



**Department
of Health**

KATHY HOCHUL
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

September 13, 2021

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Pedro Garagorry, MD


RE: In the Matter of Pedro Garagorry, MD

Dear Parties:

Enclosed please find the Determination and Order (No. 21-186) 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.

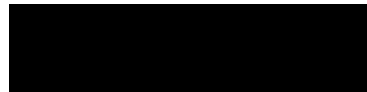
The notice of review served on the Administrative Review Board should be forwarded to:

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 Ms. 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

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

COPY

In the matter of

Pedro Garagorry, MD
NYS license # 296611

**Determination
and Order**

BPMC-21-186

A notice of referral proceeding and statement of charges dated December 30, 2020 were served on Respondent **Pedro Garagorry MD**. (Exhibit 1.) 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 September 1, 2021, by videoconference.

Pursuant to Public Health Law (PHL) 230(10)(e), **Robert A. Dracker, MD**, Chair, **Ashwani Chhibber, MD**, and **Gail S. Homick Herrling**, 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 **Marc S. Nash, Esq.** **Pedro Garagorry, 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 2-6, ALJ I.) 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.

EVIDENCE

The Petitioner relied on documents presented at the hearing (Exhibits 1-8.) A series of emails was marked as ALJ Exhibit I. A transcript of the hearing was made.

FINDINGS OF FACT

1. Respondent Pedro Garagorry, MD was authorized to practice medicine in New York State on October 31, 2018 under license number 296611. (Exhibit 7.)
2. By an Order Accepting Voluntary Submittal to Jurisdiction dated January 16, 2020, the Oklahoma State Board of Medical Licensure reprimanded the Respondent, required him to complete continuing medical education courses in professionalism and substance abuse, and to participate in psychotherapy treatment. (Exhibit 8.)
3. The Oklahoma Order resolved allegations that the Respondent engaged in conduct likely to harm the public, specifically controlled dangerous substance use while practicing medicine. (Exhibit 8.)

HEARING COMMITTEE DETERMINATION

The Oklahoma Board charged the Respondent with violation of requirements governing the practice of medicine after he was found to be under the influence of a

controlled dangerous substance when he reported for a hospital emergency room shift on May 16, 2019. In settlement of those charges, the Respondent agreed to discipline including a reprimand, training and treatment.

The hearing committee agreed that the Respondent's settlement with the Oklahoma Board and consent to a disciplinary order was based on conduct that, if committed in New York, would constitute misconduct pursuant to Ed.L 6530(7), practicing the profession while impaired by alcohol, drugs, physical disability or mental disability. As was alleged in the statement of charges, the Oklahoma Board's order imposing a reprimand 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... 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.

The Petitioner recommended revocation of the Respondent's license.

The hearing committee unanimously determined (3-0) that the findings of the Oklahoma Board established serious misconduct and that this misconduct, together with the Respondent's failure to communicate with New York licensing authorities about or respond to the charges, justified revocation of his license to practice in New York. Although granted a lengthy adjournment of a first scheduled hearing date, the Respondent failed to appear for his hearing either in person or by any representative (ALJ Exhibit I), and failed to offer any evidence or argument to persuade the committee to a different conclusion.

Pedro Garagorry, MD

4

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

By:

[Redacted Signature]

Sept 10, 2021

Robert A. Dracker, MD, Chair

Ashwani Chhibber, MD
Gail S. Homick Herrling

To: Marc S. Nash, Esq.
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Albany, New York 12237

[Redacted]

Pedro Garagorry, MD

[Redacted]

APPENDIX I

IN THE MATTER
OF
PEDRO GARAGORRY, M.D.

STATEMENT
OF
CHARGES

PEDRO GARAGORRY, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 31, 2018, by the issuance of license number 296611 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 16, 2020, the Oklahoma State Board of Medical Licensure and Supervision (hereinafter "Oklahoma Board") filed an Order Accepting Voluntary Submittal to Jurisdiction which reprimanded Respondent; directed Respondent to complete two continuing medical education courses in the areas of professionalism and substance abuse; directed Respondent to sign a three to five year contract with the Oklahoma Health Professionals Program and abide by all recommendations, including abstinence from alcohol and all other recreational/mood altering substances, and be subject to monitoring and random tests; seek treatment with a psychiatrist; contact a psychotherapist and participate in an individual treatment process; and submit for neuropsychological testing. The disciplinary action was based on findings that Respondent reported to work on May 11, 2019 and following a urine sample taken within two hours of his arriving at work, the toxicology report was positive for a controlled dangerous substance.

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

1. New York Education Law § 6530(7) (Practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability).

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 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(7)) as alleged in the facts of the following:

1. The facts in Paragraphs A.

DATE: December 30, 2020
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct