



Department of Health

KATHY HOCHUL
Governor

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

MEGAN E. BALDWIN
Acting Executive Deputy Commissioner

May 18, 2023

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ralph Falk, M.D.


Marc S. Nash, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Ralph Falk, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 23-112) 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 used to redact 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

DETERMINATION

OF

AND

RALPH FALK, M.D.

ORDER

BPMC-23-112
-----X

A Notice of Referral Proceeding and Statement of Charges dated March 30, 2023, were duly served upon Ralph Falk, M.D. (Respondent) pursuant to Public Health Law (PHL) § 230(10)(d)(i). (Exhibits 1, 2.). A hearing was held on May 11, 2023, via WebEx videoconference. Pursuant to PHL § 230(10)(e), **DAVID E. KAPLAN, M.D.**, Chairperson, **MOHAMMAD-REZA GHAZI-MOGHADAM, M.D.**, and **DAVID F. IRVINE, DHSc, P.A.**, 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 Marc S. Nash, Associate Counsel. The Respondent did not appear. The Hearing Committee received and examined documents from the Department (Exhibits 1-5). A transcript of the proceeding was made. After consideration of the entire hearing record, the Hearing Committee hereby issues this Determination and Order, suspending the Respondent's medical license wholly until he demonstrates fitness to continue practicing medicine based upon a completed Physician Health Program assessment. 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), having disciplinary

action taken against his medical license in Arizona, after the action was instituted by a duly authorized professional agency of that state, where the conduct resulting in the disciplinary action 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 September 25, 1989, under license number 180154. (Exhibit 3.)
2. On October 27, 2021, the Arizona Medical Board (Arizona Board) issued an Order for Letter of Reprimand, after determining that the Respondent failed to comply with that board's August 20, 2020 Interim Order requiring the Respondent to schedule a Physician Health Program assessment within 14 days and complete the assessment within 30 days of the date of the Interim Order. The Respondent consented to the entry of the order. (Exhibit 5.)

DISCUSSION

Although the Respondent was personally served with notice of the hearing (which explicitly states that the proceedings may result in a determination to revoke or suspend his medical license), he failed to respond or appear at the hearing to present any evidence to contest the stated charge. The ALJ determined, upon the Department having established jurisdiction and proper notice, that the hearing could proceed on the merits despite the Respondent's absence.

The Respondent submitted a license renewal application to the Arizona Board in February 2020, wherein he disclosed having been arrested for, and having pled guilty to, a charge of driving under the influence in New Hampshire. After reviewing the information regarding the Respondent's criminal case, the Arizona Board's Executive Director issued an August 20, 2020 Confidential

Interim Order for Physician Health Program (PHP) Assessment, in which the Respondent was ordered to schedule a PHP assessment within 14 days, and complete it within 30 days of the date of the Interim Order. (Exhibit 4.) The Respondent failed to complete the required assessment, and failed to respond to the Arizona Board's requests for a narrative response to the alleged violation of a board order. (Exhibit 5.)

The Hearing Committee agreed that the Respondent's conduct resulting in the Arizona Board's disciplinary action would, if committed in New York, constitute misconduct pursuant to Education Law § 6530(15), failure to comply with an order issued pursuant to subdivision seven of section 230 of the public health law to submit to a medical or psychiatric examination when the Hearing Committee has reason to believe that a licensee may be impaired by alcohol, drugs, physical disability or mental disability. 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 Department recommended revocation of the Respondent's medical license or, at minimum, a suspension pending the Respondent's successful completion of an assessment to show that he is mentally fit to practice medicine.

The Hearing Committee noted the Respondent's absence from this proceeding and his failure to present any explanations to the Hearing Committee, leaving the Committee to make its determination based solely upon the exhibits offered by the Department. The Hearing Committee does not believe that revocation of the Respondent's medical license is an appropriate penalty to address the issues identified by the Arizona Board, and which the Respondent willingly acknowledged.

Had the Respondent complied with the Arizona Board's August 20, 2020 Interim Order, questions regarding the Respondent's fitness would have already been addressed and further penalties would likely be deemed unnecessary. Instead, the hearing record reflects cause for concern with respect to the Respondent's alcohol use, given his arrest for driving under the influence in New Hampshire after a traffic stop, and unanswered questions regarding the Respondent's overall fitness to practice medicine, due to the Respondent's failure to undergo a PHP Assessment. For these reasons, the Hearing Committee has determined to impose a suspension of the Respondent's medical license, until such time as the Respondent undergoes and completes a PHP assessment, is deemed upon conclusion of that assessment to be fit to practice medicine, and provides the results of the assessment to the Office of Professional Medical Conduct.

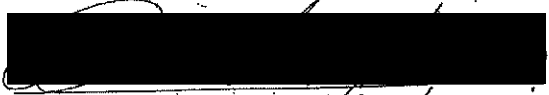
ORDER

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 hereby suspended, wholly, until the Respondent undergoes and completes an assessment by a Physician Health Program, is deemed as a result of that assessment to be fit to practice medicine, and submits the results of that assessment to the Director of the Office of Professional Medical Conduct. PHL § 230-a(2)(e).
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

DATED: May 17, 2023

Albany, New York


David E. Kaplan, M.D., Chairperson
Mohammad-Reza Ghazi-Moghadam, M.D.
David F. Irvine, DHSc, P.A.

To: Ralph Falk, M.D.


Marc S. Nash, Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

IN THE MATTER
OF
RALPH FALK, M.D.

STATEMENT
OF
CHARGES

RALPH FALK, the Respondent, was authorized to practice medicine in New York State on or about September 25, 1989, by the issuance of license number 180154 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 20, 2020, the Arizona Medical Board (hereinafter, "Arizona Board") issued a Confidential Interim Order for Physician Health Program (hereinafter "PHP") Assessment directing Respondent to undergo and successfully complete an assessment with a Board approved assessor, that Respondent is to contact the assessor within 3 days of receipt and complete the assessment within ten days.

B. On or about October 27, 2021, the Arizona Medical Board (hereinafter, "Arizona Board") issued an Order for Letter of Reprimand; and Consent to Same, and issued Respondent a Letter of Reprimand. This letter was issued based on Respondent's violation of a formal Order; specifically, Respondent violated the Arizona Board's August 20, 2020, Interim Order when he failed to schedule a Physician Health Program assessment within fourteen days and failed to complete such assessment within 30 days.

C. The Conduct resulting in the Arizona Board's disciplinary action against Respondent 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(15) (Failure to comply with an order issued pursuant to subdivision seven, paragraph (a) of subdivision ten of section two hundred thirty of the public health law).

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 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(15)) as alleged in the facts of the following:

1. Paragraphs A, B, C, and C.1

DATE: March 30, 2023
Albany, New York



JEFFREY J. CONKLIN
Deputy Director
Bureau of Professional Medical Conduct