

December 30, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUEST

Amir Mordechai Friedman, M.D.
310 Woodstown Road
Salem, New Jersey 08079

Amir Mordechai Friedman, M.D.
REDACTED

Daniel Hurtequ, Esq.
Nixon Peabody, LLP
677 Broadway - 10th Floor
Albany, New York 12207

Jude Mulvey, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

RE: In the Matter of Amir Mordechai Friedman, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 13-431) 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. 2013) and ~~§230-c subdivisions 1 through 5; (McKinney Supp. 2013); "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:

James F. Horan, Esq., Chief 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 Mr. Horan 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,

REDACTED

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH:cah
Enclosure

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

COPY

IN THE MATTER

OF

AMIR MORDECHAI FRIEDMAN, M.D.
C0-08-11-6924-A

DETERMINATION

AND

ORDER

BPMC #13-431

A hearing was held on November 14, 2013, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding dated May 16, 2013 and Statement of Charges dated December 2, 2009, were served upon the Respondent, Amir Mordechai Friedman, M.D. Pursuant to Section 230(10)(e) of the Public Health Law, Frank E. Iaquinta, Chairperson, Ralph W. Liebling, M.D., and Gail S. Homick Herrling duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Christine C. Traskos, Esq. Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by James Dering, Esq., General Counsel, by Jude Mulvey, Esq. of Counsel. The Respondent appeared by Nixon Peabody, LLP, Daniel Hurteau, Esq. of Counsel.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

BACKGROUND

This proceeding was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a

violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In this case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and Education Law Section 6530(9)(d).

Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix I.

WITNESSES

For the Petitioner:

None

For the Respondent:

Amir Mordechai Friedman, M.D.

Warren Brandwine, M.D.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." or transcript page numbers ("T."). These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Amir Mordechai Friedman, M.D., the Respondent, was authorized to practice medicine in New York State on February 16, 2006, by the issuance of license number 239005 by the New York State Education Department. (Petitioner's Ex.4)

2. On October 14, 2008, the Board of Healing Arts of the State of Kansas, (hereinafter "Kansas Board"), by a Final Order, (hereinafter "Kansas Order"), revoked Respondent's license to practice medicine and assessed \$35, 635.27 costs, based on failure to adhere to the applicable standard of care and having medical records that were misleading. (Petitioner's Ex. 5)

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state.

VOTE: Sustained (3-0)

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation or other disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York state.

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

At the hearing, Respondent testified that he left Kansas for New Jersey in December 2005 before any charges had been filed by the Kansas Board. Respondent met with the New Jersey Board in 2006 after the Kansas charges were pending. The New Jersey Board issued an unrestricted license to Respondent but placed him in the New Jersey Professional Assistance Program (PAP). (T. 35-37) The New Jersey Board allowed Respondent to work at Salem Hospital with a practice monitor. Respondent was also required to attend psychiatric and therapy sessions on a weekly basis. (T. 37) After Respondent's license was revoked in Kansas in 2008, he was excluded from participating in Medicare and Medicaid. (T.40) Respondent's eligibility was restored in 2010. (Resp. Ex. C) Respondent also had to retake his board exams to be recertified by the American Board of Obstetrics and Gynecology. He passed the exam and is presently board certified. (Resp. Ex. D; T. 46-47) After he was reinstated to Medicare and Medicaid, Respondent applied to Virtua Health System and presently practices with a monitor. (T. 41, 49) Respondent stated that he remains in PAP because it is helpful to him. (T. 38) Respondent expressed remorse for his actions in Kansas because it affected patient care and caused a breakdown in communication with the nurses. (T.52-53)

Respondent also offered the testimony of Warren Brandwine, M.D. via telephone. Dr. Brandwine is board certified in OB/GYN and has been in practice for nearly 34 years. He is chairman of the OB/GYN Department at the Virtua hospital

where Respondent is employed. Dr. Brandwine stated that he hired Respondent as a provisional employee and that he was subjected to a Focused Professional Practice Evaluation (FPPE). Dr. Brandwine also stated that he was apprehensive about Respondent's history so he "kept a fairly close watch on him."(T. 70) Dr. Brandwine finds Respondent to be a very capable physician and there are no complaints from patients or other adverse reports. (T. 70)

The Hearing Committee is troubled by Respondent's lack of remorse for the negligent treatment of his Kansas patients. In particular, Respondent failed to perform pap examinations and other testing for a patient who complained of irregular vaginal bleeding on multiple occasions. This patient ultimately died from cancer that originated in the cervix.(Pet. Ex. 5, Count IV) Respondent also failed to properly transcribe the results of an antibody screen of another patient. This patient ultimately gave birth to a stillborn son. (Pet. Ex. 5, Count V) Respondent was also not forthcoming with the Hearing Committee about his pending New Jersey disciplinary hearing.

While the Department is seeking a revocation, the Hearing Committee finds that Respondent has made great efforts to work his way back to practice his profession after his past misconduct. They note that Respondent has been reinstated by ACOG as well as Medicare and Medicaid. Respondent's present day job performance is impeccable according to Dr. Brandwine and there are no adverse reports from patients or staff.

The Hearing Committee believes that Respondent has made significant progress in his rehabilitation, but he still requires serious oversight. As a result, the

Hearing Committee concludes that Respondent' llcense to practice in New York State shall be suspended for an actual period of three (3) years on the effective date of this Determination and Order. At the end of the actual suspension, Respondent shall be placed on a five (5) year probatlon with a practice monitor and a practice supervisor. During the probation period, the Respondent shall successfully complete continuing medical education (CME) programs in ethics and medical documentation. The entire probation period shall be tolled until such time when Respondent returns to practice in New York, as per his stated intention. Respondent shall provide notice to OPMC at least 90 days before he returns to practice in this state. The terms of probation are attached hereto as Appendix II and are incorporated into this Order.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**;
2. The license of the Respondent to practice medicine in New York State is hereby **SUSPENDED FOR A PERIOD OF THREE (3) YEARS** commencing on the **effective date of this Order**;
3. After the three year suspension period, Respondent is placed on a term of probation for **FIVE (5) YEARS**. The terms of the probation are attached hereto as Appendix II and are incorporated into this Order;
4. This Order shall be effective upon service on the Respondent by personal service or registered or certified mail in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Pelham, New York

Dec. 26, 2013

REDACTED

Frank E. Iaquina, M.D.
Chairperson

Ralph W. Liebling, M.D.
Gail S. Homick Herring

TO:

Amir Mordechai Friedman, M.D.
310 Woodstown Road
Salem, NJ 08079

Amir Mordechai Friedman, M.D.
;REDACTED
;

Daniel Hurteau, Esq.
Nixon Peabody, LLP
677 Broadway, 10th Fl.
Albany, NY 12207

Jude Mulvey, Esq.
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower- Rm. 2512
Empire State Plaza
Albany, NY 12237

APPENDIX I

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

IN THE MATTER
OF
AMIR MORDECHAI FRIEDMAN, M.D.
CO-08-11-5924-A

NOTICE OF
REFERRAL
PROCEEDING

TO: AMIR MORDECHAI FRIEDMAN, M.D.
310 Woodstown Road
Salem, NJ 08079

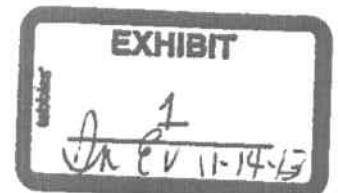
AMIR MORDECHAI FRIEDMAN, M.D.
REDACTED

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 21st day of August, 2013, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Albany, NY 12204-2719.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered that would show that the conviction would not be a crime in New York State. The Committee also



may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway, Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten (10) days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health, whose name appears below. You may file a written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney, indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide, at no charge, a qualified interpreter of the deaf to interpret the proceedings to and the testimony of, any deaf person. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51 8(b), the Petitioner demands, hereby, disclosure of the evidence that Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence, and a description of physical and/or other evidence that cannot be photocopied.

YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here _____

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five (5) days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

May 16, 2013

REDACTED

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Jude B. Mulvey
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

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

IN THE MATTER
OF
AMIR MORDECHAI FRIEDMAN, M.D.
CO-08-11-6924-A

STATEMENT
OF
CHARGES

AMIR MORDECHAI FRIEDMAN, M.D., Respondent, was authorized to practice medicine in New York state on February 16, 2006, by the issuance of license number 239055 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 14, 2008, the Board of Healing Arts of the State of Kansas, (hereinafter "Kansas Board"), by a Final Order, (hereinafter "Kansas Order"), revoked Respondent's license to practice medicine and assessed \$35,635.27 costs, based on failure to adhere to the applicable standard of care and having medical records that were misleading.

B. The conduct resulting in the Kansas 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(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (negligence on more than one occasion);
3. New York Education Law §6530(20) (moral unfitness);
4. New York Education Law §6530(30) (neglecting a patient under and in need of immediate professional care without making reasonable arrangements for the continuation of such care); and/or
5. New York Education Law §6530(32) (failure to maintain a record for each patient that accurately reflects the evaluation and treatment of the patient).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(d) by having his license to practice medicine revoked and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license revocation and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that the Petitioner charges:

2. The facts in Paragraphs A and/or B.

DATED: *December 2*, 2009
Albany, New York

REDACTED

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

APPENDIX II

Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), 150 Broadway, Suite 355, Menands, New York 12204-2719. Said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State, Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more, Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
6. Respondent shall enroll in and complete a continuing education program in the area of ethics and medical documentation. Said continuing education programs shall be subject to the prior written approval of the Director of OPMC and be completed within the first year of probation.

7. Respondent shall practice only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to written approval of the Director of OPMC.

- a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no less than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
- b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
- c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
- d. 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 Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's return to practice medicine in New York State.

8. Respondent shall practice medicine only when supervised in his medical practice. The practice supervisor shall be board certified and be on-site at all locations, unless determined otherwise by the Director of OPMC. The practice supervisor shall be proposed by Respondent and subject to the written approval of the Director. The practice supervisor shall not be a family member or personal friend, or be in a professional relationship which could pose a conflict with supervision responsibilities.

9. Respondent shall ensure that the practice supervisor is familiar with the Order and terms of probation, and willing to report to OPMC. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.

~~10. Respondent shall authorize the practice supervisor to have access to his patient records and to submit quarterly written reports to the Director of OPMC, regarding Respondent's practice. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to the evaluation and treatment of patients, general demeanor, time and attendance, the supervisor's assessment of patient records selected for review and other such on-duty conduct as the supervisor deems appropriate to report.~~

11. Respondent shall provide the Director of OPMC with 90 day's notice prior to his return to practice medicine in New York State.

12. Respondent shall comply with all terms, conditions, restrictions, limitations 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 noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.