



Department of Health

KATHY HOCHUL
Governor

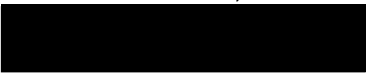
JAMES V. McDONALD, M.D., M.P.H.
Acting Commissioner

MEGAN E. BALDWIN
Acting Executive Deputy Commissioner

March 7, 2023

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Gabriel Yakubov, PA


RE: In the Matter of Gabriel Yakubov, P.A.

Dear Parties:

Enclosed please find the Determination and Order (No. 23-049) 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.

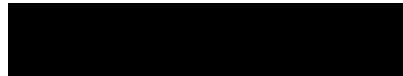
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A solid black rectangular box redacting the signature of the Chief Administrative Law Judge.

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
Enclosure

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

COPY

-----X
IN THE MATTER
OF
GABRIEL YAKUBOV, P.A.
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DETERMINATION
AND
ORDER
BPMC-23-049

A hearing was held on February 15, 2023, by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), Jagdish M. Trivedi, MD, Chairperson, Mehdi A. Khan, DO, 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 and Statement of Charges dated December 13, 2022, were duly served upon Gabriel Yakubov, PA (Respondent), who appeared at the hearing and provided testimony.

The Hearing Committee received and examined documents from the Department (Dept. Exs. 1-8) and the Respondent (Resp. Ex. A). 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)(a)(i) for having been convicted of an act constituting a crime under New York state law.

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 as a physician assistant in New York State on March 21, 2011, by issuance of license number 014691. (Dept. Ex. 3.)
2. On June 23, 2021, the Respondent was convicted in Queens Criminal Court, pursuant to a plea of guilty, of one count of second degree menacing with a weapon (in violation of Penal Law section 120.14[1]) and one count of criminal mischief – intentional damage of property (in violation of Penal Law section 145.00[1]), both misdemeanors. The Respondent was placed on probation for three years and required to pay a fine, surcharge, and fee in the amount of approximately \$250 in total. (Dept. Exs. 4-7.)

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)(a)(i).

HEARING COMMITTEE DETERMINATIONS

It is undisputed that the Respondent was convicted of committing an act constituting a crime under New York state law. Such conviction constitutes professional misconduct pursuant to Educ. Law § 6530(9)(a)(i). The conviction stems from two separate incidents that occurred in 2017. The charging affidavit for the first incident alleges that, in February 2017, the Respondent kicked, pushed

and shoved the complainant, causing a laceration to the complainant's left hand. (Dept. Ex. 6.) The charging affidavit for the second incident alleges that, in May 2017, the Respondent banged on the complainant's residential door and, upon the complainant opening the door while holding her 10-month-old child, the Respondent waved a hammer and a knife at the complainant and stated in sum and substance that he was going to kill her. (Dept. Ex. 7.)

The Respondent testified that the incidents involved different neighbors, one who lived on the floor below him and one who lived on the floor above him. He maintained that he was innocent in both situations, despite entering a guilty plea. When questioned by the Hearing Committee as to the specifics and severity of each incident, the Respondent alluded to issues with both neighbors over noise complaints but refused to discuss the specifics of the first incident and outright denied the occurrence of the second incident.

The Respondent expressed no remorse for his behavior leading to the convictions. The Hearing Committee found troubling the Respondent's unwillingness to discuss the first incident. It also found inconsistent the Respondent's statement that both he and the neighbor in the second incident were disturbing each other and that they would call the police on each other, yet the Respondent denied the existence of the second incident.

In addition to asserting innocence of the convictions at hand, the Respondent asserts that he should not be subject to discipline by the Board for Professional Medical Conduct (BPMC) because the incidents are not related to his professional practice as a physician assistant and do not involve patients. He also asserts that he has had no complaints relating to his professionalism or medical expertise in the last twelve years, since his licensure in 2011.

Although not the basis for this proceeding, the Hearing Committee acknowledges and finds concerning that the Respondent was the subject of a 2015 BPMC Consent Agreement in which the Respondent received a censure and reprimand and was placed on probation for a period of three years. (Dept. Ex. 8.) Although the file for that matter is no longer available to the Department due to the passage of time, the Statement of Charges giving rise to the Consent Order alleges that in

Supreme Court of the State of New York, New York County, in 2012, the Respondent was found guilty (based on a plea of guilty) of Assault in the Second Degree, in violation of New York Penal Law section 120.05(6), a class D felony, and was sentenced on January 15, 2013, to two years imprisonment, three years post release supervision, and a ten year order of protection. This history, coupled with the conviction at issue in this proceeding that stems from two separate incidents, causes the Hearing Committee great concern over the Respondent's pattern of behavior.

The Hearing Committee acknowledges that the 2017 incidents do not directly involve the Respondent's practice as a physician assistant. They also note that, upon questioning, the Respondent revealed that he only practiced as a physician assistant from 2013-2016. The Hearing Committee feels that the Respondent attempted to mislead it with his statement that he had not had any professional complaints lodged against him in the twelve years since he was licensed. The Hearing Committee also notes that although the two incidents in 2017 occurred in a personal setting and rather than professional, the Respondent's obtainment of his physician assistant license places on him a responsibility to display good character and high standards in the community as well as while actively working in his profession.

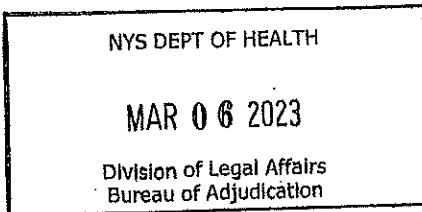
Given the totality of the foregoing, the Hearing Committee finds that the only action sufficient to protect the public in the State of New York is revocation of the Respondent's license to practice as a physician assistant.


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's license to practice as a physician assistant in the State of New York is revoked; and
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

Dated: Albany, New York
March ____, 2023




Jagdish M. Trivedi, MD, Chairperson
Mehdi A. Khan, DO
Thomas Lahut, DHSc, PA-C

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



Gabriel Yakubov, PA



IN THE MATTER
OF
GABRIEL YAKUBOV, P.A.

STATEMENT
OF
CHARGES

GABRIEL YAKUBOV, P.A., the Respondent, was authorized to practice as a physician assistant in New York State on or about March 21, 2011 by the issuance of license number 014691 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 23, 2021 Respondent was convicted in Queens Criminal Court, pursuant to a plea of guilty, of one count of second degree menacing with a weapon, in violation of Penal Law section 120.14(1), and of one count of criminal mischief (intentional damage of property), in violation of Penal Law section 145.00(1), both misdemeanors. Respondent was placed on probation for a period of three years, and required to pay a fine, surcharge, and fee in the amount of approximately \$250 in total.

SPECIFICATION OF CHARGES

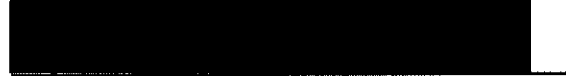
FIRST SPECIFICATION

CRIMINAL CONVICTION (N.Y.S.)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

1. The facts in Paragraph A.

DATE: December 13, 2022
Albany, New York



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