



## Department of Health

**KATHY HOCHUL**  
Governor

**JAMES V. McDONALD, M.D., M.P.H.**  
Acting Commissioner

**MEGAN E. BALDWIN**  
Acting Executive Deputy Commissioner

January 13, 2023

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Jeffrey Faaberg, M.D.  


Ian H. Silverman, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Jeffrey Faaberg, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 23-009) 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,



Natalie J. Bordeaux  
Chief Administrative Law Judge  
Bureau of Adjudication

NJB: nm  
Enclosure

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

COPY

-----X  
: IN THE MATTER :  
: OF :  
: JEFFREY FAABERG, M.D. :  
: :  
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DETERMINATION  
AND  
ORDER

BPMC-23-009

A Notice of Referral Proceeding and Statement of Charges dated November 29, 2022 (Exhibit 1), were duly served upon Jeffrey Faaberg, M.D. (Respondent) pursuant to Public Health Law (PHL) § 230(10)(d)(i). A hearing was held on January 11, 2023, via WebEx videoconference. Pursuant to PHL § 230(10)(e), **KENNETH J. STEIER, D.O.**, Chairperson, **SUSAN C. FERRARY, M.D.**, and **EILEEN PASQUINI, B.S., A.A.S.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. **NATALIE BORDEAUX**, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by Ian H. Silverman, Associate Counsel. The Respondent did not appear. The Hearing Committee received and examined documents from the Department (Exhibits 1-6) and a transcript of the proceeding was made. The Hearing Committee hereby determines to sustain the charge that the Respondent committed professional misconduct, in violation of Education Law § 6530(9)(d), and to revoke the Respondent's license to practice medicine. 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)(d), by having

disciplinary action taken against his license to practice medicine in South Carolina where the conduct resulting in the disciplinary action taken would, if committed in New York State, constitute professional misconduct under the laws of New York. 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 July 1, 1982, under license number 150412. (Exhibit 5.)
2. By Final Order dated March 22, 2019, the South Carolina State Board of Medical Examiners (South Carolina Board) determined to permanently revoke the Respondent's license to practice medicine in that state, after the Respondent waived his right to a formal hearing and admitted that his conduct constituted sufficient grounds for disciplinary action. Based upon the facts to which the Respondent stipulated, the South Carolina Board found that the Respondent: (a) violated the South Carolina code of medical ethics regarding privacy in healthcare; (b) failed to maintain an adequate patient record of care for multiple patients; (c) improperly managed medical records, including failing to maintain timely, legible, accurate, and complete medical records; and (d) failed to establish a physician-patient relationship prior to prescribing medications, to include failing to personally perform and document an appropriate history and physical examination, make a diagnosis, formulate a therapeutic plan, discuss benefits and risks, and ensure availability for appropriate follow-up care. (Exhibit 6.)

### **DISCUSSION**

After due diligence as certified under oath, the Department was unable to personally serve the Respondent with the Notice of Hearing and Statement of Charges at least 30 days before the hearing. (Exhibit 2.) The Department subsequently sent the Notice of Hearing and Statement of

Charges to the Respondent's last known address (the address utilized by the Respondent when he last registered to practice medicine with the New York State Education Department) more than 15 days before the hearing by certified mail. (Exhibits 3, 4.) The certified mailing was returned to the Department as unclaimed. (Exhibits 2, 4.) No other address is known to the New York State Board for Professional Medical Conduct. The Respondent was properly served with the Notice of Hearing and Statement of Charges in accordance with service requirements set forth in PHL § 230(10)(d)(i). 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 Department's November 29, 2022 Statement of Charges alleges that the Respondent's misconduct described in the South Carolina Board's March 22, 2019 decision would, if committed in New York, constitute professional misconduct as defined in Education Law § 6530(3) (practicing the profession with negligence 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). (Exhibit 1.)

The South Carolina Board's decision to revoke the Respondent's medical license in that state adopted a Memorandum of Agreement and Stipulations, in which the Respondent waived his right to contest charges that he violated the South Carolina Board's code of medical ethics regarding privacy in health care; failed to prepare or maintain an adequate patient record of care provided; improperly managed medical records; and failed to establish a physician-patient relationship prior to prescribing medications.

The charges alleged, and the Respondent did not contest, that he continued to prescribe controlled substances after his controlled substances registration lapsed. Of nine patient records requested by the South Carolina Board, the Respondent was only able to provide records for one

patient, which did not contain adequate information regarding the treatment rendered. Additionally, the Respondent conceded that he wrote prescriptions for other individuals for whom he did not maintain a medical record. The Respondent also admitted that he sent a text message to his office manager (for whom he also prescribed medications and did not have treatment records) with a picture of a male patient on an operating table. The misconduct described in the South Carolina Board's decision reflected a repeated failure to exercise the care that would be exercised by a reasonably prudent physician under the circumstances.

Based upon these allegations to which the Respondent admitted, and which were ultimately adopted in the South Carolina Board's decision, the Hearing Committee agreed that the Respondent's actions resulting in the South Carolina Board's disciplinary action would, if committed in New York, constitute misconduct pursuant to Education Law § 6530(3), and § 6530(32). The Hearing Committee thus determined that the Respondent violated Education Law § 6530(9)(d).

After determining to sustain the charge, the Hearing Committee considered all possible penalties authorized by PHL § 230-a. The Hearing Committee agreed with the Department that revocation is the only appropriate penalty for the conduct that led to the Respondent's disciplinary action in South Carolina. The Respondent's actions reflected an "extreme lack of judgment" (as noted in the South Carolina Board's decision), as well as a clear disregard for his responsibilities as a physician, and for the safety of his patients. His failure to appear for this hearing offered the Hearing Committee no information that would justify a lesser penalty.

#### **ORDER**


#### **IT IS HEREBY ORDERED THAT:**


1. The charge of professional misconduct, as set forth in the Statement of Charges, is sustained.

2. The Respondent's license to practice medicine in the state of New York is revoked pursuant to PHL § 230-a(4).

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

**DATED:**                      NYS DEPT OF HEALTH, 2023  
                     JAN 11 2023, New York  
Division of Legal Affairs  
Bureau of Adjudication

  
Kenneth J. Steier, D.O., Chairperson  
Susan C. Ferrary, M.D.  
Eileen Pasquini, B.S., A.A.S.

To: Jeffrey Faaberg, M.D.  


Ian H. Silverman, Associate Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, NY 12237

**IN THE MATTER**

**OF**

**JEFFREY FAABERG, M.D.**

STATEMENT  
OF  
CHARGES

JEFFREY FAABERG, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1982, by the issuance of license number 150412 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about March 22, 2019 the Medical Board of South Carolina (South Carolina Board) issued a Final Order in which the Respondent's license to practice medicine in South Carolina was revoked. The South Carolina Board imposed discipline upon Respondent for (1) violating the code of medical ethics regarding privacy; (2) failing to prepare or maintain adequate patient record of care provided; (3) improperly managing medical records and (4) failed to establish a physician-patient relationship prior to prescribing medications, including failure to make a diagnosis, formulate a therapeutic plan, discuss benefits and risks and ensure follow up care.
- B. Respondent's conduct as described above would, if committed in New York State, constitute professional misconduct under the laws of the State of New York as follows:
1. New York Education Law §6530 (3) (practicing the profession with negligence on more than one occasion); and/or
  2. 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**  
**HAVING HAD DISCIPLINARY ACTION TAKEN**

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

1. The facts in Paragraph A and B.

DATE: November 29, 2022  
Albany, New York

  
Jeffrey J. Conklin  
Deputy Director  
Bureau of Professional Medical Conduct