



## Department of Health

KATHY HOCHUL  
Governor

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

KRISTIN M. PROUD  
Acting Executive Deputy Commissioner

December 27, 2021

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Hannah E.C. Moore, Esq.  
NYS Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower - Room 2512  
Albany, New York 12237

Kevin E. Hulslander, Esq.  
Smith Sovik Kendrick & Sugnet, P.C.  
250 S. Clinton Street, Suite 600  
Syracuse, New York 13202

**RE: In the Matter of Gabrielle Morris, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 21-268) 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:

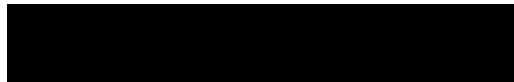
Jean T. Carney, Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Riverview Center  
150 Broadway – Suite 510 Albany,  
New York 12204

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 box used to redact 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  
GABRIELLE MORRIS, M.D.  
-----X

DETERMINATION  
AND  
ORDER

BPMC-21-268

A hearing was held on December 15, 2021, remotely by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), **Lyon Greenberg, M.D., Chairperson, Mehdi Khan, D.O., and Janet Axelrod, 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 Hannah E.C. Moore, Assistant Counsel. A Notice of Referral Proceeding and Statement of Charges, both dated October 19, 2021, were duly served upon Gabrielle Morris, M.D. (Respondent), who appeared at the hearing with her attorney, Smith Sovik Kendrick & Sugnet, P.C., Keven E. Hulslander, Esq., of counsel.

The Hearing Committee received and examined documents from the Department (Dept. Exs. 1-6) and Respondent (Resp. Exs. A-D) and heard testimony from the Respondent in her own behalf. 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)(a)(iii) for being convicted of committing an act constituting a crime under the law of another jurisdiction

which, if committed within New York, would have constituted a crime under New York state law. 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 January 10, 2012 by issuance of license number 263926. (Dept. Ex. 5.)
2. On January 15, 2021, a judgment was entered in the Superior Court of Lake County, Indiana, convicting the Respondent of Reckless Driving (Indiana Code 9-21-8-52[a][1]), a class C misdemeanor, and sentencing her to sixty days in county jail (suspended) and six months' probation. (Dept. Ex. 4.)
3. The judgment was entered pursuant to a Stipulated Plea Agreement dated October 26, 2020. (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)(a)(iii).

### **HEARING COMMITTEE DETERMINATIONS**

The Respondent argues that this matter should be dismissed on the basis that the Respondent's act constituting a crime under the law Indiana, if committed within New York, would not have constituted a crime under New York state law. Specifically, the Respondent argues that the

Reckless Driving conviction in Indiana amounts to a mere speeding violation in New York. The Department maintains that the Respondent's Reckless Driving conviction in Indiana is analogous to New York Vehicle and Traffic Law (NY VTL) § 1212, Reckless Driving, a misdemeanor, and that the act committed by the Respondent in Indiana would also constitute a crime if committed in New York. The Hearing Committee agrees with the Department. Indiana Code Indiana Code 9-21-8-52[a][1] and NY VTL § 1212 are substantially similar in language to conclude that the act constituting a crime in Indiana would also constitute a crime in New York. (see Dept. Ex. 6.) The Hearing Committee therefore concludes that charge of professional misconduct must be sustained.

With respect to the imposition of a penalty, the Department has recommended a censure and reprimand as well as a fine in the amount of \$2500. The Hearing Committee thoroughly considered all the evidence in this matter, including the testimony of the Respondent. The Respondent is a partially retired neurosurgeon who performs medical necessity reviews and maintains licenses in multiple states. (Testimony [T.] Respondent; Resp. Ex. D.) The Respondent readily acknowledged that she made a mistake by driving at a high rate of speed. She testified that she voluntarily attended a three-day alcohol evaluation program subsequent to the incident and that she has never had any problems with alcohol or otherwise been arrested.<sup>1</sup> The Respondent also completed an eight-hour drug and alcohol awareness class in November 2020 after entering into a Stipulated Plea Agreement requiring such. (Dept. Ex. 3.) The Hearing Committee finds that the Respondent has taken full responsibility for the incident in Indiana and has satisfied all conditions imposed upon her in Indiana as a result of the incident. The Hearing Committee also finds credible the Respondent's uncontroverted testimony that this was an isolated incident. Significantly, the Hearing Committee notes that there is no indication from the facts presented that the incident has any bearing on the

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<sup>1</sup> The Respondent was originally charged with operating a vehicle while intoxicated. The Respondent was not convicted of any alcohol-related offense and it is therefore irrelevant except to the Hearing Committee's consideration of steps taken by the Respondent subsequent to the incident to address and take responsibility for the incident.

Respondent's ability to practice medicine. In light of the foregoing, the Hearing Committee declines to impose any penalty in this matter.

**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. No penalty is imposed on the Respondent; 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  
December 24, 2021

[REDACTED]  
Lyon Greenberg, M.D., Chairperson  
Mehdi Khan, D.O.  
Janet Axelrod, Esq.

Hannah E.C. Moore  
Assistant Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Albany, New York 12237  
[REDACTED]

Kevin E. Hulslander, Esq.  
Smith Sovik Kendrick & Sugnet, P.C.  
250 S. Clinton Street, Suite 600  
Syracuse, New York 13202  
[REDACTED]

**IN THE MATTER**  
  
**OF**  
  
**GABRIELLE MORRIS, M.D.**

**STATEMENT**  
  
**OF**  
  
**CHARGES**

GABRIELLE MORRIS, M.D., the Respondent, was authorized to practice medicine in New York State on or about 01/10/2012, by the issuance of license number 263926 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about 01/15/2021, a judgment was entered, in the Superior Court of Lake County, Indiana, convicting Respondent, following her guilty plea, of Reckless Driving ( Indiana Code 9-21-8-52[a][1]) a class C misdemeanor, and sentencing her to a fine of \$500.00 plus costs, six months' probation, and attendance at an alcohol program.

**SPECIFICATION OF CHARGES**

**CRIMINAL CONVICTION (Other Jurisdiction)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law (namely N.Y. Vehicle and Traffic Law § 1212) as alleged in the facts of the following:

1. Paragraph A.

DATE: October 19, 2021  
Albany, New York



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