



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

December 28, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Neil Goldstein, M.D.
[REDACTED]

Raymond J. McMahon, Esq.
Doyle Schafer McMahon, LLP
5440 Trabuco Road
Irvine, CA 92620

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

RE: In the Matter of Neil Goldstein, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 20-320) 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.

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 Respondent or the Department may seek a review of a committee determination.

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 Judge 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

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IN THE MATTER : DETERMINATION
OF : AND
NEIL GOLDSTEIN, M.D. : ORDER
: BPMC-20-320
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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 November 19, 2020. Pursuant to PHL § 230(10)(e), Janet R. Axelrod, Esq., Chairperson, David Kaplan, M.D., and Elaine L. Wilk, D.O., 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 Associate Counsel Marc S. Nash. The Respondent appeared in person and through his attorney, Raymond J. McMahon, Esq. Jurisdiction over the Respondent was obtained by personal service of the Notice of Referral Proceeding, and Statement of Charges. The Hearing Committee received and examined documents from the Department (Exhibits 1-4). The Respondent testified in his own behalf and submitted documents (Exhibits A-F). 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 (Educ. Law) § 6530(9)(d).

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)(d), having had his 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 the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, namely Educ. Law § 6530(3) and § 6530(32).

Under 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." (Educ. Law § 6530).

FINDINGS OF FACT

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

1. The Respondent was authorized to practice medicine in New York State on January 5, 1994, by the issuance of license number 194632. The status of this license is inactive. (Exhibit 3).

2. On November 12, 2019, the Respondent entered into a stipulated settlement with the Medical Board of California (California Board) which resulted in an Order dated February 5, 2020 subjecting the Respondent to Public Reprimand, and requiring him to successfully complete an approved course in medical record keeping. (Exhibit 4).

3. The Respondent complied with the California Board's Order, and has incorporated changes to his medical record keeping in accordance with what he learned from this process. (Respondent's testimony).

VOTE OF THE HEARING COMMITTEE

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

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATIONS

The Department met its burden of proving by a preponderance of the evidence that the Respondent was the subject of disciplinary action by the California Board, and his conduct would have resulted in disciplinary action in New York if the conduct had occurred in New York State. Specifically, the Respondent failed to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient in

violation of Educ. Law § 6530(32). The committee concludes that the Respondent's actions constitute professional misconduct as defined in Educ. Law §6530(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 fully complied with the California Board's Order, and has implemented changes to his medical records keeping based on what he learned in the course he took. The Department recommended censure and reprimand, as well as a \$5,000 fine. The Hearing Committee finds that based on the Respondent's inactive status in New York, evident remorse, and compliance with the California Board, no further action is required.


ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct as set forth in the Statement of Charges is sustained; and
2. This Order shall be effective upon service on the Respondent in accordance with the Requirements of PHL §230(10)(h).

DATED: Albany, New York

December 16, 2020


Janet R. Axelrod, Esq, Chairperson
David Kaplan, M.D.
Elaine L. Wilk, D.O.

To: Neil Goldstein, M.D.

[REDACTED]

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[REDACTED]

APPENDIX A

IN THE MATTER
OF
NEIL GOLDSTEIN, M.D.

STATEMENT
OF
CHARGES

NEIL GOLDSTEIN, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 5, 1994, by the issuance of license number 194632 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 5, 2020, the Medical Board of California (hereinafter, "California Board") issued a Decision which adopted a Stipulated Settlement and Disciplinary Order signed by Respondent on November 7, 2019, which issued a public reprimand and directed Respondent to enroll in a medical record keeping course. This disciplinary action was based on information that the California Board could establish a prima facie case that Respondent, in the care of one patient, performed multiple interventional vascular procedures without sufficient clinical indication and that failed to maintain adequate or accurate medical records.

B. The conduct resulting in the California Board's disciplinary action against Respondent would constitute under the laws of New York State pursuant to the following Sections of New York State Law:

1. New York State Education Law § 6530(3) (Practicing the profession with negligence on more than one occasion);

2. New York State Education Law § 6530(32) (Falling to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATION OF CHARGES

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 or another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or 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) and (32)) as alleged in the facts of the following:

1. The facts in Paragraphs A and B and B.1 and/or A and B and B.2.

DATE: September 17, 2020
Albany, New York


TIMOTHY G. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct