

**These charges are only allegations
which may be contested by the licensee
in an administrative hearing.**

IN THE MATTER
OF
PATRICK ADMIRAL DUNPHY, P.A.

NOTICE OF
REFERRAL
PROCEEDING

TO:

Patrick Admiral Dunphy, P.A.
C/O Jim Dering, Esq.
Via email

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on October 20, 2021, at 10:30 a.m., at the offices of the New York State Department of Health, 90 Church Street, 4th Floor, New York, NY 10007, or by video conference as directed by the Administrative Law Judge, and at such other adjourned dates, times and places as the committee may direct.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding, or by video conference if directed by the Administrative Law Judge, and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The

Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. You may also file a written brief and affidavits with the Committee. All such documents shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of

witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here _____

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
September 14, 2021

Henry Weintraub
Chief Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Deborah Beth Medows
Senior Attorney
Bureau of Professional Medical Conduct
90 Church Street
New York, NY 10007
(212) 417-4450

EXHIBIT "A"

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

**IN THE MATTER
OF
PATRICK ADMIRAL DUNPHY, P.A.**

**STATEMENT
OF
CHARGES**

Patrick Admiral Dunphy, P.A., the Respondent, was authorized to perform medical services in New York State on or about March 15, 2010, by the issuance of license number 013920 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about January 10, 2020, Respondent entered into an Agreed Order for Suspension, Reprimand, Fines, and Stipulations on License with the New Mexico Medical Board (hereinafter "the Board"). In the Agreed Order, the parties stipulated that the Respondent admitted no wrongdoing by entering into the order. The parties also stipulated that the Board's investigation produced evidence supporting the allegations that:
- a. On one or more occasions Respondent obtained unauthorized prescriptions for controlled substances for himself and/or someone else.

- b. On one or more occasions, Respondent prescribed controlled substances for another medical provider without adequate documented medical justification.
- c. On one or more occasions, Respondent prescribed controlled substances to another medical provider without first obtaining a prescription monitoring program (PMP) report.
- d. On one or more occasions, Respondent did not maintain proper medical records for one or more persons to whom he prescribed one or more controlled substances.
- e. On one or more occasions, Respondent used one or more controlled substances without adequate documented medical justification.
- f. Respondent was a defendant in a 2016 criminal action and did not report that action to the Board.
- g. Respondent was a defendant in the 2018 criminal action giving rise to the Board's investigation and this case, and did not report that action to the Board in a timely manner.
- h. Respondent did not cooperate with Board investigators.
- i. On one or more occasions, when he was not scheduled to work, Respondent arrived at the hospital emergency room where he worked appearing to be impaired.

j. Respondent was being treated with opioids for chronic pain but did not comply with the requirements the Board imposes on practitioners being treated for chronic pain with opioids.

B. Respondent agreed to: accept a reprimand; \$11,000 in fines; a nine-month retroactive suspension of Respondent's license with reactivation dependent on certain conditions; successful completion of Board-approved courses in medical ethics, controlled substance prescribing, and medical-record keeping; stipulations on Respondent's license regarding controlled substances and requiring him to appear before the Board; enter into and comply with a mandatory contract with the New Mexico Health Professional Wellness Program that would require him to abstain from alcohol and controlled substances without prior approval, work with a worksite monitor, and undergo testing; undergo a professionalism evaluation and coaching; among further conditions.

C. On or about July 9, 2020, the Board issued an Administrative Order for Partial Release from Stipulations on Licensure. The Board found that Respondent successfully completed the required courses and released Respondent from stipulations requiring him to meet those requirements and reinstated Respondent's prescriptive authority.

1. The conduct described in the Agreed Order with the New Mexico Board would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State Law:

a. 1. N.Y. Education Law § 6530 (3) (Practicing the profession with negligence on more than one occasion), as alleged in the facts of:

i. Paragraphs A and B.

b. N.Y. Education Law § 6530 (8) (Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice), as alleged in the facts of:

ii. Paragraphs A and B.

c. N.Y. Education Law § 6530 (32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient), as alleged in the facts of:

i. Paragraphs A and B.

d. N.Y. Education Law § 6530 (21) (Willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, or willfully impeding or obstructing such filing), as alleged in the facts of:

i. Paragraphs A and B.

SPECIFICATION OF CHARGE

HAVING A 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),(8) (32) and (21), as alleged in the facts of the following:

1. The facts in Paragraphs A and B.

DATE: September 14, 2021
New York, New York



Henry Weintraub
Chief Counsel
Bureau of Professional Medical Conduct