



Department of Health

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

July 25, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ada Janocinska, Esq.
Rivkin Radler LLP
926 RXR Plaza
Uniondale, New York 11556

John Thomas Viti, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Division of Legal Affairs
90 Church Street, 4th Floor
New York, New York 10007

RE: In the Matter of Roozbeh Badii, MD

Dear Parties:

Enclosed please find the Determination and Order (No. 22-171) 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.

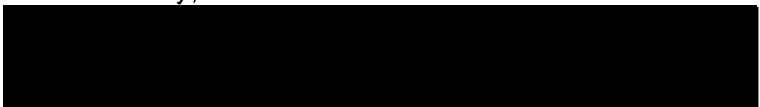
The notice of review served on the Administrative Review Board should be forwarded to:

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,



Sean D. O'Brien
Acting Chief Administrative Law Judge
Bureau of Adjudication

SDO: cmg
Enclosure

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

COPY

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IN THE MATTER :
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OF :
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ROOZBEH BADI, MD :
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DETERMINATION
AND
ORDER

BPMC-22-171

A Notice of Referral Proceeding dated April 21, 2022 and Statement of Charges dated April 25, 2022 (Exhibit 1), were duly served upon Roozbeh Badi, MD (Respondent) pursuant to Public Health Law (PHL) § 230(10)(d)(i). A hearing was held on July 13, 2022, via WebEx videoconference. Pursuant to PHL § 230(10)(e), **SAMUEL F. BOSCO, MD**, Chairperson, **PROSPERE REMY, MD** and **MYRA M. NATHAN, PhD**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee in this matter. **NATALIE BORDEAUX, ADMINISTRATIVE LAW JUDGE**, served as the administrative officer.

The Department appeared by John Thomas Viti, Associate Counsel. The Respondent failed to appear for this hearing. There were no witnesses. The Hearing Committee received and examined documents from the Department (Exhibits 1-4). A transcript of the proceeding was made. After considering the entire hearing record, the Hearing Committee hereby issues this Determination and Order. All findings, conclusions, and determinations are unanimous.

BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Education Law § 6530(9). The Respondent is charged with professional misconduct pursuant to Education Law § 6530(9)(b), by 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. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

1. The Respondent was authorized to practice medicine in New York on September 9, 2015, under license number 281740. (Exhibit 1.)

2. By Final Decision and Order dated April 20, 2020, the Maryland Board determined that the Respondent was professionally, physically, or mentally incompetent, and that he failed to cooperate with a lawful investigation conducted by the Board. Pursuant to this order, the Respondent's license to practice medicine in Maryland was suspended for a minimum of one year, during which he was required to enroll in the Maryland Professional Rehabilitation Program (MPRP) and comply with all program requirements. (Exhibit 3.)

CONCLUSIONS OF LAW

The Respondent failed to appear at the hearing or present any evidence to refute the Department's charge, despite being duly served with a Notice of Referral Proceeding and Statement of Charges (Exhibits 1, 2) and despite confirmation from the Respondent's attorney that notice was received.¹ The Department having established jurisdiction and proper notice, the ALJ determined that the hearing could proceed on the merits despite the Respondent's absence.

The Maryland Board determined that the Respondent was professionally, physically, or mentally incompetent and that he failed to cooperate with a lawful investigation conducted by the

¹ In a letter dated June 17, 2022, the Respondent's counsel advised the Bureau of Adjudication that the Respondent "will not be moving forward with the hearing on July 13, 2022." (ALJ Exhibit I.) The ALJ subsequently emailed the Respondent's attorney a WebEx meeting link to access the Respondent's hearing and received no response.

Maryland Board. (Exhibit 3.) The Department's April 25, 2022 Statement of Charges alleges that the Respondent's misconduct in Maryland described in the Maryland Board's April 20, 2020 Final Decision and Order would, if committed in New York, constitute professional misconduct as defined in Education Law §§ 6530(8), (16) and (28). (Exhibit 1.)

The Hearing Committee agreed that the Respondent's professional misconduct set forth in the Maryland Board's order would, if committed in New York, constitute professional misconduct pursuant to Education Law § 6530(8), having a psychiatric condition which impairs the licensee's ability to practice. The Hearing Committee also agreed that the Respondent's actions regarding his failure to cooperate with an investigation conducted by the Maryland Board would, if committed in New York, constitute misconduct pursuant to Education Law § 6530(16), a willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine, and Education Law § 6530(28), failing to respond within thirty days to written communications from the Department and make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct. The Hearing Committee thus determined that the Respondent violated Education Law § 6530(9)(b).

After determining to sustain the charge, the Committee considered all possible penalties authorized by PHL § 230-a. The Hearing Committee agreed with the Department's request for revocation of the Respondent's medical licensure. The Hearing Committee reviewed the Maryland Board's findings, as well as the Respondent's prior disciplinary history, which reflected a pattern of disregard for legal requirements applicable to physicians. (Exhibits 3, 4.) In addition, the Hearing Committee considered the nature of the Respondent's work, reportedly telework. Given the Respondent's continued refusal to adhere to disciplinary terms short of revocation in another jurisdiction where, like New York, he does not reside, the Hearing Committee had no confidence in

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

IN THE MATTER

OF

ROOZBEH BADII, M. D.

STATEMENT

OF

CHARGES

ROOZBEH BADII, M.D., was authorized to practice medicine in New York State on or about September 9, 2015, by the issuance of license number 281740 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 20, 2020, the Maryland State Board of Physicians ("Board") issued a Final Decision and Order ("Order") based on a Proposed Decision. The Order determined that the Respondent was mentally incompetent to practice medicine and failed to cooperate with a lawful investigation conducted by the Board in violation of Md. Health Occ. §§ 14-404(a)(4) and (33). Respondent's license was suspended for one year and he was required to enroll in the Maryland Professional Rehabilitation Program ("MPRP") and to enter into a rehabilitation agreement and plan with the MPRP.

1. The conduct resulting in the Order would constitute misconduct under the laws of New York State, pursuant to:
 - a) New York Education Law Section 6530(8) (having a psychiatric condition which impairs the licensee's ability to practice.);
 - b) New York Education Law Section 6530(16) (A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine.);

c) New York Education Law Section 6530(28) (Failing to respond within thirty days to written communications from the department of health and to make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct...).

SPECIFICATION OF CHARGES

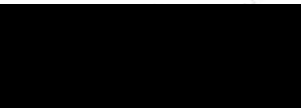
FIRST SPECIFICATION

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 findings was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, namely N.Y. Educ. Laws §6530(8), (16) and (28) as alleged in the facts of the following:

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

DATE: April 25, 2022
New York, New York



Henry Weintraub
Chief Counsel
Bureau of Professional Medical Conduct