



**Department
of Health**

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

April 26, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Hannah E.C. Moore, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Empire State Plaza
Albany, New York 12237.

Thomas Raley, MD


RE: In the Matter of Thomas Raley, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-080) 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**

-----X	:	
IN THE MATTER	:	DETERMINATION
OF	:	AND
THOMAS RALEY, M.D.	:	ORDER
-----X		

A hearing was held on March 23, 2022, by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), James Egnatchik, MD, Chairperson, Jerry Balentine, DO, and Heidi Miller, PA-C, MPH, 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 dated January 24, 2022 were duly served upon Thomas Raley, MD (Respondent), who appeared at the hearing and testified in his own behalf.

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 March 5, 2004 by issuance of license number 231525. (Dept. Ex. 4.)
2. On December 5, 2019, the Virginia Board of Medicine entered an Order, following a proceeding, with a finding that the Respondent failed to keep timely, accurate, and complete medical records for six patients, and improperly delegated and failed to appropriately supervise the care of one patient. The Respondent received a reprimand pursuant to this Order. (Dept. Ex. 3.)

VOTE OF THE HEARING COMMITTEE

The Hearing Committee, by a vote of 3-0, sustains the charges 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 Virginia, 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, and in Educ. Law § 6530(33) – failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee.

The Respondent testified that he specializes in orthopedics, that he has not practiced in New York State since 2004, and that he is looking to retire in the near future. He testified that he takes patient care and record keeping seriously. The Respondent took responsibility for the occurrence that led to the finding by the Virginia Board of Medicine that he improperly delegated and failed to appropriately supervise the care of one patient. With respect to record keeping, the Respondent maintained that the Virginia Order is not necessarily accurate and stated that there were inaccuracies and that he had experienced problems with the technology being used.

The Department recommended that the Respondent receive a censure and reprimand, have a fine imposed on him, and be required to take continuing medical education courses in recordkeeping and supervision. The Hearing Committee finds that a censure and reprimand is appropriate. It also finds it appropriate to require the Respondent take continuing medical education courses on the topics of recordkeeping and supervision if and prior to him returning to New York State to practice medicine. The Hearing Committee declines to assess a fine.

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 is subject to censure and reprimand pursuant to PHL § 230-a(1);
3. The Respondent is required to complete a combined 10 hours of continuing medical education courses on the topics of recordkeeping and supervision as approved by the Director of the Office of Professional Medical Conduct prior to commencing practice in the State of New York

pursuant to PHL § 230-a(8). The Respondent must submit proof of completion of the same to the Director of the Office of Professional Medical Conduct within thirty (30) days of completing the courses; and

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

Dated: Albany, New York
April 17, 2022


James Egnatchik, MD, Chairperson
Jerry Balentine, DO
Heidi Miller, PA-C, MPH,

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


Thomas Raley, MD


IN THE MATTER
OF
THOMAS RALEY, M.D.

STATEMENT
OF
CHARGES

THOMAS RALEY, M.D., the Respondent, was authorized to practice medicine in New York State on or about 03/05/2004, by the issuance of license number 231525 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about 12/05/2019, the Virginia Board of Medicine entered an Order, following a proceeding, finding that Respondent failed to keep timely, accurate, and complete medical records as to six patients, and improperly delegated and failed to appropriately supervise the care of one patient. Pursuant to the Order, Respondent received a reprimand.
- B. The conduct resulting in the Virginia Order would constitute misconduct under the laws of New York State pursuant to the following sections of New York State Law:
1. New York Education Law § 6530 (32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient)
 2. New York Education Law § 6530 (33) (Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee)

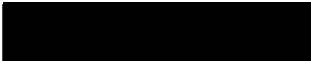
SPECIFICATION OF CHARGE
HAVING HAD DISCIPLINARY ACTION TAKEN

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 (namely N.Y. Educ. Law § 6530[32]) as alleged in the facts of the following:

1. Paragraphs A and B.

DATE: January 24, 2022
Albany, New York



William J. Conklin
Acting Deputy Counsel
Bureau of Professional Medical Conduct