



## Department of Health

KATHY HOCHUL  
Governor

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

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

March 28, 2024

### CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Lindsay E. Ray, Esq.  
Baker Donelson Bearman Caldwell & Berkowitz, P.C.  
1600 West End Avenue, Suite 2000  
Nashville, Tennessee 37203

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

**RE: In the Matter of Linda Gordon, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 24-070) 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:

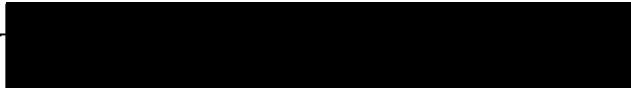
Jean T. Carney, Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Riverview Center  
150 Broadway – Suite 510  
Albany, New York 12204

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 redaction box covering the signature of the sender.

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

In the matter of

**Linda Gordon, MD**  
NYS license # 220666

**Determination  
and Order**

BPMC-24-070

A Notice of Referral Proceeding dated November 1, 2023 and Statement of Charges dated October 31, 2023 were served on Respondent **Linda Gordon, MD**. (Exhibit 2.) The statement of charges alleged professional misconduct in violation of New York State Education Law (Education Law) § 6530. A hearing was held by videoconference on March 20, 2024.

Pursuant to Public Health Law (PHL) § 230(10)(e), **Steven Sherman, DO, MS, Chair**, and **Elisa E. Burns, MD**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee.<sup>1</sup> **Jeanne T. Arnold**, Administrative Law Judge, served as the administrative officer.

The Department of Health (Petitioner) was represented by **Ian H. Silverman, Esq.** **Linda Gordon, MD** (Respondent) appeared and was represented by Baker, Donelson, Bearman Caldwell & Berkowitz, PC, **Lindsay E. Ray, Esq.**, of counsel. After consideration of the entire record, the hearing committee determines that the charge is not sustained.

**JURISDICTION**

The Respondent, a physician, has been charged with misconduct pursuant to Education Law § 6530(9)(d). Pursuant to PHL § 230(10)(p), a hearing on limited issues, or

<sup>1</sup> An initially appointed third committee member was unable to serve due to emergency and was not replaced due to the unanimity of the remaining committee members. PHL § 230(10)(g).

“direct referral proceeding,” is authorized when a licensee is charged solely with a violation of Education Law § 6530(9). Charges of misconduct under Education Law § 6530(9) are based upon a criminal conviction or an administrative violation, in New York State or another jurisdiction, establishing conduct that would constitute a crime or professional misconduct if committed in New York. PHL § 230(10)(p). Penalties which may be imposed are set forth at PHL § 230-a. Hearing procedures are set forth in Department of Health regulations at 10 NYCRR Part 51.

#### HEARING RECORD

Witnesses for the Petitioner: None  
Petitioner exhibits: 1-4  
Witnesses for the Respondent: Respondent  
Respondent exhibits: A-B  
A stenographic transcript of the hearing was made.

#### FINDINGS OF FACT

1. Respondent Linda Gordon, MD was authorized to practice medicine in New York State on March 22, 2001 under license number 220666. (Exhibit 3.)
2. On November 3, 2022, the Virginia Board of Medicine (Virginia Board) entered a consent order, in which the Respondent voluntarily surrendered her right to renew her license to practice medicine in the Commonwealth of Virginia. (Exhibit 4.)
3. The Virginia Board order was based upon its finding that the Respondent was dismissed from the Virginia Health Practitioners Monitoring Program (Virginia Monitoring Program) on February 8, 2022 for failure to comply with the toxicology screening program, monthly reporting requirements and failure to respond to communication from the program. (Exhibit 4.)

**HEARING COMMITTEE DETERMINATION**

The Petitioner charges that the Respondent committed professional misconduct, pursuant to PHL § 6530(9)(d) by having voluntarily surrendered her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, **where the conduct resulting in the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state.** The Petitioner contends that the conduct alleged would, if committed in New York, be violative of Education Law § 6530(8), "having a psychiatric condition which impairs the licensee's ability to practice" and seeks revocation or, in the alternative, probation pursuant to Education Law § 230-a(9).

The conduct that the voluntary surrender was based solely on was the Respondent's dismissal from the Virginia Monitoring Program on February 8, 2022. (Exhibit 4.) The Respondent voluntarily signed a Recovery Monitoring Contract on August 1, 2021 after being referred to the Virginia Monitoring Program by the Alabama Professionals Health Program (Alabama Monitoring Program) for continued treatment and monitoring of her mental health disorder when the Respondent sought reinstatement of her expired Virginia medical license for a professional opportunity in Virginia. The Contract required, among other things, participation in the toxicology screening program. (Exhibit 4; T Respondent.) The Respondent testified that she was unfamiliar with the Virginia Monitoring Program, she never had to submit to toxicology screens in any other jurisdiction and never had a substance abuse problem. Therefore, initially she was not aware that she had to submit to frequent urine screens. Nonetheless, once she understood what was required, the Respondent complied with the screens and never tested positive. She missed screens only when she was on medical

leave and in the hospital and when she already left Virginia and returned to Alabama. The Respondent testified that her work site monitor also did not report in a timely manner and that she discussed this issue with both her monitor and the Alabama Monitoring Program. (Exhibit A.) Ultimately on January 21, 2022, the same day that the Respondent's attorney notified the Virginia Monitoring Program that the Respondent wished to withdraw because she moved back to Alabama, the program placed the Respondent on warning status. Despite the attorney's notice requesting that he be contacted if anything else was necessary to effectuate the withdrawal, the Virginia Monitoring Program dismissed the Respondent on February 8, with no notice. (Exhibit 4; T Respondent.)

The hearing committee disagreed that the Virginia Board's order was based on conduct that, if committed in New York, would constitute misconduct pursuant to Education Law § 6530(8), having a psychiatric condition which impairs the licensee's ability to practice. While the Respondent admits that she has a mental health disorder, the Department offered no evidence that it impairs her ability to practice medicine. To the contrary, even the Virginia Board consent order cites an evaluation by Acumen Assessments concluding that the Respondent is fit to practice medicine. (Exhibit 4.) The Respondent testified that her mental health condition does not affect her practice and there was never any allegation of malpractice in her career as a pediatrician. The Respondent continues to practice medicine as a pediatrician in Alabama, continues to voluntarily participate in the Alabama Monitoring Program, and follows the terms and conditions of the monitoring agreement. (Exhibit B.) The Respondent testified that if she practices medicine in New York, she will voluntarily enroll in a Physicians Health Monitoring Program, as she has always done.

The hearing committee concluded that the charge against the Respondent should not be sustained and recommends that, if the Respondent renews her license in New York, she voluntarily enroll in a Physicians Health Monitoring Program.

ORDER


**IT IS HEREBY ORDERED THAT:**

1. The Charge that Respondent committed professional misconduct pursuant to Education Law § 6530(9)(d) is not sustained.
2. If the Respondent renews her license to practice medicine in New York State, a Physicians Health Monitoring Program is recommended.

This order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required under PHL 230(10)(h).

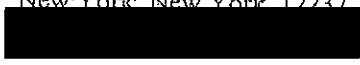
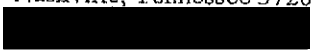
Dated: Albany, New York

By:

  
Steven Sherman, DO, MS, Chair  
Elisa Burns, MD

3/25/2024

To: Ian H. Silverman, Esq.  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
New York, New York 12237

  
  
Lindsay E. Ray, Esq.  
Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.  
1600 West End Avenue, Suite 2000  
Nashville, Tennessee 37203  


IN THE MATTER

OF

LINDA GORDON, M.D.

STATEMENT  
OF  
CHARGES

LINDA GORDON, M.D. the Respondent, was authorized to practice medicine in New York State on or about March 22, 2001, by the issuance of license number 220666 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about November 3, 2022, the Medical Board of Virginia (Virginia Board) issued a disciplinary order against the Respondent's license by accepting a Voluntary Permanent Surrender of Respondent's license. The Voluntary Permanent Surrender was based upon Respondent's dismissal from the Virginia Health Practitioner's Monitoring Program (HPMP) for failing to comply with the toxicology screening program, monthly reporting procedures and reporting to the HPMP. Respondent signed a contract with HPMP for continued treatment of [REDACTED] which required her to [REDACTED] participate in the HPMP toxicology screening program. In August of 2021 Respondent received a warning letter for missing three check in appointments. On October 7, 2021, Respondent was notified the HPMP had not received reports required to return to work. Respondent missed additional check in appointments in November of 2021, December of 2021, and January 13, 2022. Respondent was dismissed from HPMP on February 8, 2022.

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 (8) (being a habitual abuser of alcohol or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects, except for a licensee who is



maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice).

**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 (8) as alleged in the facts of the following:

1. The facts in Paragraph A and B.

DATE: October 30, 2023  
Albany, New York

  
Jeffrey J. Conklin  
Deputy Director  
Bureau of Professional Medical Conduct