



**Department
of Health**

KATHY HOCHUL
Governor

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

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

September 20, 2023

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Janet Baird, M.D.



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

RE: In the Matter of Janet Baird, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 23-194) 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 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

ORIGINAL

-----X
: IN THE MATTER :
:

DETERMINATION

OF :

AND

JANET BAIRD, M.D. :
:

ORDER

: BPMC-23-194
-----X

A Notice of Referral Proceeding and Statement of Charges dated July 27, 2023, were duly served upon Janet Baird, M.D. (Respondent) pursuant to Public Health Law (PHL) § 230(10)(d)(i). (Exhibits 1, 2.) A hearing was held on September 7, 2023, via WebEx videoconference. Pursuant to PHL § 230(10)(e), **JAMES G. EGNATCHIK, M.D.**, Chairperson, **Barry Rabin, M.D.**, and **MASSOUD MIAN**, 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 Pooja A. Rawal, Assistant 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, revoking the Respondent's medical license. 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 her license to practice medicine suspended along with other action taken in Pennsylvania 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 June 1, 1999, by the issuance of license number 214139 by the New York State Education Department. (Exhibit 5.)

2. On June 21, 2022, by way of Consent Order, the Pennsylvania State Board of Medicine (Pennsylvania Medical Board) determined that the Respondent engaged in unprofessional conduct in violation of Pennsylvania's Medical Practice Act Section 41(8), 63 P.S. § 422.41(8), and the Pennsylvania Medical Board's regulations at 49 PA. Code § 16.92. The Pennsylvania Medical Board indefinitely suspended the Respondent's license, but stayed the suspension in favor of probation for a term of at least one year, during which the Respondent would only be able to practice medicine under the supervision of a practice monitor, which would continue until such time as the "practice monitor is able to opine that the Respondent is able to practice the profession on her own, with reasonable skill and safety to patients". (Exhibit 4.)

DISCUSSION

On August 2, 2023, a process server attempted to personally serve the Respondent at the address shown on the Consent Agreement between the Respondent and the

Pennsylvania Board,. At this location was a medical practice, and an employee from the medical practice advised that the Respondent did not work there and believed the Respondent was the prior tenant. On August 4, 2023, a process attempted to personally serve the Respondent at the address on file with the New York State Education Department. At this location was a fitness studio; the Respondent was not located at this address. The process server also attempted to personally serve the Respondent at the Respondent's last known personal residence, which property appeared abandoned. After certifying under oath that personal service could not be made after due diligence, the Department served the Notice of Hearing and Statement of Charges by certified mail to the Respondent at the address on file with the New York State Education Department pursuant to PHL § 230(10)(d). (Exhibits 1, 2.) Upon 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 Pennsylvania Medical Board's Order was based upon the following facts, which the Respondent admitted are true and stipulated to, relating to the Respondent's treatment of at least 13 patients, for whom she regularly prescribed controlled substances, and failed to take an adequate initial medical history prior to prescribing controlled substances; failed to perform an adequate initial physical examination prior to prescribing controlled substances; failed to appropriately query the Pennsylvania Prescription Drug Monitoring Program prior to prescribing controlled substances; failed to perform adequate periodic re-evaluations prior to writing prescriptions for controlled substances; failed to provide adequate patient counseling regarding the conditions diagnosed and the drugs prescribed prior to writing prescriptions for controlled substances; and failed to keep accurate and complete

medical records to document evaluations performed and care given to the patients while writing prescriptions for controlled substances. (Exhibit 4.)

The Hearing Committee has thoroughly considered the evidence in this matter. The Hearing Committee agreed that the Respondent's conduct resulting in the Pennsylvania Medical Board's 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 prescribing controlled substances; and pursuant to Education Law § 6530(32) by failing to maintain a record for each patient to whom she prescribed controlled substances which accurately reflected the evaluation and treatment of the patient. 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 and agreed with the Department's recommendation that the Respondent's medical license should be revoked.

In reviewing the facts cited by the Pennsylvania Medical Board in the June 7, 2022, agreement and the June 21, 2022, Order, the Hearing Committee is concerned over the Respondent's failure to adhere to applicable standards of care in prescribing controlled substances, her failure to maintain adequate patient records for each patient for whom she prescribed controlled substances, and the potential impact on patients in New York should the Respondent relocate her practice to New York. The Hearing Committee noted the Respondent's failure to keep her contact information current with New York State. Given the seriousness of the matter and the Respondent's failure to appear to respond to the charges

brought by the Department, the Hearing Committee finds that the only appropriate penalty in this matter is revocation of the Respondent's license to practice medicine in the State of New York.

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 revoked. 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: September 18, 2023

Buffalo, New York


James G. Egnatchik, M.D., Chairperson
Barry Rabin, M.D.
Massoud Mian

To: Janet Baird, M.D.


Pooja Rawal, Assistant Counsel
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

IN THE MATTER
OF
JANET BAIRD, M.D.

STATEMENT
OF
CHARGES

JANET BAIRD, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 1, 1999, by the issuance of license number 214139 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 21, 2022, the Respondent was disciplined by the Medical Board of Pennsylvania ("PA Board"). The Respondent's license was indefinitely suspended and stayed, and she was placed on probation. The Respondent was ordered to obtain a practice monitor for one year to assess charts and prescribing practices. The PA Board's Order was based on the Respondent's improper prescribing of controlled substances and inadequate record keeping regarding thirteen patients.

B. The conduct resulting in the PA Board's disciplinary action against the Respondent would constitute misconduct under the laws of New York State pursuant to the following section of New York State Law:

1. N.Y. Educ. Law § 6530(3) (Practicing the profession of medicine with negligence on more than one occasion); and/or
2. N.Y. Educ. 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 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 as alleged in the facts of the following:

1. The facts in Paragraphs A, B, and/or B1 and/or B2.

DATE: July 27, 2023
New York City, New York



HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct