



# 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

April 7, 2021

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Deborah Beth Medows, Esq.  
Bureau of Professional Medical Conduct  
90 Church Street  
New York, New York 10007

Michael Douglas Miller, MD  
[REDACTED]

Michael Douglas Miller, M.D.  
[REDACTED]

Michael Douglas Miller, M.D.  
[REDACTED]

**RE: In the Matter of Michael Douglas Miller, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No.21-068) 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.

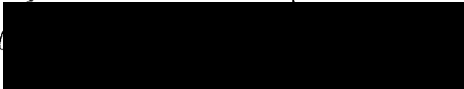
The notice of review served on the Administrative Review Board should be forwarded to:

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,

  
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

In the matter of

**Michael Douglas Miller, MD**  
NYS license # 238726

**Determination  
and Order**

████████████████████  
BPMC-21-068

A notice of referral proceeding and statement of charges dated February 4, 2021 were served on Respondent **Michael Douglas Miller, MD**. The statement of charges alleged professional misconduct in violation of New York State Education Law (Ed.L) 6530. A hearing was held at offices of the New York State Department of Health on March 17, 2021, by videoconference. A transcript of the hearing was made.

Pursuant to Public Health Law (PHL) 230(10)(e), **Richard F. Kasulke, MD**, Chair, **Elaine L. Wilk, DO**, and **Janet Axelrod, Esq.**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee. **John Harris Terepka**, Administrative Law Judge, served as the administrative officer.

The Department of Health (the Petitioner) was represented by **Deborah Beth Medows, Esq.** The Petitioner's case was presented on documents. (Exhibits 1-5.) **Michael Douglas Miller, MD** (the Respondent) did not appear, although duly served with notice of the hearing in conformity with the requirements of PHL 230(10)(d). (Exhibits 2,3.)

After consideration of the entire record, the hearing committee issues this determination and order sustaining the charges and revoking the Respondent's license to practice medicine.

### JURISDICTION

The Respondent, a physician, has been charged with misconduct pursuant to Ed.L 6530(9)(d). Pursuant to PHL 230(10)(p), a hearing on limited issues, or “direct referral proceeding,” is authorized when a licensee is charged solely with a violation of Ed.L 6530(9). Charges of misconduct under Ed.L 6530(9) are based upon a criminal conviction or an administrative violation, in New York State or another jurisdiction, establishing conduct that would constitute a crime or professional misconduct if committed in New York. The scope of the hearing is limited to whether there is a relevant conviction or administrative determination and if so, to a determination of the nature and severity of the penalty to be imposed. PHL 230(10)(p). Penalties which may be imposed are set forth at PHL 230-a. Hearing procedures are set forth in Department of Health regulations at 10 NYCRR Part 51.

### FINDINGS OF FACT

1. Respondent Michael Douglas Miller, MD was authorized to practice medicine in New York State on January 19, 2006 under license number 238726. (Exhibit 4.)
2. By decision and order effective November 1, 2019, the Medical Board of California adopted a stipulated surrender of license dated October 4, 2019, to which Respondent agreed on September 27, 2019. (Exhibit 5, pages 7, 8, 20-23.)<sup>1</sup> Under the terms of the stipulation, the Respondent surrendered his license to practice medicine. The California Board’s order states:

The surrender of Respondent’s Physician’s and Surgeon’s Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. (Exhibit 5, pages 21-22.)

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<sup>1</sup> The pages to Petitioner’s Exhibit 5, as presented to the hearing committee, were completely out of order, switching the first page of the Stipulated Surrender and the first page of the Accusation, and then reversing the order of the documents. For the purposes of this hearing record, the pages of Exhibit 5 have been placed in their proper order: “Decision” (handwritten page numbered 7); “Stipulated Surrender” (handwritten pages numbered 8, 20-23, 18); and “First Amended Petition” (handwritten pages numbered 19, 9-17.)

3. The license surrender was agreed to by the Respondent in settlement of disciplinary action instituted by the California Board. The California Board's action included allegations that the Respondent was grossly negligent in prescribing controlled substances for a patient with no examination or documentation and with intent to divert for self-use; failed to maintain adequate and accurate medical records; and committed repeated acts of negligence in his care of a patient and in prescribing controlled substances. (Exhibit 5, pages 19, 9-17.)

#### **HEARING COMMITTEE DETERMINATION**

The charges involved the Respondent's treatment of one patient which included inappropriate prescription of controlled substances which he diverted for his own use. The hearing committee agreed that the Respondent's settlement with the California Board and surrender of his medical license resulted from disciplinary action based on conduct that, if committed in New York, would constitute misconduct pursuant to Ed.L 6530(3), practicing the profession with negligence on more than one occasion; 6530(4), practicing the profession with gross negligence; and 6530(32), failing to maintain adequate patient records.

The hearing committee unanimously determined (3-0) that, as alleged in the statement of charges, the California Board's order accepting surrender of the Respondent's license established the Respondent violated Ed.L 6530(9)(d) which defines professional misconduct, in pertinent part, as:

9. (d) Having his or her license to practice medicine revoked, suspended or having other disciplinary action taken... 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... or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state.

The Petitioner recommended revocation of the Respondent's New York license. The hearing committee agreed that the findings of the California Board were of serious misconduct in his prescriptions of controlled substance and diversion of those substances for his own use. This egregious and irresponsible misconduct, together with the Respondent's failure to communicate with New York licensing authorities about or respond to the charges, justified the revocation of his license to practice in New York. Although duly served with notice of the hearing, the Respondent failed to appear and failed to offer any evidence or argument to persuade the committee to a different conclusion. The hearing committee unanimously (3-0) determined that revocation of the Respondent's license pursuant to PHL 230-a(4) is an appropriate penalty.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Respondent's license to practice medicine in New York State is **REVOKED**.

This order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required under PHL 230(10)(h).

Dated: Albany, New York  
3/30, 2021

By:

[REDACTED]  
Richard F. Kasulke, MD, Chair

Elaine L. Wilk, DO  
Janet Axelrod, Esq.

To: Deborah Beth Medows, Esq.  
Bureau of Professional Medical Conduct  
90 Church Street  
New York, New York 10007  
[REDACTED]

Michael Douglas Miller, MD  
[REDACTED]  
[REDACTED]  
[REDACTED]

**EXHIBIT "A"**

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

**IN THE MATTER**  
**OF**  
**MICHAEL DOUGLAS MILLER, M.D.**

STATEMENT  
OF  
CHARGES

Michael Douglas Miller, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 19, 2006, by the issuance of license number 238726 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about November 1, 2019, the Medical Board of California issued a Decision and Order that adopted a Stipulated Surrender of License and Order concerning Respondent, dated on or about October 4, 2019. The Surrender, which Respondent stipulated was true, listed various causes for discipline, all regarding a single patient who was Respondent's domestic partner. The Surrender stated that Respondent: committed gross negligence in prescribing controlled and noncontrolled substances with no exam or documentation and with the intent to divert for self-use; committed repeated negligent acts during the care and treatment of the patient, as well as in his self-prescribing; failed to maintain adequate and accurate records; engaged in general unprofessional conduct;



furnished dangerous drugs without examination; and violated the statute regulating drugs.

B. Additionally, on or about October 4, 2019, Respondent accepted the terms of the First Amended Accusation with the Medical Board of California, under which Respondent surrendered his license.

C. 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. N.Y. Education Law § 6530 (4) (Practicing the profession with gross negligence on a particular occasion), as alleged in the facts of:

i. Paragraph A.

b. N.Y. Education Law § 6530 (3) (Practicing the profession with negligence on more than one occasion), as alleged in the facts of:

i. Paragraph A.

c. N.Y. Education Law § 6530 (32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient), as alleged in the facts of:

i. Paragraph A.

### **SPECIFICATION OF CHARGES**

#### **FIRST 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 (4), (3), and (32) as alleged in the facts of the following:

1. The facts in Paragraph A.

DATE: February 4, 2021  
New York, New York



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Henry Weintraub  
Chief Counsel  
Bureau of Professional Medical Conduct