



Department of Health

ANDREW M. CUOMO
Governor

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

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

March 6, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Christopher Azubuikwe Ineama, P.A.


Hannah E.C. Moore, Esq.
NYS Department of Health
Corning Tower Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Christopher Azubuikwe Ineama, P.A.

Dear Parties:

Enclosed please find the Determination and Order (No. 20-054) 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: nm
Enclosure

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

COPY

IN THE MATTER
OF
CHRISTOPHER AZUBUIKE INEAMA, P.A.

DETERMINATION
AND
ORDER

BPMC-20-054

A hearing was held on November 13, 2019, at the offices of the New York State Department of Health (Department), 150 Broadway, Menands, New York. Pursuant to Section 230(10)(e) of the New York State Public Health Law (PHL), LYON M. GREENBERG, M.D., Chairperson, MARY E. RAPPAZZO, M.D., and JANET R. AXELROD ESQ., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. SEAN D. O'BRIEN, ADMINISTRATIVE LAW JUDGE (ALJ), served as the Administrative Officer.

The Department appeared by Assistant Counsel Hannah E.C. Moore. A Notice of Referral Proceeding and Statement of Charges, dated August 28, 2019, were duly served pursuant to PHL Section 230(10)(d)(i) upon Christopher Azubuike Ineama, P.A. (Respondent), who appeared in person. (Exhibits 1, 2, 3, and 4). The Hearing Committee received and examined documents from the Department (Exhibits 1-4) and from the Respondent (Exhibits A, B) and a stenographic reporter prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustains the charge that the Respondent committed professional misconduct, in violation of New York State Education Law (Educ. Law) Sections 6530(2), 6530(3), and 6530 (32), and that pursuant to PHL Section 230-a, the penalty of revocation of his Physician's Assistant's (P.A) license is appropriate.

BACKGROUND

The Department has brought the case pursuant to PHL Section 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Educ. Law Section 6530(9). The Respondent is charged with professional misconduct pursuant to Educ. Law Section 6530(9)(d), by having had his physician assistant license 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 Section 230(10), the Department has the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. The Respondent was authorized to be Physician's Assistant in New York State on October 5, 2007, by the issuance of license number 012149. (Exhibit 4).
2. On July 12, 2019, the State of Texas Medical Board (Texas Board) issued a Final Order revoking immediately the Respondent's physician assistant license (Exhibit 3).
3. The Order was based on the Texas Board's findings that the Respondent in his treatment of eight patients, engaged in unauthorized and fraudulent prescribing and practicing without a supervising physician; wrote prescriptions including for controlled substances without medical indication and kept inaccurate and incomplete medical records. (Exhibit 3).

4. The Texas Board's Order allows for the Respondent to petition the Board for reissuance of his Texas physician assistant license after one year from the effective date of the Texas Board's revocation order.

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

The Hearing Committee concluded that the evidence supports sustaining the charge of having committed professional misconduct as defined in Education Law Section 6530(2).

VOTE: Sustained (3-0)

SECOND SPECIFICATION

The Hearing Committee concluded that the evidence supports sustaining the charge of having committed professional misconduct as defined in Education Law Section 6530(3).

VOTE: Sustained (3-0)

THIRD SPECIFICATION

The Hearing Committee concluded that the evidence supports sustaining the charge of having committed professional misconduct as defined in Education Law Section 6530(32).

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Hearing Committee reviewed the Department's evidence showing that the Respondent's physician assistant license was revoked by the Texas Board, a duly authorized disciplinary agency. The Texas Board found that the Respondent engaged in unauthorized and fraudulent prescribing and practicing without a supervising physician in his treatment of eight patients. In New York, such

conduct would constitute practicing the profession fraudulently or beyond its authorized scope as defined in Educ. Law Section 6530(2). The Texas Board also determined the Respondent wrote prescriptions, including for controlled substances, without medical indication. If the Respondent had disregarded this obligation in New York, his conduct would have constituted negligence on more than one occasion, as defined in Educ. Law Section 6530(3). Finally, the Texas Board found the Respondent failed to keep accurate and complete medical records. New York also requires physician assistants to maintain accurate and complete patient medical records. If the Respondent had disregarded this obligation in New York, his conduct would have constituted professional misconduct as defined in Educ. Law Section 6530(32).

At the hearing, the Respondent expressed remorse for actions. However, he still disputed the finding of the Texas Board as to his practicing without a physician's supervision. He offered that he was supervised by at least one physician during the time periods set forth in the Texas Board's findings and order. (Exhibit A).

However, the Hearing Committee is without authority to relitigate the merits of an out of state determination after the issues were fully litigated after an evidentiary hearing, where Respondent was given the opportunity to be heard and was represented by counsel. (*Zahl v. Daines*, 63 A.D. 3d, 1314 (App Div. 3rd Dept.) 2009). In the present case, the Respondent was represented by counsel at the Texas Board proceedings and there was a full evidentiary hearing where the Respondent had the opportunity to be heard. (Exhibit 3). In addition, where an action is brought pursuant to Educ. Law Section 6530(9), as is the case here, then according to PHL Section 230(10)(p), the Hearing Committee is limited to the nature and penalty to be imposed on the Respondent.

Therefore, 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 agrees with the Department's recommendation that the Respondent's medical license in New York State be revoked pursuant to PHL §230-a(4) due to the serious nature of the professional misconduct.

ORDER

IT IS HEREBY ORDERED THAT:

1. The three specifications of professional misconduct, as set forth in the Statement of Charges are sustained;
2. The Respondent's license to be a Physician Assistant is REVOKED; and
3. This Order shall be effective upon service on the Respondent in accordance with the Requirements of PHL §230(10)(h).

DATED: Albany, New York
3-4-2020 ~~2019~~


Lyon M. Greenberg M.D.
Chairperson

Mary E. Rappazzo, M.D.
Janet R. Axelrod Esq.

To: Christopher Azubulke Incarna, P.A.


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

APPENDIX I

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

IN THE MATTER
OF
CHRISTOPHER AZUBUIKE INEAMA, P.A.

STATEMENT
OF
CHARGES

CHRISTOPHER AZUBUIKE INEAMA, P.A., the Respondent, was authorized to practice as a physician assistant in New York State on or about 10/05/2007, by the issuance of license number 012149 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about July 12, 2019, the Texas Medical Board issued a Final Order revoking Respondent's physician assistant license. The Final Order found that Respondent, in his treatment of eight patients, engaged in unauthorized and fraudulent prescribing and practice without a supervising physician; wrote prescriptions; including for controlled substances, without medical indication; and kept inaccurate and incomplete medical records.
- B. The conduct resulting in the Texas disciplinary action against Respondent constitutes misconduct under the laws of New York State pursuant to the following sections of New York State Law:
 - 1. New York Education Law § 6530(2) (practicing the profession fraudulently or beyond its authorized scope)
 - 2. New York Education Law § 6530(3) practicing the profession with negligence on more than one occasion)
 - 3. New York Education Law § 6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient)

SPECIFICATION OF CHARGES

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], [3], [32]) as alleged in the facts of the following:

1. Paragraphs A and B.

DATE: August 28, 2019
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct