



**Department
of Health**

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

August 18, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David W. Quist, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower - Room 2512
Empire State Plaza
Albany, NY 12237

Nagy Saber Farag, MD


RE: In the Matter of Nagy Saber Farag, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-187) 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:

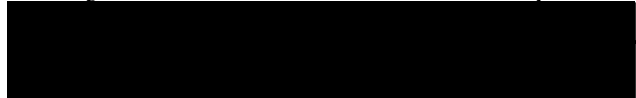
Jean T. Carney, Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

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 large black rectangular redaction box covers the signature area.

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

SDO: nm
Enclosure

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

COPY

-----X
IN THE MATTER
OF
NAGY SABER FARAG, M.D.
-----X

:
DETERMINATION
:
AND
:
ORDER
:
:

BPMC-22-187

A hearing was held on August 10, 2022, by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), **Kenneth J. Steier, DO, Chairperson, Gregory Allen Threatte, MD, and Thomas Lahut, DHSc, PA-C.**, 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 David W. Quist, Esq. A Notice of Referral Proceeding dated June 23, 2022 and Statement of Charges dated May 31, 2022, were duly served upon Nagy Saber Farag, MD (Respondent), who did not appear at the hearing.

The Hearing Committee received and examined documents from the Department (Dept. Exs. 1-8). 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 May 16, 2000, by issuance of license number 217452. (Dept. Ex. 3.)
2. On October 17, 2019, the Board of Medicine of the State of Florida (Florida Board) issued a Final Order based on the terms of a Settlement Agreement signed by the Respondent on September 20, 2019, as amended by the Florida Board, and incorporating a Second Amended Administrative Complaint (case number 2014-13808) filed on June 25, 2019. (Dept. Exs. 4-7.)
3. The Second Amended Administrative Complaint alleged that the Respondent failed to meet the standard of care with respect to two liposuction surgeries on one patient and in his evaluation of that patient; that the Respondent performed those procedures knowing or having reason to know that he was not competent to do so; and that the Respondent failed to keep an adequate medical record for that patient. (Dept. Ex. 6.)
4. Pursuant to the Settlement Agreement, the Respondent was issued a letter of concern and was required to undergo an assessment and a quality assurance review, pay an administrative fine in the amount of \$5,000, reimburse costs, and comply with additional standard conditions. The

Respondent was further restricted from performing any surgical procedures until he demonstrated compliance with the assessment and quality assurance requirements. (Dept. Exs. 4-5, 7.)

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 Florida, if committed in New York State, would constitute professional misconduct under the laws of New York State as defined in Educ. Law § 6530(3) – practicing the profession with negligence on more than one occasion; § 6530(5) – practicing the profession with incompetence on more than one occasion; and § 6530(32) – failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

The Department recommended that the Respondent receive a censure and reprimand, be fined \$5,000, and be placed on probation with a practice monitor for three years. The Hearing Committee finds this recommendation appropriate to protect the public given the underlying allegations and the Respondent's failure to appear and respond to the charges.

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 pay a fine in the amount of \$5,000 to the Office of Professional Medical Conduct, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204, within 30 days of the date of this Order, pursuant to PHL § 230-a(7);

4. The Respondent is subject to probation with a practice monitor pursuant to PHL § 230-a(9) for a period of three years in accordance with the Terms of Probation annexed hereto; and

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

Dated: Albany, New York
August 15, 2022


Kenneth J. Steier, DO, Chairperson
Gregory Allen Threatte, MD
Thomas Lahut, DHSc, PA-C

David W. Quist
Associate Attorney
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, NY 12237


Nagy Saber Farag, MD


IN THE MATTER
OF
NAGY SABER FARAG, M.D.

STATEMENT
OF
CHARGES

NAGY SABER FARAG, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 16, 2000, by the issuance of license number 217452 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about October 17th, 2019, the Board of Medicine of the State of Florida (“Board”) issued a Final Order, filed and effective on or about October 18th, 2019, based on the terms of a settlement agreement signed by Respondent on or about September 20, 2019, as amended by the Board, and incorporating a Second Amended Administrative Complaint (case no. 2014-13808) filed on or about June 25, 2019.

- B. The Administrative Complaint alleged that Respondent failed to meet the standard of care with regard to two liposuction surgeries on a single patient and in his evaluation of that patient; that Respondent performed those procedures knowing or having reason to know that he was not competent to do so; and that Respondent failed to keep an adequate medical record. Pursuant to the settlement agreement, Respondent was issued a letter of concern, and was required to undergo an assessment and a quality assurance review, pay an administrative fine in the amount of \$5,000, reimburse costs, and comply with additional standard conditions. Respondent was further restricted from performing any surgical procedures until he demonstrated compliance with the assessment and quality assurance requirements.

C. The conduct resulting in the Board's Decision and Order against Respondent would constitute misconduct under the laws of New York State pursuant to New York Education Law Sections 6530(3) (negligence), (5) (incompetence), and/or (32) (failure to maintain a record).

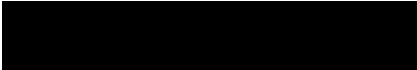
SPECIFICATION OF CHARGES
FIRST SPECIFICATION

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(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(3), (5) and/or (32)) as alleged in the facts of the following:

1. The facts in Paragraphs A, B, and C.

DATE: May 31, 2022
Albany, New York



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

TERMS OF PROBATION

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
2. Respondent shall maintain active registration of his license with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204 with the following information, in writing, and ensure that this information is kept current: a full description of his employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall provide to the Director of OPMC copies of all applications relating to the practice of medicine, including but not limited to, privileges, insurance, and licensure, in any jurisdiction, concurrent with submission of the applications.
5. Respondent shall cooperate fully with and respond in a timely manner to OPMC requests to provide written periodic verification of his compliance with these terms. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
6. Respondent shall practice medicine in New York State only when monitored by a licensed physician, board certified in an appropriate specialty (practice monitor), who is proposed by Respondent and subject to the written approval of the Director of the OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit the Respondent's medical practice at each and every location, on a random, unannounced basis at least monthly and shall examine a selection (no fewer than 20, or, if there are less than 20, then all) of the records maintained by the Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to the OPMC.
 - b. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of the OPMC.
 - c. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.

- d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with § 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent commencing practice within the State of New York.
7. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if he is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30-day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in the Determination and Order or as are necessary to protect the public health.
8. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
9. Respondent shall comply with these probationary terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.