

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

Public

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

Sue Kelly  
Executive Deputy Commissioner

August 23, 2012

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Matthew J. Kachinas, M.D.  
All Women's Health Center  
4331 University Boulevard  
Jacksonville, Florida 32216

Matthew J. Kachinas, M.D.

REDACTED

Michael Bass, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Matthew J. Kachinas, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 12-173) 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. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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: nm  
Enclosure

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

COPY

IN THE MATTER  
OF  
MATTHEW J. KACHINAS, M.D.  
CO-10-04-2680-A

DETERMINATION

AND

ORDER

BPMC 12-173

A hearing was held on July 19, 2012, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated May 24, 2012, were served upon the Respondent, **Matthew J. Kachinas, M.D.**

Pursuant to Section 230(10) (e) of the Public Health Law, **Peter B. Kane, M.D.,** Chair, **Colleen F. O'Leary, M.D.,** and, **Henry Sikorski, Ph.D.,** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.,** Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **James E. Dering, Esq.,** General Counsel, by **Michael G. Bass, Esq.,** of Counsel. The Respondent, **Matthew J. Kachinas, M.D.,** did appear, *pro se*, and was duly served. Evidence was received and transcripts of these proceedings were made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

**STATEMENT OF CASE**

This case 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 the instant case, the Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(b) by having been found guilty of 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. The Respondent is also charged with violation of New York Education Law Section 6530(9)(d) by having his license to practice medicine revoked after a disciplinary action was instituted 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. Copies of the Notice of Referral Proceeding and the Amended Statement of Charges are attached to this Determination and Order as Appendix 1.

#### **WITNESSES**

For the Petitioner:

None

For the Respondent:

Matthew J. Kachinas, 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." 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. **Matthew J. Kachinas, M.D.**, the Respondent, did appear at the hearing and was duly served and notified of the hearing on May 31, 2012. (Petitioner's Exhibit 2.)
2. Matthew J. Kachinas, M.D., the Respondent, was authorized to practice medicine in New York State on August 5, 1988, by the issuance of license number 175701 by the New York State Education Department. (Petitioner's Ex. 3)
3. On or about April 16, 2010, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order"), *inter alia*, revoked Respondent's license to practice medicine, and required him to pay \$5,500.00 fines and \$37,157.76 costs, and placed Respondent on probation for one year based on Respondent removing drugs from vials and transporting them from one clinic to another; failure to document the administration of drugs he removed from one clinic to another and failure to justify the course of treatment; his failure to include cause of fetal death on a death certificate, failure to include elective termination of pregnancy by Digoxin of the fetal death certificate; failure to keep legible medical records documenting justification of course of treatment; falsifying fetal death certificate, failure to document time of fetal demise; failure to identify the position of twin A (male) the affected twin, failure to clearly differentiate the sex of the fetus by ultrasound; identifying the anomalies of the affected

twin; performing feticide on a non-affected fetus; failure to document attempts to identify sex or multiple anomalies of affected twin A.

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

#### **FIRST SPECIFICATION**

Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized 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.

VOTE: Sustained (3-0)

#### **SECOND SPECIFICATION**

Respondent violated New York Education Law Section 6530(9)(d) by having disciplinary action taken against his license to practice medicine by a duly authorized 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.

VOTE: Sustained (3-0)

## HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, *pro se*. There was no dispute about jurisdiction.

The Respondent did not dispute the basic fact in this case, namely that there were several disciplinary actions taken against him by the State of Florida. The three separate disciplinary actions are set forth in the documents submitted by the Department as Exhibit 4.

The documentation in the record shows that on or about April 16, 2010, the State of Florida, Board of Medicine revoked Respondent's license to practice medicine. The 79 pages of Exhibit 4 detailing the revocation enumerate multiple infractions which would, if committed in New York State, constitute professional misconduct under the laws of New York State.

Among the cited incidents of misconduct are the following:

- a.) removing drugs from vials and transporting them from one clinic to another;
- b) the failure to document the administration of drugs he removed from one clinic to another;
- c) the failure to justify the course of treatment;
- d) his failure to include cause of fetal death on a death certificate;
- e) failure to include elective termination of pregnancy by Digoxin of the fetal death certificate;
- f) failure to keep legible medical records documenting justification of course of treatment;
- g) falsifying fetal death certificate.



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The Respondent did not dispute the fact of the Florida discipline. He was frank and candid about the fact that he made a mistake on the fetal ultrasound and admitted that his interpretation was flawed and that he made a mistake doing this fetal reduction. (T. 14)

The panel weighed all the evidence and testimony and appreciated the testimony of the Respondent and his candor. Nevertheless, the panel was troubled and concerned by the Respondent's flawed decision making. The panel saw this as a serious deficiency and thus was unanimous in concluding that the only appropriate remedy for the protection of the health and welfare of the citizens of the State of New York was revocation of his license to practice medicine in New York.

### ORDER

#### IT IS HEREBY ORDERED THAT:

1. The license of the Respondent to practice medicine in New York State is revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

**DATED: Cazenovia, New York**  
**August \_\_\_\_, 2012**

**NYS DEPT OF HEALTH**

**AUG 22 2012**

**DIVISION OF LEGAL AFFAIRS  
BUREAU OF ADJUDICATION**

REDACTED

**Peter B. Kane, M.D., Chair**

**Colleen F. O'Leary, M.D.,  
Henry Sikorski, Ph.D.**



To:

Matthew J. Kachinas, , M.D.,  
Respondent  
All Women's Health Center  
4331 University Boulevard  
Jacksonville, Fl. 32216

Matthew J. Kachinas, , M.D.,  
Respondent

REDACTED

Michael Bass, Esq.  
Attorney for Petitioner  
Associate Counsel  
NYS Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower Building, Room 2512  
Empire State Plaza  
Albany, New York 12237

## **APPENDIX 1**

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

IN THE MATTER  
OF  
MATTHEW J. KACHINAS, M.D.  
CO-10-04-2680-A

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Matthew J. Kachinas, M.D.  
All Women's Health Center  
4331 University Boulevard  
Jacksonville, FL 32216

Matthew J. Kachinas, 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 19<sup>th</sup> day of July, 2012, at 10:30 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, NY 12180.

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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, 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 24*, 2012

REDACTED

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

Inquiries should be addressed to:

Joel E. Abelow  
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

AMENDED

IN THE MATTER  
OF  
MATTHEW J. KACHINAS, M.D.  
CO-10-04-2680-A

STATEMENT  
OF  
CHARGES

MATTHEW J. KACHINAS, M.D., Respondent, was authorized to practice medicine in New York state on August 5, 1988, by the issuance of license number 175701 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 16, 2010, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order"), inter alia, revoked Respondent's license to practice medicine, and required him to pay a \$5,500.00 fines and \$37,157.76 costs, and placed Respondent on probation for one year based on Respondent removing drugs from vials and transporting them from one clinic to another; failure to document the administration of drugs he removed from one clinic to another and failure to justify the course of treatment; his failure to include cause of fetal death on a death certificate, failure to include elective termination of pregnancy by Digoxin of the fetal death certificate; failure to keep legible medical records documenting justification of course of treatment; falsifying fetal death certificate, failure to document time of fetal demise; failure to identify the position of twin A (male) the affected twin, failure to clearly differentiate the sex of the fetus by ultrasound; identifying the anomalies of the affected twin; performing feticide on a non-affected fetus; failure to document attempts to identify sex or multiple anomalies of affected twin A.

B. On or about December 9, 2011, the Medical Board of California, Department of Consumer Affairs, (hereinafter California Board), revoked Respondent's Physician and Surgeons Certificate, based on the Final Order issued by the Florida Board in "A" above.

C. The conduct resulting in the Florida 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:



- (3) NEGLIGENCE
1. New York Education Law §6530(9)(d).

D. The conduct resulting in the California 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(9)(d).

**SPECIFICATIONS**

**FIRST SPECIFICATION**

Respondent violated New York State Education Law §6530 (9)(b), in that Petitioner charges:

1. The facts in Paragraph A.

**SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized 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:

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

STRIKE

DATED: May 24, 2012  
Albany, New York

REDACTED

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