



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

Timothy J. Mahar, Esq.
NYS Department of Health
Corning Tower - Room 2512
Empire State Plaza
Albany, New York 12237

Abbas Kashani, MD
1234 E. North Street, Suite 202
Manteca, California 95336

RE: In the Matter of Abbas Kashani, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 21-069) 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**

In the matter of

Abbas Kashani, MD
NYS license # 203671

**Determination
and Order**

BPMC-21-069

A notice of referral proceeding and statement of charges dated January 28, 2021 were served on Respondent **Abbas Kashani, 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 **Timothy J. Mahar, Esq.** The Petitioner's case was presented on documents. (Exhibits 1-5.) **Abbas Kashani, MD** (the Respondent) did not appear, although duly served with notice of the hearing by personal service in conformity with the requirements of PHL 230(10)(d). (Exhibit 1.)

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 Abbas Kashani, MD was authorized to practice medicine in New York State on July 3, 1996 under license number 203671. (Exhibit 2.)
2. By order dated July 29, 2020, the Medical Board of California adopted a disciplinary order stipulated to by the Respondent, which imposed a stayed revocation of the Respondent’s California medical license; a three year term of probation requiring a practice monitor and professional education; and a practice limitation precluding the Respondent from supervising physician assistants and advanced practice nurses during his probation. (Exhibit 3, pages 10-13.)
3. The stipulated settlement resolved a California disciplinary action alleging that the Respondent was grossly negligent in his treatment of a patient; failed to maintain adequate and accurate medical records; committed repeated acts of negligence in his care of two

patients, and made false representations about his professional certification on his CV, his practice website, and to investigators from the California Board. (Exhibit 3, pages 22-29.)

HEARING COMMITTEE DETERMINATION

The hearing committee agreed that the Respondent's settlement with the California Board and consent to a disciplinary order resulted from disciplinary action based on conduct that, if committed in New York, would constitute misconduct pursuant to Ed.L 6530(2), practicing the profession fraudulently; 6530(3), practicing the profession with negligence on more than one occasion; 6530(4), practicing the profession with gross negligence; 6530(21), willfully making a false report; 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 imposing a stayed revocation, probation, and other discipline established that 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 license. The findings of the California Board included gross negligence involving surgery without adequate evaluation and workup and significant mishandling of patient care in connection with that surgery; negligent patient care in connection with a second surgery; inadequate recordkeeping; and misrepresentations to the Board and to the public about professional qualifications and standing with professional organizations. The hearing committee agreed

these findings established serious misconduct. The hearing committee concluded that the seriousness of the misconduct, together with the Respondent's failure to communicate with New York licensing authorities about or respond to the charges, justified the revocation of the Respondent's license to practice in New York. Although duly served with notice of the hearing by personal service, 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:

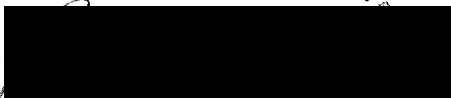
1. The Respondent's license to practice medicine in New York State is **REVOKED**.

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:


Richard F. Kasulke, MD, Chair

Elaine L. Wilk, DO
Janet Axelrod, Esq.

To: Timothy J. Mahar, Esq.
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Albany, New York 12237


Abbas Kashani, MD
1234 E. North Street, Suite 202
Manteca, California 95336

IN THE MATTER
OF
ABBAS KASHANI, M.D.

STATEMENT
OF
CHARGES

Abbas Kashani, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 3, 1996, by the issuance of license number 203671 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. By order dated July 29, 2020, the Medical Board of California adopted a disciplinary order stipulated to by Respondent (California order). The California order imposed the following penalties, among others: 1.) a stayed revocation of Respondent's California medical license; 2.) completion of CME; 3.) a three year probation with terms requiring a practice monitor; and 4.) a practice limitation precluding Respondent from supervising physician assistants and advanced practice nurses.

The settlement resolved allegations that Respondent was grossly negligent in failing to obtain a CT of Patient A's sinuses to document pathology and anatomy prior to performing otolaryngologic surgery and without attempting maximal medical therapy prior to surgery.

The settlement further resolved allegations that Respondent both failed to maintain adequate and accurate medical records and committed repeated acts of negligence in the care of Patients A and B. In the care of Patient A, Respondent diagnosed chronic

sinusitis without proper medical indication, and failed to properly treat Patient A with a sufficient course of antibiotics or steroids to determine their efficacy prior to performing surgery. In the care of Patient B, Respondent failed to administer an intraoperative dose of IV dexamethasone, failed to order an anti-emetic or to refer the patient for follow-up care for complaints of post-operative vomiting.

The California order also resolved allegations that Respondent falsely represented on his curriculum vitae, on his practice website, and to investigators for the California Board that he was certified by the American Board of Fascial Plastic and Reconstructive Surgery, and/or the American Board of Otolaryngology, and /or the "American Academy of Otolaryngology Board Certified in Head and Neck Surgery, Fascial Plastic & Reconstructive Surgery for over 20 years".

B. Respondent's conduct as alleged above and upon which disciplinary action was taken by the California Board would, if committed in New York, constitute professional misconduct under the following laws of New York state:


1. New York Education Law § 6530 (2) (practicing the profession of medicine fraudulently);
2. New York Education Law § 6530 (3) (practicing the profession with negligence or more than one occasion);
3. New York Education Law § 6530 (4) (practicing the profession with gross negligence on a particular occasion);
4. New York Education Law §6530 (32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient); and/or
5. New York Education Law § 6530 (21) (willfully making or filing a false report).

SPECIFICATION OF CHARGES
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530 (9) (d) having his license to practice medicine revoked, suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state (specifically New York Education Laws § 6530 [2], [3], [4], and/or [21]) as alleged in the facts of the following:

1. The facts in paragraphs A and B.

DATE: January 28, 2021
Albany, New York



TIMOTHY MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct