



**Department
of Health**

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

February 1, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John Thomas Viti, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street
New York, New York 10007

Paul E. Walker, Esq.
315 West 106th Street, Suite 1A
New York, New York 10025

RE: In the Matter of Arnold Weekes, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-017) 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 redacting the signature of Dawn MacKillop-Soller.

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

DXM: cmg
Enclosure

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

COPY

-----X
IN THE MATTER
OF
ARNOLD WEEKES, M.D.
-----X

DETERMINATION
AND
ORDER
BPMC-22-017

A hearing was held on January 12, 2022, by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), Gail Homick Herrling, Chairperson, Elaine L. Wilk, D.O., and Mehdi Khan, D.O., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. Tina M. Champion, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by John Thomas Viti, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges, both dated August 24, 2021, were duly served upon Arnold Weekes, M.D. (Respondent), who appeared at the hearing with his attorney, Paul E. Walker, Esq.

The Hearing Committee received and examined documents from the Department. (Dept. Exs. 1-7.) The Respondent testified and presented documents. (Resp. Exs. A & B.) 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. Pursuant to Educ. Law § 6530, 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 in March 2006 by issuance of license number 239182. (Dept. Ex. 2.)
2. On January 19, 2021, the Medical Board of the State of California (California Board) adopted, as its Decision and Order, a Proposed Decision by an ALJ after a hearing into the conduct of the Respondent. As part of its Decision and Order, the California Board issued a public reprimand to the Respondent and required the Respondent to complete a course in medical record keeping. (Dept. Ex. 7.)
3. The Decision and Order was based on findings that the Respondent failed to maintain adequate and accurate medical records for three patients in violation of California Business and Professions Code § 2266. (Dept. Ex. 7.)

VOTE OF THE HEARING COMMITTEE

The Hearing Committee, by a vote of 2-1, has determined that the charge should be dismissed in the interest of justice pursuant to Educ. Law § 6530 and PHL § 230.

HEARING COMMITTEE DETERMINATIONS

The Department alleges that the Respondent's conduct resulting in 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(32), failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. (Dept. Ex. 2.) The Respondent admits the factual allegations in the Statement of Charges and, as an Affirmative Defense, requests that the charge be dismissed in the interest of justice.

The Hearing Committee has thoroughly considered all the evidence and arguments in this matter, and unanimously agrees that the Department has brought a charge against the Respondent which may be sustained by the evidence. However, by a vote of 2-1, the Hearing Committee has determined, in the discretion afforded to it pursuant to Educ. Law § 6530 and PHL § 230, that the appropriate course of action is to dismiss the charge against the Respondent in the interest of justice.

With this Decision, the Hearing Committee fully appreciates and emphasizes the need for accurate record keeping for every patient receiving medical care. It also finds, however, that the Respondent willingly acknowledged his prior shortcomings with his record keeping and has been proactive in taking steps to address those shortcomings. The Respondent was able to articulate specific examples of ways that he has improved his record keeping based upon what he has learned from completing medical record keeping courses in 2019 (Resp. Ex. B) and more recently (Testimony of Weekes). The Hearing Committee found the Respondent to be forthright and sincere in his testimony and his demonstrated actions. It further found the Respondent to be humbled and professionally improved because of the disciplinary action in California. While the Respondent currently does not practice medicine in New York and indicated that he has no intention to do so in


the future, the Hearing Committee finds that the public would likely benefit from the Respondent's practice of medicine in this state. Additionally, it notes that even if it had voted to sustain the charge of professional misconduct against the Respondent, it would have unanimously declined to impose a penalty pursuant to PHL § 230-a. It was the view of the majority of the hearing committee, however, that such a result, which would leave the Respondent with a finding of misconduct in New York, was not in the interest of justice.


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

Dated: Albany, New York
January 27, 2022


Gail Homick Herrling, Chairperson
Elaine L. Wilk, D.O.
Mehdi Khan, D.O.

John Thomas Viti
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street
New York, NY 10007


Paul E. Walker, Esq.
315 West 106th Street, Suite 1A
New York, NY 10025


IN THE MATTER
OF
ARNOLD WEEKES, M.D.

STATEMENT
OF
CHARGES

ARNOLD WEEKES, M.D. was authorized to practice medicine in New York State on or about March 20, 2006, by the issuance of license number 239182 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 19, 2021, the Medical Board of the State of California adopted a Decision and Order ("Order") after a hearing with respect to the conduct and medical practice of Respondent. The Board issued a public reprimand and required the Respondent to complete a course in medical record keeping. The Order was based on the findings that the Respondent failed to maintain adequate and accurate medical records for three patients in violation of California Business and Professions Code §2266.

1. The conduct resulting in the Order would, constitute misconduct under the laws of New York State, pursuant to:
 - a) 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)(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, namely N.Y. Educ. Law §6530(32) as alleged in the facts of the following:

1. The facts in Paragraph A, A1 and its subparagraphs.

DATE: August 24, 2021
New York, New York



Henry Weintraub
Chief Counsel
Bureau of Professional Medical Conduct