



Department of Health

KATHY HOCHUL
Governor

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

JOHANNE E. MORNE, M.S.
Acting Executive Deputy Commissioner

October 31, 2023

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mahendra Panchal, M.D.


Kathleen A. Barclay, Esq.
O'Connor First
20 Corporate Woods Blvd.
Albany, New York 12211

Ian Silverman, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Division of Legal Affairs
Corning Tower Building, Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Mahendra Panchal, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 23-223) 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 solid black rectangular box redacting the signature of the sender.

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

6907

-----X
IN THE MATTER

DETERMINATION

OF

AND

MAHENDRA PANCHAL, M.D.

ORDER

BPMC-23-223
-----X

A Notice of Referral Proceeding and Statement of Charges dated May 24, 2023, were duly served upon Mahendra Panchal, M.D. (Respondent) pursuant to Public Health Law (PHL) § 230(10)(d)(i). (Dept. Exhibit 2.) A hearing was held on October 25, 2023, via WebEx videoconference. Pursuant to PHL § 230(10)(e), **ANDREW J. MERRITT, M.D.**, Chairperson, **RAMANATHAN RAJU, M.D.**, and **SUSAN KSIAZEK**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. **KATHLEEN DIX**, Administrative Law Judge, served as the administrative officer.

The Department appeared by Ian H. Silverman, Associate Counsel. The Respondent appeared with his attorney, Kathleen A. Barclay, Esq. and testified on his own behalf. The Hearing Committee received and examined documents from the Department (Dept. 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, placing the Respondent on probation for a period of five years. 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) for having his license to practice medicine revoked in California after a disciplinary 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 State on or about May 24, 2006, by the issuance of license number 240302 by the New York State Education Department. (Dept. Exhibit 1.)

2. On May 11, 2022, by way of Stipulated Settlement and Disciplinary Order the Medical Board of California, Department of Consumer Affairs (Medical Board of California) determined that the Respondent had committed repeated negligent acts in violation of the California's Medical Practice Act, Business and Professions Code Section 2234. The Medical Board of California revoked the Respondent's license but stayed the Respondent's revocation and placed the Respondent on probation for five (5) years with terms and conditions including an educational program and a practice monitor. (Dept. Exhibit 3.)

DISCUSSION

The Medical Board of California Order was based upon the following facts for which the Respondent agreed that his Physician's and Surgeon's certificate was subject to discipline and for which the Respondent agreed to be bound by the Medical Board of California's imposition of discipline as set forth in the Disciplinary Order: In or around January 2019, the Respondent, a board-certified radiologist, performed substandard care by inaccurately reading and/or interpreting medical image studies, for five (5) trauma patients resulting in unnecessary and/or compromised patient care. The Respondent was notified that these cases would be going through the peer review process and on or about April 1, 2019, during the pendency of the peer review, the Respondent submitted his notice of resignation to his employer. (Dept. Exhibit 3.) The Medical Board of California found that the Respondent's "overcalls" - his inaccurately reading and/or interpreting medical image studies - were repeated acts of negligence, and that, coupled with his resignation during the pendency of the peer review, was unprofessional conduct.

The Hearing Committee has thoroughly considered the evidence in this matter. The Hearing Committee agreed that the Respondent's conduct resulting in the Medical Board of California disciplinary action would, if committed in New York, constitute misconduct pursuant to Education Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion based upon the Respondent's failure to adhere to applicable standards of care in inaccurately reading and/or interpreting medical image studies. 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 including revocation, suspension and/or probation, and the penalties recommended by both parties. The Department recommended a three (3) year suspension with monitoring and probation, at minimum, and revocation, at a maximum. The Respondent requested a dismissal of the charges in the interest of justice.

In reviewing the facts cited by the Medical Board of California in the January 31, 2022, Stipulated Settlement and Disciplinary Order and the July 25, 2022, Decision and Order, the Hearing Committee concluded that the most appropriate penalty in this case is the imposition of a five (5) year period of probation under the supervision of a practice monitor.

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 is placed on probation for a period of five years subject to the conditions provided in the Terms of Probation (Appendix I) and tolled when the Respondent is not engaged in the practice of medicine in the state of New York. PHL § 230-a(9).
3. The Respondent must comply with the terms of this Determination and Order and all the attached Terms of Probation.

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

DATED: 10/30, 2023
_____, New York



ANDREW J. MERRITT, M.D., Chairperson
RAMANATHAN RAJU, M.D.
SUSAN KSIAZEK

To: Mahendra Panchal, M.D.



Ian H. Silverman, Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Division of Legal Affairs
Corning Tower Building – Room 2512
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Albany, New York 12237

Kathleen A. Barclay, Esq,
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Albany, NY 12211

IN THE MATTER
OF
MAHENDRA PANCHAL, M.D.

STATEMENT
OF
CHARGES

MAHENDRA PANCHAL, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 24, 2006, by the issuance of license number 240302 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 25, 2022, the Medical Board of California (California Board) issued a Disciplinary Order against the Respondent revoking his medical license. However, the California Board stayed the revocation and place Respondent on probation for five years. Respondent was required to complete 40 hours of Continuing Medical Education. For the duration of the probation Respondent is subject to monitoring and prohibited from engaging in the solo practice of medicine. During probation Respondent is prohibited from supervising physician assistants and advanced practice nurses. Respondent was ordered to reimburse the California Board \$10,048.75 for its investigation and enforcement. The California Board Order stemmed from Respondent's treatment of Patients A through E from December 2018 through February 2019. Respondent was disciplined for committing repeated negligent acts and for unprofessional conduct.

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: May 24, 2023
Albany, New York


Jeffrey J. Conklin
Deputy Director
Bureau of Professional Medical Conduct

APPENDIX I

APPENDIX I

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 Education Law § 6530 or § 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to PHL § 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 the OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall cooperate fully with and respond in a timely manner to the OPMC requests to provide written periodic verification of his compliance with these terms. Upon the Director of the OPMC's request, Respondent shall meet in person with the Director's designee.
5. 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 the 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.

6. The Director of the 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 the OPMC offices.
7. The Respondent shall practice medicine only under the supervision of a practice monitor proposed by the Respondent and subject to the written approval of the Director of the OPMC. The practice monitor shall be licensed and in good standing to practice medicine in New York, in the Respondent's field of practice and who agrees to be the Respondent's practice monitor. The practice monitor shall have no prior or current business or personal relationship with the respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render a fair and unbiased report to the Director of the OPMC, with the Respondent to pay all monitoring costs. The practice monitor shall review the Respondent's reading and interpreting of medical image studies at least monthly, by reviewing a minimum of four cases each month. The review will determine whether the Respondent's reading and interpreting of medical image studies are conducted in accordance with generally accepted standards of practice. Any perceived deviation of accepted standards or refusal to cooperate with the monitor shall be reported within 24 hours to the OPMC. The Respondent shall remain solely responsible for all expenses associated with monitoring, including fees, if any, to the practice monitor. The Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of the OPMC.
8. The 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 PHL § 230(18)(b). Proof of coverage shall be submitted to the Director of the OPMC prior to the Respondent's practice after the effective date of this Order.
9. The Respondent shall comply with all terms, conditions, restrictions, requirements, and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of non-compliance with, or any violation of these terms, the Director of the OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding against the Respondent as may be authorized by law.