



**Department
of Health**

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

May 5, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ian H. Silverman, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, NY 12237

Rodger Orman, M.D.


RE: In the Matter of Rodger Orman, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-107) 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:

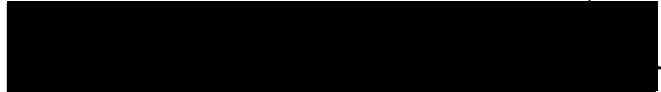
Jean T. Carney, Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

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 redaction box covering the signature of Dawn MacKillop-Soller.

Dawn MacKillop-Soller
Acting Chief Administrative Law Judge
Bureau of Adjudication

DXM: nm
Enclosure

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

COPY

-----X
IN THE MATTER
OF
RODGER ORMAN, M.D.
-----X

DETERMINATION
AND
ORDER

BPMC-22-107

A hearing was held on April 27, 2022, by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), **Elisa Burns, MD, Chairperson, David Kirshy, MD, and Richard Goldberg, Esq.**, 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 **Ian H. Silverman, Esq.** A Notice of Referral Proceeding dated November 1, 2021, and Statement of Charges dated August 18, 2021, were duly served upon **Rodger Orman, MD (Respondent)**, who appeared at the hearing and provided testimony.

The Hearing Committee received and examined documents from the Department (Dept. Exs. 1-6) and from the Respondent (Resp. Ex. A). A stenographic reporter prepared a transcript of the proceeding.

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 one specification of 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. The Respondent was licensed to practice medicine in New York State on July 2, 1991, by issuance of license number 186132. (Dept. Ex. 6.)
2. On November 5, 2020, the Medical Board of California (California Board) issued a Public Letter of Reprimand. The letter stated that an investigation by the California Board revealed that the Respondent failed to change the treatment plan of a patient after the patient did not follow instructions to obtain a primary care physician or follow up with the patient's mental health providers, and that the medical records for a five-year period did not show any documented review of substance abuse history. (Dept. Ex. 5.)

VOTE OF THE HEARING COMMITTEE

The Hearing Committee, by a vote of 3-0, sustains the charges that the Respondent committed professional misconduct as defined in Educ. Law § 6530(9)(d).

HEARING COMMITTEE DETERMINATIONS

The Hearing Committee has thoroughly considered the evidence in this matter. It concludes that the conduct resulting in the disciplinary action in California, 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 in Educ. Law § 6530(32) – failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

The Respondent testified that he practices anesthesiology at a small rural hospital. He testified that he left New York State in 1993 after completing a residency, is intending to retire or reduce his work schedule in the near future, and poses no danger to the public in New York. The Respondent testified that he has taken continuing medical education courses and that he has helped many people with pain management over the years. The Respondent asks that this matter be dismissed.


The Department recommended that the Respondent receive a censure and reprimand, be placed on probation for three years with a practice monitor, and be required to take continuing medical education courses in recordkeeping and prescribing. The Hearing Committee finds that a censure and reprimand is appropriate. The Hearing Committee declines to impose any other penalty.


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. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

Dated: Albany, New York
May 4, 2022


Elisa Burns, MD, Chairperson
David Kirshy, MD
Richard Goldberg, Esq.

Ian H. Silverman
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, NY 12237


Rodger Oman, M.D.


IN THE MATTER
OF
RODGER ORMAN, M.D.

STATEMENT
OF
CHARGES

RODGER ORMAN, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 2, 1991 by the issuance of license number 186132 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about November 5, 2020 the Medical Board of California (hereinafter "California Board") issued a Public Letter of Reprimand related to Respondent's failure to change the treatment plan after a patient did not follow instructions to obtain a primary care physician or follow up with mental health providers. In addition, Respondent's medical records for the patient over a five-year period did not show any documented review of substance abuse history.
- B. Respondent's conduct as described above, upon which the disciplinary action in California was based would, if committed in New York State, constitute professional misconduct under the laws of the State of New York as follows:
1. New York Education Law §6530(3) (practicing the profession with negligence on more than one occasion); and/or
 2. 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


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 (3), and/or (32) as alleged in the facts of the following:

1. The facts in paragraph A and B.

DATE: August 18, 2021
Albany, New York


Jeffrey J. Conklin, Esq.
Acting Deputy Counsel
Bureau of Professional Medical Conduct