



Department of Health

ANDREW M. CUOMO
Governor

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

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

February 5, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Warren, P.A.
[REDACTED]

Robert Warren, P.A.
[REDACTED]

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

RE: In the Matter of Robert Warren, P.A.

Dear Parties:

Enclosed please find the Determination and Order (No. 20-021) 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.

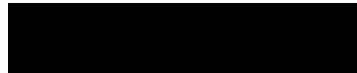
The notice of review served on the Administrative Review Board should be forwarded to:

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,

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

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: IN THE MATTER : DETERMINATION
: OF : AND
: ROBERT WARREN, P.A. : ORDER
: 20-021
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A hearing was held on January 16, 2020, 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), MARY E. RAPPAZZO, M.D., Chairperson, ELEANOR C. KANE, M.D., and JEFFREY FUDIN, Pharm. D., 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 Senior Attorney Marc S. Nash. The Respondent failed to appear. 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), 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 6530(9)(a)(iii); and that pursuant to PIIL §230-a, the penalty of revocation 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. The Respondent is also charged with professional misconduct pursuant to Educ. Law §6530(9)(a)(iii), having been convicted of committing an act constituting a crime under the law of another jurisdiction, where the conduct resulting in such conviction would, if committed in New York State, constitute a crime 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 holds a license to practice as a Physician Assistant in New York State, that was issued on June 25, 1984, license number 002447. The license has not been registered for approximately eight years. (Exhibits 3 and 6).

2. On July 15, 2013, the Respondent pled no contest to a misdemeanor charge of driving when his blood alcohol level was .08 percent or more. The Respondent was previously convicted of a similar charge in 2004. The Respondent also admitted to refusing an officer's request to submit to, and willfully failing to complete, a chemical test to confirm his blood alcohol level. As a result, the Respondent was placed on probation for five years. (Exhibit 8).

3. On July 28, 2014, the Respondent entered into a stipulation and agreement with the Physician Assistant Board of California (Board) wherein he admitted to three allegations of committing unprofessional conduct: by twice being convicted of driving while under the influence of alcohol with a blood alcohol content greater than .08 percent; excessive use of alcohol in a manner dangerous to himself or to others; and misrepresenting himself to the arresting officer as a physician and surgeon. (Exhibit 7).

4. The Board revoked the Respondent's license; but stayed the revocation, placing the Respondent on probation for seven years. Under the terms of probation, the Respondent was required, among other things, to abstain for the use of alcohol and controlled substances, submit to random tests, and keep the Board apprised of any changes in his address. If the Respondent moved outside California to reside or practice elsewhere, his license would be automatically cancelled after two years. (Exhibit 7).

5. On July 17, 2018, the Respondent's California license was automatically cancelled. (Exhibit 2).

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

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)

SECOND SPECIFICATION

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

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 was convicted of driving while under the influence of alcohol, with a blood alcohol content greater than .08 percent, in violation of California Vehicle Code §23152(b). If the Respondent had engaged in the same conduct in New York State, his conduct would have constituted the crime of driving while intoxicated, in violation of Vehicle and Traffic Law §1192(3). In addition, disciplinary action was taken against the Respondent for conduct that could have resulted in disciplinary action in New York State, if the conduct had occurred in New York State. 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) and 6530(9)(a)(iii).

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 the failure of the Respondent to respond to the allegations, or appear at the hearing, despite being duly served. The Hearing Committee also noted that the Respondent's underlying conduct placed the

public at risk, and that he has not maintained a current registration to practice in New York State. Therefore, 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.


ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct as set forth in the Statement of Charges are sustained;
2. The Respondent's license to practice as 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

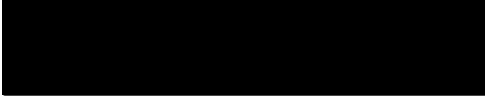
Jan 29, 2020


Mary E. Rappazzo, M.D., Chairperson
Eleanor C. Kane, M.D.
Jeffrey Fudin, Pharm. D.

To: Robert Warren, P.A.



Robert Warren, P.A.



Marc S. Nash, Esq.
Senior Attorney
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX I

IN THE MATTER

OF

ROBERT WARREN, P.A.

STATEMENT

OF

CHARGES

ROBERT WARREN, P.A., the Respondent, was authorized to practice as a physician assistant in New York State on or about June 25, 1984, by the issuance of license number 002447 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about September 24, 2014, the Physician Assistant Board of California (hereinafter, "California Board") issued a Decision which adopted a Stipulated Settlement and Disciplinary Order signed by Respondent on July 28, 2014, which revoked Respondent's physician assistant license, stayed the revocation, and placed Respondent on seven years' probation during which time, amongst other terms and conditions, Respondent was to abstain from alcohol and controlled substances (other than those lawfully prescribed) and participate in the California Board's diversion program. This disciplinary action was based on Respondent's admission that on two separate occasions, July 15, 2013 and October 13, 2004, he was convicted of Driving with a BAC of .08 or Greater [California Vehicle Code § 23152(b)].

B. The conduct resulting in the California 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(9)(a)(iii) (Being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law.)

C. On July 15, 2013, in the Superior Court of California, County of Lake, Respondent was convicted of Driving with a BAC of .08 or Greater [California Vehicle Code § 23152(b)], a misdemeanor, and was placed on summary probation for a period of five years and assessed fines and fees totaling \$1,833.00.

D. Respondent's crime as described above in California would, if committed in New York State, have constituted a crime under New York State law, specifically:

1. New York Vehicle and Traffic Law §1192(3) (Driving while intoxicated. No person shall operate a motor vehicle while in an intoxicated condition, a misdemeanor.)

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 as a physician assistant 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(9)(a)(iii)) as alleged in the facts of the following:

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

SECOND SPECIFICATION

CRIMINAL CONVICTION (Other Jurisdiction)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law (namely N.Y. Vehicle and Traffic Law § 1192(3)) as alleged in the facts of the following:

2. The facts in Paragraphs C and D and D.1.

DATE: November 19, 2019
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct