Respondent's license, the Hearing Committee relies on the finding in the New Jersey investigation that the Respondent had a chaperone present during female patient visits on September 15, 2017, albeit a family member, and that his noncompliance appears to be isolated to a particular day rather than persistent over a period of time. The Respondent is already past his term of active suspension in New Jersey and is currently in his term of probation in that state. The Department represented at the hearing that it received information from the Respondent that he has no intention of activating his license and commencing the practice of medicine in New York. Further, the Department did not offer any evidence as to the length of the condition agreed to in New Jersey that the Respondent have a chaperone present during female patient visits. Given the totality of the circumstances, the Hearing Committee finds that an 18-month term of probation, to commence if and when the Respondent begins practicing medicine in New York, including a condition that female patients be provided a chaperone during medical visits, will protect the public from any potential for harm by the Respondent.

#### **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 is subject to probation pursuant to PHL § 230-a(9) for a period of eighteen months, which period of probation shall commence if and when the Respondent begins

practicing medicine in the State of New York, in accordance with the Terms of Probation annexed hereto; and

3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

Dated: December \_\_\_\_, 2019  
Albany, New York  
NYS DEPT OF HEALTH

JAN 06 2020

Division of Legal Affairs  
Bureau of Adjudication

[REDACTED]  
Mary E. Rappazzo, M.D., Chairperson  
Kenneth J. Steier, D.O.  
Janet R. Axelrod, Esq.

Marc Nash  
Associate Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Room 2512, Corning Tower, ESP  
Albany, New York 12237

Muhammed Mirza, M.D.  
[REDACTED]

### **TERMS OF PROBATION**

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York Education Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York Public Health Law § 230(10) or (19), or both.
2. Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services and shall pay all registration fees.
3. Respondent shall provide a female chaperone to all female patients during all medical visits, whether the visit is for examination or consultation. The female chaperone shall not be a member of the Respondent's family.
4. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York, 12204, at least every six months and as otherwise requested, and within thirty days of any change in the information, the following in writing:
  - a. a full description of Respondent's employment and practice;
  - b. all professional and residential addresses and telephone numbers within and outside New York State;
  - c. all information concerning investigations, arrests, charges, convictions, or disciplinary actions by any local, state, or federal agency; and
  - d. all information concerning investigations, terminations, or disciplinary matters by any institution or facility.
5. Respondent shall provide to the Director of OPMC copies of all applications relating to the practice of medicine, including but not limited to, privileges, insurance, and licensure, in any jurisdiction, concurrent with submission of the applications.
6. Respondent shall cooperate fully with and respond within two weeks to any OPMC requests to provide written periodic verification of Respondent's compliance with these terms. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
7. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30-day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume, and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in the Determination and Order or as are necessary to protect the public health.



8. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to:
  - a. a review of office records, patient records, hospital charts, and/or electronic records; and
  - b. interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
9. Respondent shall comply with these probationary terms and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the State Board for Professional Medical Conduct may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

## APPENDIX II

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

IN THE MATTER  
  
OF  
  
MUHAMMED MIRZA, M.D.

STATEMENT  
  
OF  
  
CHARGES

MUHAMMED MIRZA, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 20, 1992, by the issuance of license number 188425 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about May 1, 2019, the New Jersey Board of Medical Examiners (hereinafter, "New Jersey Board") filed a Final Consent Order which suspended Respondent's New Jersey's medical license for one year, with three months to be served as an active period of suspension and the remainder to be served as a period of probation, directed Respondent to successfully complete one ethics course, and assessed costs and fines totaling \$29,944.21. The disciplinary action was based on findings that Respondent violated an April 20, 2012 New Jersey Board Order which required a female employee from his medical practice serve as a chaperone during all his examinations with female patients and that the chaperone initial the patients' charts indicating that she was present during the examination, and that a family member of the doctor or patient cannot serve as the chaperone. Specifically, Respondent was found to be noncompliant with the terms of the April 20, 2012 Order when he allowed

his daughter to serve as a chaperone during female patients' visits and did not require her to initial the female patients' charts.

B. The Conduct resulting in the New Jersey Board's disciplinary action against 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(29) (Violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred thirty of the public health 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 (namely N.Y. Educ. Law § 6530(29)) as alleged in the facts of the following:

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

DATE: November 4, 2019  
Albany, New York



TIMOTHY J. MAHAR  
Deputy Counsel  
Bureau of Professional Medical Conduct