



# 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 31, 2020

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Deborah Beth Medows, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237

John Merrill Severinghaus, M.D.  


**RE: In the Matter of John Merrill Severinghaus, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 20-330) 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:

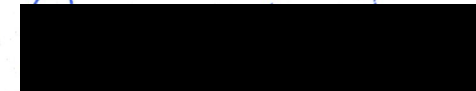
James F. Horan, Esq., Chief Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Riverview Center  
150 Broadway – Suite 510  
Albany, New York 12204

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 redaction box covering the signature of James F. Horan.

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  
JOHN MERRILL SEVERINGHAUS, M.D.  
-----X

DETERMINATION  
AND  
ORDER

BPMC-20-330

A hearing was held on December 16, 2020, remotely by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), **Reid T. Muller, M.D., Chairperson, Susan C. Ferrary, 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 Deborah Beth Medows, Senior Attorney. A Notice of Referral Proceeding and Statement of Charges, both dated November 5, 2020, were duly served upon John Merrill Severinghaus, M.D., (Respondent), who appeared at the hearing and testified on his own behalf.

The Hearing Committee received and examined documents from the Department (Exhibits 1-3) and from the Respondent (Exhibits A-J). A stenographic reporter prepared a transcript of the hearing.

**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 professional misconduct pursuant to Educ. Law § 6530(9)(d) for "[h]aving 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." 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. John Merrill Severinghaus, M.D., the Respondent, was licensed to practice medicine in New York in 1975. (Dept. Ex. 1; Resp. Ex. E.)
2. The Respondent is also licensed to practice medicine in Vermont, where he resides, and in New Hampshire. (Dept. Ex. 3; Resp. Exs. A, E, H.)
3. The Respondent is board certified in psychiatry and addiction medicine. (Dept. Ex. 3; Resp. Exs. A, E, H.)
4. On February 5, 2020, the Respondent entered into a Stipulation and Consent Order (Order) with the Vermont Board of Medical Practice (Vermont Board), which stated that the Respondent's medical recordkeeping for six patients and his unreliable and untimely response to one patient was not in conformance with the applicable standard of care for psychiatric and

substance abuse treatment, and that it constitutes unprofessional conduct. (Dept. Ex. 3; Resp. Ex. A.)

5. The Order relieved the Respondent from a Voluntary Limitation of Practice Agreement effective March 6, 2019. The Respondent was reprimanded for five years, fined an administrative penalty of \$3,000, required to obtain a practice monitor for a minimum of three years, directed to surrender Drug Enforcement Administration privileges to prescribe Schedule II controlled substances for a period of no less than three years, and required to complete a comprehensive course in medical recordkeeping and a course on patient communication. (Dept. Ex. 3; Resp. Ex. A.)

6. The Respondent desires to move to New York in the foreseeable future and to continue to practice medicine in psychiatry and/or addiction medicine. (Testimony [T.] Respondent.)

#### **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)(d).

#### **HEARING COMMITTEE DETERMINATIONS**

The Hearing Committee concludes that the conduct resulting in the disciplinary action, if committed in New York State, would constitute professional misconduct under the laws of New York State as defined in:

Educ. Law § 6530(3) – practicing the profession with negligence on more than one occasion, and

Educ. Law § 6530(32) – failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

The Department has recommended that the Respondent be given a censure and reprimand; be placed on probation for three years; be required to have a practice monitor; have a permanent

limitation on his license preventing him from prescribing, dispensing, administering, and ordering all controlled substances; and take continuing medical education courses in recordkeeping and patient communication.

In considering the full spectrum of penalties available under PHL § 230-a, the Hearing Committee found helpful the testimony and active participation by the Respondent at the hearing. The Hearing Committee concludes that censure and reprimand is appropriate in this matter. It also concludes that three years of probation, with a practice monitor, is appropriate to protect the public should the Respondent commence practicing medicine within the State of New York as he indicated he intends to do in the future. The Hearing Committee reaches this conclusion after full consideration of all testimony and documentary evidence at the hearing, the Vermont Board Order and the Respondent's compliance with the current restrictions placed upon him with respect to prescribing of controlled substances, and the Vermont Board's imposition of continuing education.

#### 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 is subject to censure and reprimand pursuant to PHL § 230-a(1).
3. The Respondent is subject to probation pursuant to PHL § 230-a(9) for a period of three years in accordance with the Terms of Probation annexed hereto, commencing if and when the Respondent begins practicing in New York, which includes requirements pertaining to providing notice to the Director of the Office of Professional Medical Conduct of practice locations; and
4. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

Dated: Albany, New York

12/30/2020

[Redacted]

Reid T. Muller, M.D., Chairperson  
Susan C. Ferrary, M.D.  
Paul J. Lambiase

Deborah Beth Medows, Senior Attorney  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Room 2512, Corning Tower, ESP  
Albany, New York 12237

[Redacted]

John Merrill Severinghaus, M.D.

[Redacted]

### TERMS OF PROBATION

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to PHL § 230(19).
2. Respondent shall maintain active registration of his license with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204 with the following information, in writing, and ensure that this information is kept current: a full description of his employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall cooperate fully with and respond in a timely manner to OPMC requests to provide written periodic verification of his compliance with these terms. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if he is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30-day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in the Determination and Order or as are necessary to protect the public health.
6. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
7. Respondent shall practice medicine in New York State only when monitored by a licensed physician, board certified in an appropriate specialty (practice monitor), who is proposed by Respondent and subject to the written approval of the Director of the OPMC.
  - a. Respondent shall make available to the monitor any and all records requested by the monitor. The practice monitor shall on a monthly basis examine a selection (no fewer than 20) of records maintained by the Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to the OPMC.



- b. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of the OPMC.
  - c. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with § 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent commencing practice within the State of New York.
8. The terms set forth in the paragraphs above are the minimum probation terms to be imposed on the Respondent, and other terms may be added by the Director of the OPMC. All compliance costs, including expenses and fees associated with the practice monitor, shall be the Respondent's responsibility.
  9. Respondent shall comply with these probationary terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

APPENDIX I

EXHIBIT "A"

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

IN THE MATTER  
OF  
JOHN MERRILL SEVERINGHAUS, M.D.

STATEMENT  
OF  
CHARGES

John Merrill Severinghaus, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 17, 1975, by the issuance of license number 123413 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about February 5, 2020, Respondent voluntarily entered into a Stipulation and Consent Order with the Vermont Board of Medical Practice. The Stipulation and Consent Order stated that Respondent's medical recordkeeping and untimely response to a patient was not in conformance with the applicable standard of care for psychiatric and substance abuse treatment and constituted unprofessional conduct. The Order relieved Respondent from a prior Temporary Voluntary Limitation of Practice Agreement dated on or about March 6, 2019. The Order temporarily conditioned Respondent's license. Respondent was Reprimanded for five years; fined an administrative penalty of \$3,000; required to obtain a practice monitor for three years; directed to temporary surrender, on his

Drug Enforcement Administration Registration, privileges to prescribe Scheduled II controlled substances to all patients for a period of no less than three years; and required to complete a comprehensive course in medical recordkeeping and a course on the topic of patient communication.

1. The conduct resulting in the Order would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State Law:

- a. New York Education Law §6530(3) (Practicing the profession with negligence on more than one occasion.)
- b. New York Education Law §6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.)

#### **SPECIFICATION OF CHARGES**

#### **HAVING A 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 (32) and (3), as alleged in the facts of the following:

1. The facts in Paragraphs A and its subparagraph.

DATE: November 5, 2020  
New York, New York



Henry Weintraub  
Chief Counsel  
Bureau of Professional Medical Conduct