



**Department
of Health**

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

September 22, 2021

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Ata Ollah Mehrtash, MD


RE: In the Matter of Ata Ollah Mehrtash, MD

Dear Parties:

Enclosed please find the Determination and Order (No. 21-200) 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,



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	:	DETERMINATION
OF	:	AND
ATA OLLAH MEHRTASH, M.D.	:	ORDER
	:	
	:	BPMC-21-200
	:	
	:	

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct (Department). A Notice of Referral Proceeding and Statement of Charges dated June 22, 2021 were served on Ata Ollah Mehrtash, M.D. (Respondent), pursuant to Public Health Law (PHL) § 230(10)(d)(i). This case involves charges brought against the Respondent under PHL § 230, violating any term of probation or condition or limitation imposed on the licensee as defined in Education Law (Educ. Law) § 6530(29), and PHL § 230(10)(p), having committed misconduct as defined in Educ. Law § 6530(9)(b) and § 6530(9)(d). (Exhibit 1 and Appendix I.) A hearing was held via Cisco WebEx videoconference on August 12, 2021.

Pursuant to PHL § 230(10)(e), **WILLIAM A. TEDESCO, M.D.**, Chairperson, **GREGORY ALLEN THREATTE, M.D.**, and **DAVID F. IRVINE, DHSc, P.A.**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee in this matter. **NATALIE J. BORDEAUX, ADMINISTRATIVE LAW JUDGE**, served as the administrative officer. The Department appeared by Marc S. Nash, Associate Counsel. The Respondent participated in the hearing by telephone and represented himself. The Hearing Committee received and examined documents from the Department (Exhibits 1-5) and from the Respondent (Exhibit A). A transcript of the hearing was made.

The Hearing Committee sustains the charges that the Respondent committed professional misconduct as defined in Educ. Law § 6530(9)(b), § 6530(9)(d), and § 6530(29), and unanimously votes 3-0 to revoke the Respondent's license to practice medicine in the state of New York.

FINDINGS OF FACT

1. The Respondent was authorized to practice medicine in the State of New York on September 20, 1967, by the issuance of license number 100002. (Exhibit 3.)
2. By Stipulated Settlement and Disciplinary Order dated November 4, 2015, the Medical Board of California (California Board) revoked and then stayed with probation the Respondent's California medical license to resolve professional misconduct charges against him. The charges involved gross negligence, negligence, and a failure to maintain adequate and accurate medical records stemming from his treatment of a patient before, during, and after a dilation and curettage procedure on May 10, 2012. The probation period was for three years, and included the following terms and conditions:
 - Successful completion of a medical recordkeeping course.
 - Successful completion of clinical training or educational program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California – San Diego School of Medicine no later than six months after the Respondent's initial enrollment. The PACE program or its equivalent was required to consist of a Comprehensive Assessment program comprised of a two-day assessment of the Respondent's physical and mental health; basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to the Respondent's area of practice in which the

Respondent was alleged to be deficient, and at minimum, a 40 hour program of clinical education in the area of practice in which the Respondent was alleged to be deficient. Based upon the Respondent's performance and test results in the assessment and clinical education, the PACE Program was required to advise the Board of its recommendations for the scope and length of any additional educational or clinical training that the Respondent required. Upon completion of such additional educational or clinical training, the Respondent was required to submit to and pass an examination. The Respondent was advised, and agreed, that his failure to successfully complete the training program would result in an order to cease practice of medicine.

- The Respondent's practice of medicine was to be supervised by a practice monitor approved in advance by the California Board.
- Pay all costs associated with probation monitoring for each year of probation.

(Exhibit 4a.)

3. By Cease Practice Order dated December 16, 2016, the California Board prohibited the Respondent from practicing medicine because he failed to successfully complete a clinical training or educational program equivalent to the PACE program. (Exhibit 4b.)

4. By Decision and Order dated March 14, 2018, the California Board revoked the Respondent's probation and rescinded the stay of revocation, after finding that the Respondent violated conditions of his probation set forth in the November 4, 2015 stipulated settlement by failing to successfully complete the PACE program and failing to pay probation monitoring costs. (Exhibit 4c.)

5. By Consent Agreement and Order effective June 14, 2016 with the New York State Board for Professional Medical Conduct, to resolve charges of professional misconduct against him stemming from the Respondent's November 4, 2015 stipulated settlement with the California Board, the Respondent's New York medical license was suspended for a period of 36 months, and then stayed with probation for a period of three years with the following terms: successful completion of the PACE program and successful completion of all other terms and requirements set forth in the November 4, 2015 stipulated settlement with the California Board. He was also ordered to pay a fine in the amount of \$1,000. (Exhibit 5.)

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

The Hearing Committee concluded that the evidence supports sustaining the charge of having committed misconduct as defined in Educ. Law § 6530(9)(b).

VOTE: Sustained (3-0)

SECOND SPECIFICATION

The Hearing Committee concluded that the evidence supports sustaining the charge of having committed misconduct as defined in Educ. Law § 6530(9)(d).

VOTE: Sustained (3-0)

THIRD SPECIFICATION

The Hearing Committee concluded that the evidence supports sustaining the charge of having violated a term or condition or limitation imposed on the licensee as defined in Educ. Law § 6530(29).

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Department charged the Respondent with three Specifications of Charges of professional misconduct under Educ. Law § 6530. The Hearing Committee unanimously (3-0) concludes that all three specifications are sustained.

The Respondent offered no information or evidence to contradict any of the charges.

First Specification: Educ. Law § 6530(9)(b) - having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York state.

The Respondent entered into a November 4, 2015 stipulated settlement and disciplinary order with the California Board whereby the Respondent's medical license was revoked, then stayed, and he was placed on probation for three years, subject to certain terms and conditions. Most notably, he was required to successfully complete a PACE program, practice medicine under the supervision of a practice monitor, and pay all probation monitoring costs. (Exhibit 4a.)

On December 16, 2016; the California Board ordered the Respondent to cease practicing medicine in California until a final decision was rendered regarding the status of his license, after receiving notification that the Respondent's overall performance in the PACE program received a failing grade. (Exhibit 4b.) On March 14, 2018, the California Board determined to revoke the Respondent's medical license in that state after finding that the Respondent failed to satisfy the terms of his probation, including his failure to successfully complete the PACE program and his failure to pay the costs of his probation monitoring. (Exhibit 4c.)

The Department's June 22, 2021 Statement of Charges alleges that the Respondent's misconduct in California described in the December 6, 2016 and March 14, 2018 orders would, if committed in New York, constitute professional misconduct as defined in Educ. Law § 6530(29), violating any term of probation imposed on the licensee pursuant to section two hundred thirty of the public health law. (Exhibit 1.)

The California Board determined that the Respondent violated the terms of his probation. The Hearing Committee unanimously agreed that the Respondent's actions resulting in the California Board's disciplinary actions would, if committed in New York, constitute misconduct pursuant to Educ. Law § 6530(29). The Hearing Committee thus determined that the Respondent violated Educ. Law § 6530(9)(b).

Second Specification: Educ. 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 involving the license would, if committed in New York state, constitute professional misconduct under the laws of New York state.

The Hearing Committee unanimously agreed that the Respondent's actions resulting in the California Board's disciplinary actions would, if committed in New York, also constitute misconduct pursuant to Educ. Law § 6530(29). The Hearing Committee thus determined that the Respondent violated Educ. Law § 6530(9)(d).

Third Specification: Educ. Law § 6530(29) - violating any term of probation imposed on the licensee pursuant to section two hundred thirty of the public health law.

Pursuant to the Respondent's June 14, 2016 consent agreement with the Department, the Respondent was placed on probation for a 36-month period, during which he was required to

successfully complete the PACE program and to comply with all other terms and conditions set forth in the November 4, 2015 stipulated settlement with the California Board. (Exhibit 5.) The Respondent was later found to have not complied with all such terms, as he did not successfully complete the PACE program and did not pay for probation monitoring costs. (Exhibit 4c.)

At the hearing, the Respondent contended that he complied with the terms of his stipulated settlement with the California Board and the terms of his consent agreement with the Department because he only failed a portion of the PACE program. That assertion did not refute the charge since he was required to show the Department that he had successfully completed the PACE program.

The Respondent also contended that he did not owe the California Board the costs of his probation monitoring, another probation term which he was found to have violated. During the Respondent's probation term, he agreed to pay for the costs of his probation monitoring. (Exhibit 4a.) The requirement to pay the costs of probation monitoring was only made conditional after the California Board already determined to revoke the Respondent's license. The Respondent was then ordered to pay the incurred costs of monitoring only if his petition for reinstatement of his license was successful. (Exhibit 4c.) However, that does not refute the charge as stated in the present matter.

The Hearing Committee found that the Respondent violated the terms of his probation with respect to his New York medical license and therefore determined to sustain this charge.

DETERMINATION AS TO PENALTY

The Department requested revocation of the Respondent's license, given the Respondent's inability to pass the PACE program and his failure to avail himself of multiple

opportunities to comply with probation requirements. The Respondent asked the Hearing Committee to impose no penalty, as he intends to continue practicing medicine.

The Hearing Committee carefully considered the California Board findings and determinations leading to the revocation of the Respondent's license. The Hearing Committee also reviewed the Respondent's consent order with the Department. The Hearing Committee was troubled by the Respondent's failure to successfully complete the evaluations required of the PACE program. Several PACE program evaluators reported that the Respondent exhibited deficits in medical knowledge and clinical judgment that put several patients at risk for poor outcomes.

The Respondent's statements to the Hearing Committee also showed a lack of insight regarding deficiencies in skills identified in the California Board orders. Given the Respondent's overall non-compliance and inability to accept responsibility for his own shortcomings, despite being repeatedly advised of the consequences of failing to comply with probation terms in both California and New York, the Hearing Committee concluded that the only appropriate penalty was revocation of the Respondent's New York medical license.

The Respondent is advised to notify the Department of any changes in the status of his California medical licensure.

ORDER

IT IS HEREBY ORDERED THAT:

1. The first, second and third specifications of professional misconduct set forth in the Statement of Charges are **SUSTAINED**.
2. The Respondent's license to practice medicine in the State of New York is hereby **REVOKED** pursuant to PHL § 230-a(4).

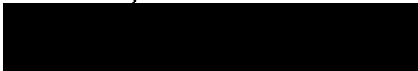
Ata Ollah Mehrtash, M.D.

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

DATED: _____, 2021
New York
NYS DEPT OF HEALTH

SEP 22 2020

Division of Legal Affairs
Bureau of Adjudication


WILLIAM A. TEDESCO, M.D., Chair
GREGORY ALLEN THREATTE, M.D.
DAVID F. IRVINE, DHSc, P.A.

To: Marc S. Nash, Esq.
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, New York 12237

Ata Ollah Mehrtash, M.D.


APPENDIX I

IN THE MATTER
OF
ATA OLLAH MEHRTASH, M.D.

STATEMENT
OF
CHARGES

Ata Ollah Mehrtash, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 20, 1967, by the issuance of license number 100002 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 4, 2015 the Medical Board of California ("California Board") entered into a Stipulated Settlement and Disciplinary Order revoking the Respondent's California medical license, then stayed the revocation and placed the Respondent on three years' probation with monitoring, required the Respondent to complete a Physician Assessment and Clinical Education Program (PACE), prohibited the Respondent from supervising physician assistants and ordered the Respondent to complete a course on record keeping. The California Board had accused the Respondent of gross negligence, repeated negligent acts and failure to maintain adequate records in relation to his treatment of one patient on or about May 10, 2012.

B. On or about December 16, 2016, by a Cease Practice Order, the California Board prohibited the Respondent from engaging in the practice of medicine pending a final decision and order. The Cease Practice Order was based upon the Respondent's violation of Probation Condition No. 2 of the November 4, 2015 California Order by failing to successfully complete a clinical training program equivalent to PACE.

C. On or about March 14, 2018, by a Decision and Order, the California Board revoked the Respondent's probation, revoked the Respondent's Physician's and Surgeon's Certificate, and revoked the Respondent's authority to supervise physician assistants and advanced nurse practitioners based upon the Respondent's failure to successfully complete the PACE program as required by Condition 2 and for failure to pay probation monitoring costs as required by Condition 14 of the November 4, 2015 California Order. The California Board also ordered that the Respondent pay the incurred costs of probation monitoring only if he successfully petitions to have his certificate reinstated. The California Board based its decision to revoke the Respondent's certificate upon assessments of the Respondent's performance in several areas including, but not limited to, clinical practice, physical and mental evaluations, and oral clinical examinations. A committee of faculty members deliberated during multiple case conferences and reported to the California Board that Respondent's overall performance in the PACE program was "Fail – Category 4" (fail, which "signifies a poor performance that is not compatible with overall physician competency and safe practice").

D. On or about June 14, 2016 the New York State Board for Professional Medical Conduct ("New York Board"), entered into a Consent Agreement and Order ("New York Order") suspending the Respondent's New York medical license for 36 months, then stayed the suspension and placed the Respondent on three years' probation, required the Respondent to show proof of successful completion of the Physician Assessment and Clinical Education Program (PACE), required the Respondent to successfully complete the terms and requirements stipulated in the California Board Order dated November 4, 2015, and required the Respondent to pay a \$1,000.00 fine. The New York Order contained a stipulation that the Respondent's failure to comply with any conditions of the Consent Order shall constitute misconduct as defined by New York Education Law §6530(29). The New York Board charged the Respondent with

misconduct based upon the Respondent having been found guilty of professional misconduct and having had disciplinary action taken by the California Board.

E. Respondent's conduct as described above, 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(29) (Violating any term of probation or condition or limitation imposed on the licensee).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State as alleged in the facts of the following:

1. The facts of Paragraphs A, B, C, and/or E and E1.

SECOND 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 the Respondent's license to practice medicine revoked, suspended or having other disciplinary action taken, or having the Respondent's application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered the Respondent's 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 as alleged in the facts of the following:

2. The facts of Paragraphs A, B, C, and/or E and E1.

THIRD SPECIFICATION

VIOLATING ANY TERM OF PROBATION OR CONDITION OR LIMITATION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(29) by violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred thirty of the public health law, as alleged in the facts of the following:

3. The facts of Paragraphs A, B, C, and/or D.

DATE: June 22, 2021
Albany, New York



JEFFREY J. CONKLIN
Acting Deputy Counsel
Bureau of Professional Medical Conduct