



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

November 16, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Melissa Anglero, D.O.


Melissa Anglero, D.O.


RE: In the Matter of Melissa Anglero, D.O.

Dear Parties:

Enclosed please find the Determination and Order (No. 20-284) 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 redaction box covering 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

**IN THE MATTER
OF
MELISSA ANGLERO, D.O.**

DETERMINATION

AND

ORDER

BPMC-20-284

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct (“Department”). A Notice of Hearing (“NOH”) and Statement of Charges (“SOC”), both dated August 28, 2020, were served on Melissa Anglero, D.O. (“Respondent”). The NOH and SOC are attached to this Determination and Order as Appendix 1. A hearing, pursuant to N.Y. Public Health Law (“PHL”) §230 and New York State Admin. Proc. Act §§301-307 and 401, was held via Cisco Webex on October 21, 2020.

Steven I. Sherman, D.O., Chair, Amit M. Shelat, D.O., and Richard S. Goldberg, Esq., duly designated members of the State Board for Professional Medical Conduct (“Board”), served as the Hearing Committee (“Committee”) in this matter. Ann Gayle, Administrative Law Judge (“ALJ”), served as the administrative officer. The Department appeared by Hannah E.C. Moore, Assistant Counsel. Respondent, having been duly served with the NOH and SOC in conformity with the requirements of PHL §230.10(d), did not appear¹ (Exhibits 1 and 3).

¹ *The NOH stated that the hearing would be held at the Department’s offices at 90 Church Street, New York, New York (“Department’s offices”) or by videoconference. The ALJ sent Respondent a letter dated September 30, 2020, informing her that due to COVID-19 restrictions, the hearing would be held remotely via Webex and directing her to contact the Bureau of Adjudication (“Adjudication”) to provide an email address to receive an invitation to join the remote hearing if she wished to participate (ALJ Ex I). Respondent did not contact Adjudication nor did she or anyone on her behalf appear at the Department’s offices on the day of the hearing.*

The Department charged Respondent with five specifications of professional misconduct under N.Y. Education ("Educ.") Law §6530. Due to Respondent's failure to file a written answer to the SOC at least ten days prior to the first day of hearing, the charges and allegations were deemed admitted (PHL §230.10(c)(2)). Evidence was received and a transcript of this hearing was made and is part of the record. After consideration of the entire record, the Committee issues this Determination and Order; all findings, conclusions, and determinations are unanimous.

FINDINGS OF FACT

Citations in parentheses, which refer to transcript page numbers ("T") and exhibits ("Ex") that were accepted into evidence, represent evidence found persuasive by the Committee in arriving at a particular finding.

1. On April 13, 2010, by the issuance of license number 256755 by the New York State ("NYS") Education Department, Respondent, Melissa Anglero, D.O., was authorized to practice medicine in New York State. (Ex 2; Ex 7)
2. On August 27, 1992, in Yonkers City Court, Yonkers, New York, Respondent was convicted, upon her guilty plea, of Petit Larceny under Penal Law §155.25, an A misdemeanor, and was sentenced to a surcharge, a three-year term of probation, and \$5,321.00 in restitution. (Ex 6)
3. On or about July 1, 2009, Respondent signed and submitted to the NYS Education Department an Application for Licensure and First Registration ("NYS medical license application"). Respondent answered "no" to the question which asked, "Have you ever been found guilty after trial, or pleaded guilty, no contest, or nolo contendere to a crime (felony or misdemeanor) in any court?" This answer was false; see Finding of Fact #2. (Ex 7)

4. On June 25, 2019, the Virginia Board of Medicine, following a hearing, issued an Order revoking Respondent's license to practice osteopathy and surgery ("Virginia Order"). (Ex 5)
5. The Virginia Order was based on Respondent's conduct, care and treatment of six patients. Specifically, Respondent engaged in a pattern of unprofessional and disruptive conduct that interfered with patient care, and she failed to: respond to pages and calls; adequately assess and treat a patient for incompetent cervix and premature labor which resulted in fetal demise; and maintain accurate patient records. This occurred when Respondent was employed, from approximately August 2012 to April 2015, as a physician at an OB-GYN practice and practicing hospital in Chesapeake, Virginia. (Ex 5)
6. The Virginia Order was also based on Respondent's misrepresentation of facts and providing fraudulent, false, and misleading information in her Virginia and North Carolina medical licensure applications, in employment and hospital privileges applications, and on her Virginia Board of Medicine Practitioner Profile. (Ex 5)
7. The Virginia Order found Respondent guilty of numerous counts of unprofessional conduct under several sections of Virginia Code §54.102915(A) related to, *inter alia*, false statements or fraud, and negligent or incompetent practice. (Ex 5; T 24-25)

CONCLUSIONS OF LAW

The Department charged Respondent with five specifications of professional misconduct under N.Y. Educ. Law §6530, subsections 1, 2, 9(b), 9(d), and 21.

First Specification: §6530.9(b) –having been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state where the underlying conduct in that state would constitute professional misconduct in NYS, namely, §§6530.1, 2, 3, 5, and 32.

Respondent's conduct if committed in NYS would have constituted misconduct under §§6530.1 –obtaining the license fraudulently; 2-practicing fraudulently; 3-negligence on more than one occasion; 5-incompetence on more than one occasion; and 32-inadequate record keeping. The First Specification is sustained.

Second Specification: §6530.9(d) –having had disciplinary action taken by a duly authorized professional disciplinary agency of another state where the conduct resulting in the revocation or other disciplinary action would constitute professional misconduct in NYS, namely, §§6530.1, 2, 3, 5, and 32. Respondent's conduct if committed in NYS would have constituted misconduct under §§6530.1 –obtaining the license fraudulently; 2-practicing fraudulently; 3-negligence on more than one occasion; 5-incompetence on more than one occasion; and 32-inadequate record keeping. The Second Specification is sustained.

Third, Fourth, and Fifth Specifications: §6530.1–obtaining the license fraudulently, §6530.2 –practicing the profession fraudulently or beyond its authorized scope, and §6530.21– willfully making or filing a false report. Respondent was convicted following her plea of guilty to Petit Larceny under Penal Law §155.25, a misdemeanor, in Yonkers City Court. Based on this conviction, Respondent's answer “no” to the question of whether she had ever “...pled guilty ...to a crime (felony or misdemeanor) in any court” on her NYS medical license application was false. The Committee finds that Respondent knew her answer was false, she intended to mislead by this false representation, and she willfully made this false statement. Respondent obtained her NYS medical license under these false pretenses. There was no evidence that Respondent then practiced medicine fraudulently or beyond its authorized scope in NYS. The Third and Fifth Specifications are sustained. The Fourth Specification is not sustained.

DISCUSSION and DETERMINATION AS TO PENALTY

The Committee made its findings and conclusions based on the charges deemed admitted and on the Department's having proven those factual allegations and conclusions of law sustained by the Committee. The Department is seeking a revocation of Respondent's license (T 32). The Committee, in considering the full range of penalties available pursuant to PHL §230-a, concludes that the appropriate penalty for Respondent's misconduct is a revocation of her New York license. This is based not only on Respondent's lying on her applications for licenses to practice medicine in New York, Virginia, and North Carolina and on applications for privileges in medical institutions in Virginia but also on her very serious negligence and incompetence in treating patients in Virginia. The Committee strongly believes that Respondent poses a serious risk to patients in New York State.

ORDER

IT IS HEREBY ORDERED THAT:

1. The following charges of misconduct under Educ. Law §6530 are **sustained**:
Educ. Law §6530.9(b) –First Specification
Educ. Law §6530.9(d) –Second Specification
Educ. Law §6530.1 –Third Specification
Educ. Law §6530.21 –Fifth Specification
2. The following charge of misconduct under Educ. Law §6530 is **not sustained**:
Educ. Law §6530.2 – Fourth Specification
3. Pursuant to PHL §230-a(4) Respondent's license to practice medicine shall be **revoked**.
4. This order shall be effective upon service on the Respondent as required under PHL §230.10(h).

DATED: Woodmere, New York
November 13, 2020


STEVEN I. SHERMAN, D.O., Chair
AMIT M. SHELAT, D.O.
RICHARD S. GOLDBERG, ESQ.

To: Hannah E.C. Moore, Assistant Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237-0032

Melissa Anglero, D.O.



Melissa Anglero, D.O.



APPENDIX 1

EXHIBIT

Dept. 4 10/21/20 slk

exhibitsticker.com

EXHIBIT

4

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

**IN THE MATTER
OF
MELISSA ANGLERO, D.O.**

NOTICE
OF
HEARING

TO: Melissa Anglero, D.O.

PLEASE TAKE NOTICE:

A 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 (Committee) on October 21, 2020 at 10:00 a.m., at the offices of the New York State Department of Health, 90 Church Street, 4th Floor, New York, New York 10007, 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 hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing, 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 have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses

and documents, and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here 

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone 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, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.


Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than 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. The answer 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. 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.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. 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.

DATE: August 28, 2020
Albany, New York


Timothy J. Mahar
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be directed to:

Hannah E.C. Moore
Assistant Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

IN THE MATTER

OF

MELISSA ANGLERO, D.O.

STATEMENT
OF
CHARGES

MELISSA ANGLERO, D.O., the Respondent, was authorized to practice medicine in New York State on or about 04/13/2010 by the issuance of license number 256755 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about 06/25/2019, following a hearing, the Virginia Board of Medicine issued an Order revoking Respondent's license to practice osteopathy and surgery. The Order was based, in part, on Respondent's conduct, care, and treatment of six patients while employed as a physician at an obstetrical-gynecological practice and practicing hospital in Chesapeake, Virginia from approximately August 1, 2012 to April 1, 2015. Specifically, Respondent failed to timely respond to pages and calls from the hospital when she was the on-call physician for multiple patients; failed to adequately assess and treat one patient for incompetent cervix and premature labor, resulting in fetal demise; failed to properly manage or maintain accurate patient records; and engaged in a pattern of unprofessional and disruptive conduct that interfered with patient care.
- B. The Order was also based on Respondent's misrepresentation of facts and providing fraudulent, false, and misleading information in her Application for Licensure to Practice Medicine and Surgery in Virginia, her application for medical licensure in North Carolina, her applications for employment and hospital privileges, and on her Virginia Board of Medicine Practitioner Profile.
- C. The Order found Respondent guilty of numerous counts of unprofessional conduct under Virginia Code § 54.102915 (A), including sections (1) false statements or representations of

fraud, (3) intentional or negligent conduct, (4) mental or physical incapacity or incompetence to practice her professional safely, (12) conducting her practice in a manner contrary to the standards of ethics, (13) conducting her practice in a manner as to be a danger to the health and welfare of patients, and (16) performing any act likely to deceive, defraud, or harm the public.

D. The conduct resulting in the Virginia 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(1) (obtaining the license fraudulently); and/or
2. New York Education Law § 6530 (2) (practicing the profession fraudulently); and/or
3. New York Education Law § 6530 (3) (practicing the profession with negligence on more than one occasion); and/or
4. New York Education Law § 6530 (5) (practicing the profession with incompetence on more than one occasion); and/or
5. New York Education Law § 6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient)

E. On or about August 27, 1992, in Yonkers City Court, Yonkers, New York, Respondent was convicted, upon her guilty plea, of Petit Larceny (Penal Law § 155.25), an A misdemeanor, and was sentenced to a surcharge, three-year term of probation, and restitution in the amount of \$5, 321.00.

F. On or about 07/01/2009, Respondent signed an Application for Licensure and First Registration, which was submitted to the New York State Education Department. In this application, Respondent answered "No" to the question which asked, "Have you ever been found guilty after trial, or pleaded guilty, no contest, or nolo contendere to a crime (felony or misdemeanor) in any court?" In failing to disclose her misdemeanor criminal conviction, Respondent's answer to the conviction question was false, she knew the answer was false, and she intended to mislead through false representation.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §§ [1], [2], [3], [5], [32]) as alleged in the facts of the following:

1. The facts in Paragraphs A, B, C, and D.

SECOND 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 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 [1], [2], [3], [5], [32]) as alleged in the facts of the following:

2. The facts in Paragraphs A, B, C, and D.

THIRD SPECIFICATION
FRAUDULENT OBTAINMENT

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(1) by obtaining the license fraudulently as alleged in the facts of the following:

3. The facts in Paragraphs E and F.

FOURTH SPECIFICATION
FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

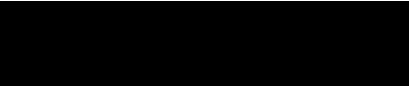
4. The facts in Paragraphs E and F.

FIFTH SPECIFICATION
FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

5. The facts in Paragraphs E and F.

DATE: August 28, 2020
Albany, New York



Timothy J. Mahar, Esq.
Deputy Counsel
Bureau of Professional Medical Conduct