



## Department of Health

**ANDREW M. CUOMO**  
Governor

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

**LISA PINO, M.A., J.D.**  
Executive Deputy Commissioner

August 16, 2021

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

Jonathan Yates, D.O.  


**RE: In the Matter of Jonathan Yates, D.O.**

Dear Parties:

Enclosed please find the Determination and Order (No. 21-170) 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:

Jean T. Carney, 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 Ms. Carney 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

-----X  
IN THE MATTER  
OF  
JONATHAN YATES, D.O.  
-----X

DETERMINATION  
AND  
ORDER  
BPMC-21-170

A hearing was held on August 11, 2021, remotely by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), **David E. Kaplan, M.D., Chairperson, Mary E. Rappazzo, M.D., and Paul J. Lambiase**, 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 S. Nash, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges, both dated June 15, 2021, were duly served upon Jonathan Yates, D.O. (Respondent), who did not appear at the hearing.<sup>1</sup>

The Hearing Committee received and examined documents from the Department. (Dept. Exs. 1-5.) A stenographic reporter prepared a transcript of the proceeding.

**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 one specification of professional misconduct pursuant to Educ. Law § 6530(9)(a)(ii) for being convicted of committing an act constituting a crime under federal law.

---

<sup>1</sup> The Statement of Charges was verbally amended by the Department at the outset of the hearing to correct a clerical error in the date stated in the Factual Allegations. Specifically, the date of March 22, 2021 was amended to January 15, 2021. (Dept. Ex. 1 at p. 6.)

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. The Respondent was licensed to practice medicine in New York State on August 13, 1998 by issuance of license number 211692. (Dept. Ex. 3.)
2. On January August 19, 2020, in the United States District Court, Southern District of West Virginia, the Respondent was convicted of three counts of Deprivation of Rights Under Color of Law (resulting in bodily injury) [18 U.S.C. § 242]. The Respondent was sentenced to 25 years imprisonment followed by three years of supervised release and assessed a \$300 criminal monetary penalty. (Dept. Exs. 4 & 5.)
3. All three counts for which the Respondent was convicted include unconsented sexual contact with veterans seeking medical care. (Dept. Ex. 5.)

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

The Hearing Committee, by a vote of 3-0, sustains the charge that the Respondent committed professional misconduct as defined in Educ. Law § 6530(9)(a)(ii).

### **HEARING COMMITTEE DETERMINATIONS**

The Department has met its burden of proving the charge that the Respondent was convicted of committing an act constituting a crime under federal law, thereby committing professional misconduct. The Respondent's conviction includes sexual acts perpetrated against veterans seeking

medical care from the Respondent. The Hearing Committee has determined that the Respondent's misconduct is so deplorable that revocation of the Respondent's license to practice medicine in the State of New York is the only appropriate penalty in this matter to protect the public.

**ORDER**

Now, after reviewing the evidence from the hearing, it is hereby ordered that:

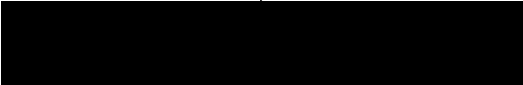
1. The specification of professional misconduct as set forth in the Statement of Charges is sustained;
2. The Respondent's license to practice medicine in the State of New York is revoked; and
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).


Dated: Albany, New York  
August \_\_\_\_\_, 2021

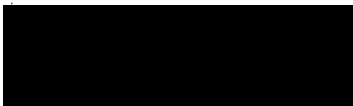
**NYS DEPT OF HEALTH**

**AUG 13 2020**

**Division of Legal Affairs  
Bureau of Adjudication**

  
David E. Kaplan, M.D., Chairperson  
Mary E. Rappazzo, D.O.  
Paul J. Lambiase

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


Jonathan Yates, D.O.  


APPENDIX I

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

IN THE MATTER  
OF  
JONATHAN YATES, D.O.

STATEMENT  
OF  
CHARGES

JONATHAN YATES, D.O., the Respondent, was authorized to practice medicine in New York State on or about August 13, 1998, by the issuance of license number 211692 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 22, 2021, in the United States District Court, Southern District of West Virginia, Respondent was convicted of three counts of Deprivation of Rights Under Color of Law (resulting in bodily injury) [18 U.S.C. § 242]. The Respondent was sentenced to 25 years' imprisonment followed by three years of supervised release and assessed \$300.

SPECIFICATION OF CHARGES

CRIMINAL CONVICTION (Federal)

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

1. Paragraph A.

DATE: June 15, 2021  
Albany, New York



JEFFREY J. CONKLIN  
Acting Deputy Counsel  
Bureau of Professional Medical Conduct