

**NEW YORK**  
state department of  
**HEALTH**

Public

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

February 25, 2014

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Yogesh Pancholi, M.D.  
REDACTED

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

**RE: In the Matter of Yogesh Pancholi, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 14-41) 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. 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 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:

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  
YOGESH PANCHOLI, M.D.  
C0-11-07-3962-A**

**DETERMINATION**

**AND**

**ORDER**

BPMC #14-41

A hearing was held on January 22, 2014, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Summary Order dated February 22, 2013, and a Notice of Referral Proceeding and Statement of Charges both dated November 20, 2013, were served upon the Respondent, Yogesh Pancholi, M.D. Pursuant to Section 230(10)(e) of the Public Health Law, Robert A. Catalano, M.D., M.B.A. Chairperson, James Michael Leonardo, M.D., Ph.D. and Janet M. Miller, R.N. 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 B. Mulvey, Esq. of Counsel. The Respondent did not appear and was not represented by 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.



considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. The Respondent, Yogesh Pancholi, M.D., did not appear although he was duly served. (Petitioner's Ex.2)

2. Yogesh Pancholi, M.D., the Respondent, was authorized to practice medicine in New York State on September 19, 2000 by the issuance of license number 219237 by the New York State Education Department. (Petitioner's Ex. 4)

3. On or about April 13, 2011, the State of Rhode Island, Department of Health, Board of Licensure and Discipline (hereinafter "Rhode Island Board"), by Order of Summary Suspension of License, immediately suspended Respondent's license to practice medicine. The basis of the Rhode Island Board's action was that Respondent's continued practice of medicine constitutes an immediate threat to the health, welfare and safety of the public by evidence of an impairing disorder, alcohol abuse and marijuana abuse and by abandoning records with patient names and other information, which were found by Respondent's landlord at Respondent's former medical offices.

4. On or about September 11, 2013 by Consent Order, the Rhode Island Board reinstated Respondent's Rhode Island medical license, issued a reprimand to Respondent, ordered Respondent to pay \$1,000 costs, to work with the Physician's Health Foundation of Louisiana for five years from September 11, 2013 and to ensure that performance reports are provided to the Rhode Island Board's Chief administrative Officer every six months. The Rhode Island discipline was based on conduct including dependence on a controlled substance, failing to conform to the minimal standards of

acceptable and prevailing medical practice and/or abandoning medical records with patient names or other identifying information.

### **VOTE OF THE HEARING COMMITTEE**

#### **FIRST 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**

The Respondent did not appear at the hearing and he provided no explanation or mitigation information. The Hearing Committee notes that at present Respondent's license to practice medicine in Rhode Island has been restored and that he was not placed on probation after his reprimand. Respondent however must ensure the Rhode Island Board that timely performance reports are submitted by the Physician's Health Foundation of Louisiana for a five year period.

The Hearing Committee finds that Respondent has a history of practicing in New York State and it is conceivable that he may return to practice here in the future. The Hearing Committee is concerned about Respondent's impairment issues and his ability to manage patient medical records. As a result, they

conclude that if the Respondent elects to return to practice in New York State, he should be placed on probation for a period of three years. The terms of probation shall include the provision of a practice monitor and a requirement that Respondent successfully complete a continuing medical education program in the area of patient records management. The entire probation period shall be tolled until such time that Respondent returns to practice in New York. The terms of probation are attached hereto as Appendix II and are incorporated into this Order.

The Hearing Committee considered the full range of penalties available and was unanimous that a three year probation with practice monitor and continuing medical education would be the appropriate penalty to protect the public under the circumstances.

ORDER

**IT IS HEREBY ORDERED THAT:**

1. The specification of professional misconduct, as set forth in the Statement of Charges, is **SUSTAINED**;
2. The Respondent shall be placed on a term of probation for **THREE (3) YEARS**. The terms of the probation are attached hereto as Appendix II and are incorporated into this Order;
3. 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: Delmar, New York**

February 20, 2014

REDACTED

**Robert A. Catalano, M.D., M.B.A.**  
Chairperson

**James Michael Leonardo, M.D., Ph.D.**  
**Janet M. Miller, R.N.**



TO:

Yogesh Pancholi, M.D.  
REDACTED

Jude B. 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  
YOGESH PANCHOLI, M.D.  
CO-11-07-3962-A

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Yogesh Pancholi, 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 22<sup>nd</sup> of January, 2014, 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.

**EXHIBIT**

1

~~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

*Nov. 20*, 2013

REDACTED

✓ MICHAEL A. HISER  
Acting 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

---

IN THE MATTER  
OF  
YOGESH PANCHOLI, M.D.  
CO-11-07-3962-A

---

STATEMENT  
OF  
CHARGES

YOGESH PANCHOLI, M.D., Respondent, was authorized to practice medicine in New York state on September 19, 2000, by the issuance of license number 219237 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about April 13, 2011, the State of Rhode Island, Department of Health, Board of Licensure and Discipline (hereinafter "Rhode Island Board"), by Order of Summary Suspension of License, immediately suspended Respondent's license to practice medicine. The basis of the Rhode Island Board's action was that Respondent's continued practice of medicine constitutes an immediate threat to the health, welfare and safety of the public by evidence of an impairing disorder, alcohol abuse and marijuana abuse and by abandoning records with patient names and other information, which were found by Respondent's landlord at Respondent's former medical offices.

B. On or about September 11, 2013 by Consent Order, the Rhode Island Board reinstated Respondent's Rhode Island medical license, issued a reprimand to Respondent, ordered Respondent to pay \$1,000 costs, to work with the Physician's Health Foundation of Louisiana for five years from September 11, 2013 and to ensure that performance reports are provided to the Rhode Island Board's Chief Administrative Officer every six months. The Rhode Island discipline was based on conduct including dependence on a controlled substance, failing to conform to the minimal standards of acceptable and prevailing medical practice and/or abandoning medical records with patient names or other identifying information.

C. The conduct resulting in the Rhode Island Board 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(8) (habitual abuser of alcohol or drugs).
2. New York Education Law §6530(23) (revealing of personally identifying data).
3. New York Education Law §6530(32) (failing to maintain patient records).

**SPECIFICATION**  
**FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another 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 state, in that Petitioner charges:

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

DATED: *Nov. 20*, 2013  
Albany, New York

REDACTED  
\_\_\_\_\_  
MICHAEL A. HISER  
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 maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
7. Respondent shall enroll in and successfully complete a continuing education program in the area of medical record management. Said continuing education program shall be

subject to the prior written approval of the Director of OPMC and be completed within the first year of probation.

8. Respondent shall practice only when monitored by qualified health care professionals ("sobriety monitor", "practice supervisor" and "therapist") proposed by Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships which would pose a conflict with monitoring responsibilities.

9. Respondent shall ensure that the monitors are familiar with Respondent's drug/alcohol dependency and with the terms of the Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitors to submit required reports on a timely basis.

10. Respondent shall submit, at the request of a monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random seven days a week, twenty-four hours a day basis. Respondent shall report for a drug screen within four (4) hours of being contacted by the monitor. Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by Respondent or a test is positive for any unauthorized substance.

11. Respondent shall meet with a sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying Respondent's sobriety. These reports are to include a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than six (6) per month for the first 12 months of the period of probation, then at a frequency to be proposed by the sobriety monitor and approved by OPMC and b) an assessment of self-help group attendance (e.g., AA/NA/Caduceus, 12 step progress, etc.).

12. Respondent shall avoid all substances which may cause positive urines such as herbal tea, poppy seeds, mouthwash, cough medication. Any positive result will be considered a violation of this Order.

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

14. 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.