



## Department of Health

**ANDREW M. CUOMO**  
Governor

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

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

September 14, 2020

### **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Devendrakumar Ishwarbhai Patel, M.D.  
[REDACTED]  
FCI Sheridan  
PO Box 5000  
Sheridan, Oregon 97378

Trudy A. Menard, Esq.  
Bureau of Professional Medical Conduct  
Corning Tower Building, Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Devendrakumar Ishwarbhai Patel, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 20-232) 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 redacting 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 : DETERMINATION  
: OF : AND  
: DEVENDRAKUMAR ISHWARBHAI PATEL, M.D. : ORDER  
: : BPMC-20-232  
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In accordance with Public Health Law (PHL) §230, and the New York State Administrative Procedure Act (SAPA) Article 3, a hearing was held by videoconference on August 13, 2020. Pursuant to PHL §230(10)(e), William P. Dillon, M.D., Chairperson, Richard F. Kasulke, M.D., and Paul J. Lambiase, 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 Trudy A. Menard. The Respondent failed to appear<sup>1</sup>. Jurisdiction over the Respondent was obtained by personal service of the Commissioner's Order of Summary Action, Notice of Referral Proceeding, and Statement of Charges. The Hearing Committee received and examined documents from the Department (Exhibits 1-5). A stenographic reporter prepared a transcript of the

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<sup>1</sup> The Respondent was personally served at FCI Sheridan, in Sheridan Oregon, and was given information on how to participate at the hearing remotely; but failed to make any attempt to participate and was found in default. (Exhibit 1; Transcript @ p.7)

proceeding. After consideration of the entire record, the Hearing Committee sustains the charges that the Respondent committed professional misconduct in violation of Educ. Law §§6530(9)(a)(ii) and 6530(9)(d); and that pursuant to PHL §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 Educ. Law §6530(9).

The Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(a)(ii), having been convicted of committing an act constituting a crime under federal law; and Educ. Law §6530(9)(d), having had 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 §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 are the unanimous determinations of the Hearing Committee:

1. The Respondent was authorized to practice medicine in New York State on July 14, 1992, by the issuance of license number 189760. (Exhibit 5).

2. On November 26, 2018, the Respondent executed a Plea Agreement wherein he pled guilty to distributing a controlled substance in violation of 21 U.S.C. §841(a)(1). Specifically, the Respondent knowingly and intentionally distributed Oxycodone without a legitimate medical purpose and outside the course of professional practice. (Exhibit 3).

3. On May 7, 2019, the United States District Court, District of Nevada, sentenced the Respondent to 37 months in prison, with three years of post-release supervision, and \$500,000 in fines. (Exhibit 3).

4. On or about July 2, 2019, the Respondent executed a Settlement Agreement with the Board of Medical Examiners of the State of Nevada (NV Board) wherein he admitted to engaging in conduct constituting grounds for professional discipline; namely, in illegally dispensing controlled substances. The NV Board revoked the Respondent's license to practice medicine, and required that he pay the costs and expenses of the investigation, amounting to \$10,103.88. (Exhibit 4).

### VOTE OF THE HEARING COMMITTEE

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

### 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 acts constituting a federal crime resulting in incarceration; and had disciplinary action taken by the NV Board resulting in the revocation of his license to practice medicine for the same conduct. If committed in New York State, the Respondent's actions would establish professional misconduct pursuant to Educ. Law §6530(9)(a)(ii). The committee concludes that the Respondent's actions constitute professional misconduct as defined in Educ. Law §§6530(9)(a)(ii) and 6530(9)(d).

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 that the Respondent failed to respond to the charges, despite being given the opportunity to do so. The Hearing Committee considered the serious nature of the conviction, and that the Respondent's conduct placed the public at risk of harm. The Hearing Committee agrees with the Department's

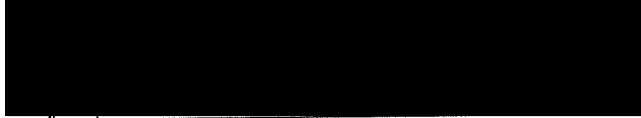
recommendation that his medical license in New York State be revoked pursuant to PHL §230-a.

ORDER


**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 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  
SEPT. 8TH, 2020

  
William P. Dillon, M.D., Chairperson  
Richard F. Kasulke, M.D.  
Paul J. Lambiase

To: Devendrakumar Ishwarbhai Patel, M.D.

  
FCI Sheridan  
PO Box 5000  
Sheridan, OR 97378

Trudy A. Menard, Esq.  
Senior Attorney  
Bureau of Professional Medical Conduct  
Corning Tower Building – Room 2512  
Empire State Plaza  
Albany, New York 12237

# APPENDIX A



**IN THE MATTER**  
**OF**  
**DEVENDRAKUMAR ISHWARBHAI PATEL, M.D.**

COMMISSIONER'S  
ORDER OF  
SUMMARY  
ACTION

TO: DEVENDRAKUMAR ISHWARBHAI PATEL, M.D.  
FCI Sheridan  
PO Box 5000  
Sheridan, OR 97378

The undersigned, Marybeth Hefner, Deputy Commissioner for Administration, pursuant to N.Y. Public Health Law §230, and upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that Devendrakumar Ishwarbhai Patel, M.D. (henceforth "Respondent"), New York license number 189760, was convicted of committing an act constituting a felony under federal law in the United States District Court, District of Nevada, as is more fully set forth in the Statement of Charges attached to the Notice of Referral Proceeding and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York, or practice in any setting under the authority of Respondent's New York license.


Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the service of this order and shall end within ninety days thereafter. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law

§230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding provided to the Respondent contemporaneously with this Order.

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 FORTH 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  
May 4, 2020

  
Marybeth Hefner  
Deputy Commissioner for Administration  
New York State Department of Health

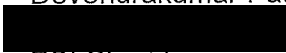
Inquiries should be directed to:

Trudy A. Menard  
Senior Attorney  
N.Y.S. Department of Health  
Division of Legal Affairs  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282  
(518) 473-2430 Fax

**IN THE MATTER**  
**OF**  
**DEVENDRAKUMAR PATEL, M.D.**

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Devendrakumar Patel, M.D.

  
FCI Sheridan  
27072 Ballston Road  
Sheridan, OR 97378

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 13, 2020, 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,<sup>1</sup> or by video conference as directed by the Administrative Law Judge, 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, or by video conference if directed by the Administrative Law Judge, 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 crime in New York State. The

<sup>1</sup> For GPS purposes, enter "Menands", not "Albany".

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 

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 5, 2020



TIMOTHY J. MAHAR  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Trudy Menard  
Senior Attorney  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, NY 12237  
(518) 473-4282

IN THE MATTER

OF

DEVENDRAKUMAR ISHWARBHAI PATEL, M.D.

STATEMENT

OF

CHARGES

DEVENDRAKUMAR ISHWARBHAI PATEL, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 14, 1992, by the issuance of license number 189760 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On May 7, 2019 Respondent was convicted in the United States District Court, District of Nevada of one count of felony distribution of controlled substances. Respondent was sentenced to thirty-seven (37) months incarceration, three years supervised released, a fee of one hundred (\$100.00) dollars and a fine of five hundred thousand (\$500,000.00) dollars. The conviction resolved allegations that beginning on or about September 2015 and January 2016 and later dates, Respondent knowingly distributed Schedule II controlled substances, oxycodone and hydrocodone. Respondent distributed the controlled substances outside the usual course of professional practice and not for a legitimate medical purpose.

B. On or about September 6, 2019 Respondent entered into a Settlement Agreement with the Nevada Board of Medicine (Board) which resolved three separate formal Board complaints. The Settlement Agreement resulted in the revocation of Respondent's Nevada medical license, prohibiting reapplication for three years, a letter of reprimand and imposed a fine and fees in the amount of \$10,103.88. The Settlement Agreement

resolved allegations of malpractice, failure to diagnose, recommending medical procedures not clinically indicated, violating a patient's trust for financial gain, failure to offer appropriate procedures for financial benefit, and the Respondent's conviction in the United States District Court, District of Nevada for the distribution of controlled substance.

C. The conduct resulting in the Nevada disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following sections of New York State law:

1. New York Education Law § 6530(3) (negligence on more than one occasion);
2. New York Education Law § 6530(17) (exercising undue influence on the patient, including the promotion of the sale of services, goods, appliances, or, drugs in such a manner as to exploit the patient for the financial gain of the licensee);
3. New York Education Law § 6530(20) (moral unfitness to practice medicine);
4. New York Education § 6530(9)(a)(ii) (having been convicted of committing an act constituting a crime under federal law).

#### **FIRST SPECIFICATION OF CHARGES**

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:

- A. The facts in paragraph A.

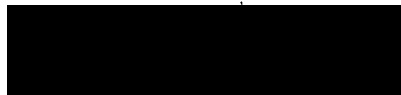
#### **SECOND SPECIFICATION OF CHARGES**



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(3) § 6530(9)(a)(ii) § 6530(17) § 6530(20)) as alleged in the facts of the following:

B. Paragraphs B and C.

DATE: May 5, 2020  
Albany, New York



TIMOTHY J. MAHAR  
Deputy Counsel  
Bureau of Professional Medical Conduct