



Department of Health

ANDREW M. CUOMO
Governor

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

LISA PINO, M.A., J.D.
Executive Deputy Commissioner

August 16, 2021

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Ralph Galdieri, Jr. M.D.


Ralph Galdieri, Jr. M.D.
3070 North 51st Street, Suite 411
Milwaukee, Wisconsin 53210

RE: In the Matter of Ralph Galdieri, Jr., M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 21-172) 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: nm
Enclosure

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

COPY

-----X
IN THE MATTER
OF
RALPH GALDIERI, JR. M.D.
-----X

DETERMINATION
AND
ORDER

BPMC-21-172

A hearing was held on August 11, 2021, remotely by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), **David E. Kaplan, M.D., Chairperson, Mary E. Rappazzo, M.D., and Paul J. Lambiase**, 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 Marc S. Nash, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges, both dated June 25, 2021, were duly served upon Ralph Galdieri, Jr. M.D. (Respondent), who did not appear at the hearing.

The Hearing Committee received and examined documents from the Department. (Dept. Exs. 1-4.) 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 April 4, 1980 by issuance of license number 141647. (Dept. Ex. 4.)
2. On February 17, 2021, the Wisconsin Medical Examining Board issued a Final Decision and Order that reprimanded Respondent, required the Respondent to comply with a Drug Enforcement Administration (DEA) Memorandum of Agreement (MOA) entered into by the Respondent, and directed the Respondent to pay costs in the amount of \$492. (Dept. Ex. 3.)
3. The Final Decision and Order contained a Finding of Fact that the Respondent, over a period of many years, prescribed controlled substances to two of his friends without establishing a physician-patient relationship and without checking the Prescription Drug Monitoring Program Database. It also contained a Finding of Fact that the Respondent, over a period of many years, solicited another physician to prescribe Ativan to the Respondent's wife without a physician-patient relationship or documentation. The Respondent would fill the prescriptions and mail the medication to his wife who lived out-of-state. (Dept. Ex. 3.)

4. On April 28, 2020, the Respondent applied for a new DEA Certificate of Registration. On May 19, 2020, the Respondent entered into an MOA with the DEA limiting the Respondent's DEA registration for two years. (Dept. Ex. 3.)

VOTE OF THE HEARING COMMITTEE

The Hearing Committee, by a vote of 3-0, sustains the charge 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 Wisconsin, 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

Educ. Law § 6530(32) – Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

The Hearing Committee is greatly concerned over the Respondent's lack of discretion and failure to adhere to applicable standards of care in prescribing controlled substances, as well as his soliciting another physician for the same. The Hearing Committee notes that this behavior by the Respondent persisted over a period of many years. Given the seriousness of the matter and the Respondent's failure to appear to respond to the charges brought by the Department, the Hearing Committee finds that the only appropriate penalty in this matter is revocation of the Respondent's license to practice medicine in the State of New York.

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's license to practice medicine in the State of New York is revoked, and
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
August _____, 2021


NYS DEPT OF HEALTH

AUG 13 2021

Division of Legal Affairs
Bureau of Adjudication


David E. Kaplan, M.D., Chairperson
Mary E. Rappazzo, D.O.
Paul J. Lambiase

Marc S. Nash
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Albany, New York 12237


Ralph Galdieri, Jr. M.D.


Ralph Galdieri, Jr. M.D.
3070 North 51st Street, Suite 411
Milwaukee, Wisconsin 53210

APPENDIX I

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

Exhibit "A"

STATEMENT

OF

CHARGES

IN THE MATTER
OF
RALPH GALDIERI, JR. M.D.

RALPH GALDIERI, JR, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 4, 1980 by the issuance of license number 141647 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 17, 2021, the Wisconsin Medical Examining Board issued a Final Decision and Order which reprimanded Respondent, required that Respondent comply with the Drug Enforcement Administration (DEA) Memorandum of Agreement (MOA) entered into by Respondent and pay costs in the amount of \$492.00. The Decision and Order resolved notification received by the Wisconsin Medical Examining Board that Respondent surrendered his DEA certificate of registration after a DEA investigation revealed that Respondent, over a period of many years, prescribed controlled substances to two of his friends without establishing a physician-patient relationship and without checking the Prescription Drug Monitoring Program database. The DEA investigation also revealed that Respondent, over many years, solicited another physician to prescribe Ativan to his spouse without a physician-patient relationship or documentation. On April 28, 2020, Respondent applied for a new DEA Certificate of Registration and on May 19, 2020 entered into a Memorandum of Agreement with the DEA which limited his DEA registration for two years.

B. The conduct resulting in the Wisconsin disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following section(s) of New York State law:


1. New York Education Law § 6530(3) (practicing the profession with negligence on more than one occasion)
2. New York Education Law § 6530(32) (recordkeeping)

SPECIFICATION OF CHARGES

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 6530(32))

1. Paragraphs A and B

DATE: June 25, 2021
Albany, New York


Jeffrey J. Donkin
Acting Deputy Counsel
Bureau of Professional Medical Conduct