



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

May 28, 2021

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Karlene Vanessa Ross, M.D.
Waldorf Primary Care
12101 Old Line Center
Waldorf, Maryland 20602

David W. Quist, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Karlene Vanessa Ross, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 21-110) 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:

Jean T. Carney, 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 Carney 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

against her license to practice medicine in Maryland where the conduct resulting in the disciplinary action taken would, if committed in New York state, constitute professional misconduct under the laws of New York state. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

The Hearing Committee, by unanimous vote, hereby makes the following findings of fact:

1. The Respondent was authorized to practice medicine in New York on June 15, 1999 under license number 214300. (Exhibit 3.)
2. On February 24, 2020, a disciplinary panel of the Maryland State Board of Physicians (Maryland Board) charged the Respondent with unprofessional conduct for failing, upon proper request, to provide details of a patient's medical record to a patient, another physician or hospital, and for failing to cooperate with a lawful investigation conducted by the Maryland Board. (Exhibits 4 and 5.)
3. On June 29, 2020, the Respondent entered into a consent order with the Maryland Board to resolve the February 24, 2020 charges, whereby she waived her right to contest the stated charges. Pursuant to this order, the Respondent's license to practice medicine in Maryland was suspended for fifteen days, after which she was placed on probation for at least one year commencing immediately after the suspension period. She was also ordered to pay a civil fine of \$10,000, and successfully complete a course in professional communication. (Exhibits 4 and 5.)

CONCLUSIONS OF LAW

The Respondent failed to appear at the hearing or present any evidence to refute the Department's charge, despite being duly served with a Notice of Referral Proceeding and Statement

of Charges. (Exhibits 1 and 2.) The Department having established jurisdiction and proper notice, the ALJ determined that the hearing could proceed on the merits despite the Respondent's absence.

The Respondent entered into a consent decree with the Maryland Board to resolve charges of failing to comply with a lawful request to provide a patient's medical record to a patient, another physician or hospital, and also for failing to cooperate with an investigation conducted by the Maryland Board. (Exhibits 4 and 5.) The Department's March 17, 2021 Statement of Charges alleges that the Respondent's misconduct in Maryland described in the June 29, 2020 consent order would, if committed in New York, constitute professional misconduct as defined in Educ. Law §§ 6530(28) and/or (40). (Exhibit 1.)

The Hearing Committee unanimously agreed that the Respondent's actions resulting in the Maryland Board's disciplinary actions would, if committed in New York, constitute misconduct pursuant to Educ. Law § 6530(28), failing to respond within thirty days to written communications from the Department and make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct, and § 6530(40), failing to provide access by qualified persons to patient information in accordance with the standards set forth in PHL § 18. The Hearing Committee thus determined that the Respondent violated Educ. Law 6530(9)(d).

After determining to sustain the charge, the Committee considered all possible penalties authorized by PHL § 230-a. The Hearing Committee agreed with the Department's recommendation that censure and reprimand was necessary to serve as a rebuke to the Respondent's repeated failure to comply with Maryland law and disregard for the Maryland Board's authority. However, the Hearing Committee disagreed with the Department's recommendation that a \$10,000 fine be imposed. Although the Department asserted that such a fine was reflective of the severity of the Respondent's misconduct, and consistent with the Maryland Board's imposed penalty, the Hearing

Committee was not persuaded by the purpose in imposing an additional fine in a jurisdiction distinct from the location in which the misconduct occurred, or that it would serve as a further deterrent measure. The Committee was satisfied that the Maryland Board's disciplinary action most adequately addressed the Respondent's behavior. For these reasons, the Hearing Committee concluded that the appropriate penalty in this case is censure and reprimand.

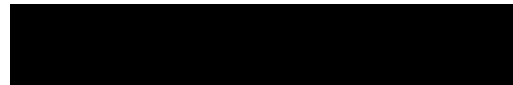
ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is sustained.
2. The Respondent's license to practice medicine in the state of New York is hereby subject to censure and reprimand under PHL § 230-a(1).
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

DATED: Menands, New York

May 24, 2021



Lyon M. Greenberg, M.D./
Chairperson

Anthony Marinello, M.D.
Gail S. Homick Herrling

To: Karlene Vanessa Ross, M.D.
Waldorf Primary Care
12101 Old Line Center
Waldorf, MD 20602

David W. Quist, Associate Attorney
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237

APPENDIX I

IN THE MATTER

OF

KARLENE VANESSA ROSS, M.D.

STATEMENT

OF

CHARGES

KARLENE VANESSA ROSS, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 15, 1999, by the issuance of license number 214300 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 29, 2020, the Maryland State Board of Physicians ("Board") issued a Consent Order, signed by Respondent on or about June 17, 2020. The Board alleged that Respondent failed to transmit patient medical records to another provider, and that she did not cooperate with a Board investigation by failing to provide requested records and by failing to respond or appear as directed by the Board. The Board concluded that Respondent was guilty of unprofessional conduct for failing to, on proper request, provide details of a patient's medical record to a patient, another physician, or hospital, and of failing to cooperate with a lawful investigation of the Board or a disciplinary panel. Pursuant to the terms of the Consent Order, Respondent's license was suspended for 15 days, to be followed by at least one year of probation, Respondent was ordered to pay a civil fine in the amount of \$10,000, take and successfully complete a course in professional communication, and made subject to other additional terms. Following the term of suspension, the Board issued an Order Terminating Suspension and Imposing Probation, retaining the remaining terms of the prior Order.

B. The conduct resulting in the Board's Decision and Order against Respondent would constitute misconduct under the laws of New York State pursuant to New York

Education Law Section 6530(28) (failing to provide records to investigating agency) and/or (40) (failing to provide records to qualified person).

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(28) and/or (40) as alleged in the facts of the following:

1. The facts in Paragraphs A and B.

DATE: March 17, 2021
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct