

NEW YORK
state department of
HEALTH

Public

Howard A. Zucker, M.D., J.D.
Acting Commissioner of Health

Sue Kelly
Executive Deputy Commissioner

November 4, 2014

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jamal Janania, M.D.
c/o Brian M. Melber, Esq.
Personius, Melber LLP
2100 Main Place Tower
Buffalo, New York 14202-3750

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

RE: In the Matter of Jamal Janania, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 14-282) 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.

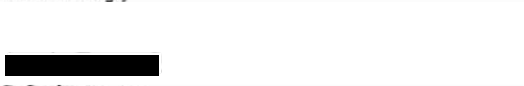
The notice of review served on the Administrative Review Board should be forwarded to:

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,


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**

In the matter of

Jamal Janania, M.D.
SY-12-09-4476-A
NYS license # 255326

regarding charges of violations of NYS Ed.L 6530

**Determination
and Order**

BPMC #14-282

COPY

Before a hearing committee for the State Board for Professional Medical Conduct:

Kendrick A. Sears, M.D., Chair
Therese G. Lynch, M.D.
Virginia R. Marty

John Harris Terepka, Administrative Law Judge

Held at: New York State Department of Health
217 South Salina Street
Syracuse, New York 13202
August 18, September 12, 2014
Briefs: October 3, 2014
Deliberations: October 17, 2014

Parties: New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237
By: Paul Tsui, Esq.

Jamal Janania, M.D.
By: Brian M. Melber, Esq.
Personius Melber LLP
2100 Main Place Tower
Buffalo, New York 14202-3750

JURISDICTION

As is set forth in Public Health Law 230(1)&(7) and Education Law 6530, the legislature created the State Board for Professional Medical Conduct (the Petitioner) in the Department of Health, and authorized it to conduct disciplinary proceedings in matters of professional medical conduct.

A notice of hearing and statement of charges, both dated July 11, 2014, were served on Respondent Jamal Janania, M.D. (Exhibit 1.) The statement of charges, as amended on August 26, 2014, alleged professional misconduct in violation of Ed.L 6530. (Exhibit 37.) A hearing was scheduled pursuant to the provisions of PHL 230(10) and hearing procedures set forth in Department of Health regulations at 10 NYCRR Part 51.

The Respondent submitted an answer to the charges pursuant to 10 NYCRR 51.5. (Exhibit J; Transcript, page 233.) A pre-hearing conference pursuant to 10 NYCRR 51.9(c)(9) was held on August 4, 2014.

EVIDENCE

Witnesses for the Petitioner:	Caroline Baker Mark Parshall, M.D. Richard Duval Justin Marchesani
Petitioner exhibits:	Exhibits 1, 3-14, 16-38
Witnesses for the Respondent:	Jamal Janania, M.D.
Respondent exhibits:	Exhibits C, I, J, M ¹

A transcript of the proceedings was made. (Prehearing conference transcript, pages 1-123; Hearing transcript, pages 1-337.)

¹ Respondent Exhibits A, B, D and E were initially admitted into evidence but were found to be duplicative of other exhibits in evidence. They are not included in the hearing record for that reason. (Transcript, page 239.)

FINDINGS OF FACT

The statement of charges, as amended (Exhibit 37), included fifteen specifications in support of four charges of misconduct as defined in various subsections of Ed.L 6530, including fraudulent practice, filing a false report, violations of PHL 2805-k, and moral unfitness. The charges were all based on factual allegations made in connection with the Respondent's representations to various medical facilities in applications for employment.

The following findings of fact were made upon unanimous vote of the Hearing Committee.

1. Respondent Jamal Janania, M.D., was authorized to practice medicine in New York State on November 2, 2009 under license number 255326. (Exhibit 3.)
2. The Respondent was employed by Carthage Area Hospital in June 2009. (Exhibit 5.) His employment was suspended twice for failure to complete patient records. (Transcript, page 37; Exhibits 7, 8, 11, 13.) He was terminated on September 7, 2011. (Transcript, pages 122-24, 250; Exhibits 12, 14, 17.) His termination was for reasons related to his performance, specifically record keeping, tardiness and absences. (Transcript, pages 83-85, 117-18; Exhibit 8.)
3. The Respondent was employed by Mountain Medical in January 2012. (Exhibit 19.) He was terminated in May 2012. (Transcript, page 250.) He was terminated for reasons related to his performance, including record keeping and time and attendance issues. (Exhibit 21; Transcript, page 252.)
4. The Respondent applied for a medical license in the state of Kansas in 2006. His application was denied in March 2008 for failure to meet licensing requirements. The

specific reason for denial was failure to pass all three steps of the licensure examinations within the required time period. (Exhibit 34.)

5. The denial was reported to the National Practitioner Data Bank and the Respondent knew of this. (Exhibit 29, pages 2, 8; Transcript, page 263.)

6. The Respondent was arrested in March 14, 2010 by the Leominster, Massachusetts police, and was charged with assault, a misdemeanor. (Exhibit 32.) The charge was later dismissed.

7. The Respondent held a license to practice medicine in Florida in 2012. (Exhibit 23; Transcript, pages 160-61.)

Misrepresentations on applications.

8. **Factual allegations A.** The Respondent submitted an application for employment to the medical staff of Lewis County General Hospital on April 30, 2012. (Exhibits 23, 26.) In his application the Respondent:

Allegation 1: Falsely denied that his employment or practice at another facility had ever been limited, suspended or discontinued.

Allegation 2: Falsely denied that his privileges at any facility had ever been denied, discontinued or suspended.

Allegation 3: Failed to disclose the denial of a Kansas license when asked if he had ever been denied membership in any medical organization.

9. **Factual allegations B.** The Respondent submitted an application for appointment to the medical staff of Oswego Hospital on June 11, 2012. (Exhibit 28.) After Oswego Hospital contacted Mountain Medical and Carthage Hospital for information in connection with the application, the Respondent submitted supplemented and corrected information on the application in August, 2012. (Exhibits 29, 30, 31.) In his June 11 application the Respondent:

- Allegation 1: Falsely denied he had ever been subjected to suspension, revocation, or denial of employment privileges at any hospital or health care related institution.
- Allegation 2: Falsely denied he was or had been subjected to formal investigation, corrective action or discipline by any hospital or health related facility.
- Allegation 3: Falsely answered "no" when asked "are you now or were you subject to criminal convictions, pending criminal proceedings, or arrests for felonies or misdemeanors?"
- Allegation 4: Falsely denied that he was subject to any clinical privileges ever being revoked, suspended or not renewed at any facility.
- Allegation 5: Denied that an application for medical staff membership or clinical privileges was pending at any other facility.
- Allegation 6: Falsely denied that he had ever been reported to the National Practitioner Data Bank.
- Allegation 7: Failed to disclose, when asked to list all of his medical licenses, that he had a Florida medical license.

10. **Factual allegations C.** The Respondent was employed by Mountain Medical from January 1, 2012 to May 2, 2012, when he was terminated. (Exhibits 19, 21, 22.)

11. **Factual allegations D.** The Respondent submitted an application for appointment to the medical staff of Orleans Community Health on October 8, 2012. In his application the Respondent answered "yes" to the question whether his medical staff membership or affiliation with any healthcare entity had been suspended or revoked. He also disclosed his suspensions and terminations elsewhere on the application. (Exhibit C.)

DISCUSSION OF FACTUAL ALLEGATIONS

The Respondent admitted that he made misrepresentations about his employment history on his employment applications to Lewis County General Hospital and to Oswego Hospital. He acknowledged that he tried to mislead these potential employers about his

history, and said he did so because he was concerned that he would not be hired if he told the truth. (Transcript, page 240, 273.) He said he has been diagnosed with attention deficit disorder since 2005, and while he denied this has affected his ability to practice medicine, he acknowledged that it has affected his record keeping. (Transcript, pages 245-47.) He did not admit that the difficulties about which he lied on applications were due to any other issue than keeping up with his charts.

Although the Respondent did not dispute factual allegations A1-3, B1-2, B4 and B6, he did challenge factual allegations B3, B5, B7, C1 and D1.

Allegation B3 was that he falsely denied his arrest history. It is undisputed that the Respondent was arrested and charged with a misdemeanor in 2010. (Exhibit 32.) The Respondent argued that the Massachusetts charge was dismissed and so he did not think it needed to be disclosed. (Transcript, page 265.) He continued to deny at the hearing that his answer “no” to the question “are you now or were you subject to criminal convictions, pending criminal proceedings, or arrests for felonies or misdemeanors?” was false. (Transcript, page 299.) His claim that he accurately answered the question whether he had any arrests or convictions by answering “no” because he had no convictions is rejected. Factual allegation B3 is sustained.

Allegation B5 asserts he falsely denied he had a pending application to Lewis County when he applied to Oswego Hospital in June 2012. The Respondent applied to Lewis County in April 2012. He received a May 24, 2012 letter from Lewis County asking for additional information in connection with his application. (Exhibit 26.) He did not respond to the request. In October 2012 Lewis County sent him a letter advising him it had closed his application because he failed to respond to the May 24 request. (Exhibit 27.)

The Respondent claims that when he received Lewis County's May 24 request for additional information, he made a decision not to continue with the application because he realized Lewis County would contact Carthage and Mountain Medical and discover his terminations. (Transcript, page 258-61.) He abandoned the application by not responding to the request for more information. The Respondent claims that his answer that he had no other pending applications at the time he applied to Oswego on June 12, 2012 was for this reason not false. (Transcript, page 300.) The Hearing Committee did not agree with the Petitioner that the Respondent's intentions about the application were irrelevant to the question whether the application was still pending after May 2012. The Petitioner has failed to meet its burden of establishing that his answer was false. Factual allegation B5 is not sustained.

Allegation B7 asserts the Respondent failed to disclose, when asked to list all medical licenses, that he was licensed in Florida as well as New York. The Respondent claims this was "merely an oversight" and that he had no reason to hide this information. (Respondent brief, page 7.) Even if the explanation is credited, the allegation is accurate. "Oversight" is a poor excuse for failing to provide such basic and important information on an application for employment as a physician. Factual allegation B7 is sustained.

Allegation C1 was not addressed by the Petitioner at the hearing, but was mentioned in a conclusory manner in its brief without citing adequate evidence of the facts. (Petitioner brief, page 13.) An undated curriculum vitae is in evidence (Exhibit 18), but the Petitioner presented no other evidence to establish that the CV was presented to Mountain Medical and that at the time it was presented was inaccurate. Factual allegation C1 is not sustained.

Allegation D1 asserts the Respondent gave a false answer on the Orleans application about his employment history. When asked if he had any suspensions or terminations, the Respondent answered "yes." The Petitioner charges that because he noted along with his answer that he had some temporary suspensions, this answer became untruthful because he failed to mention his terminations as well. The Respondent accurately points out that he did answer yes to the question whether he had any suspensions or terminations. (Exhibit C, page 5.) He specifically disclosed the terminations elsewhere on the very same page of the application. (Exhibit C, page 5.) He also attached an explanation to the application in which he represented that he had been "let go at the end of the first year of the contract. The reason I was told because lack of compliance with one of the by laws of the hospital more specific medical records not being completed." (Exhibit I; Transcript, page 271.) The Respondent clearly attempted to disguise, minimize, and draw attention away from the more serious problems in his background, but he did not make false representations about it in this application. Factual allegation D1 is not sustained.

DETERMINATION ON SPECIFICATIONS OF CHARGES

The Hearing Committee, by unanimous vote, did not sustain factual allegations B5, C1 and D1. All other factual allegations were sustained by unanimous vote. The charges of misconduct are:

1. **Fraudulent practice. First through fourth specifications.** The Petitioner charges that the Respondent violated Ed.L 6530(2) by reason of having practiced medicine fraudulently.

The Respondent intentionally and repeatedly misrepresented and concealed information from potential employers in an effort to mislead them about his professional

history and qualifications. He made false representations, knowing them to be false and with an intent to mislead. The Hearing Committee unanimously sustained the charge of fraudulent practice on the basis of the sustained factual allegations A1-3, B1-4 and B6-7.

2. **Filing a false report. Fifth through eighth specifications.** The Petitioner charges that the Respondent violated Ed.L 6530(21) by reason of having made a false report.

The Respondent's lies about his employment history on applications, knowing they were lies, demonstrated a willful intent to mislead and deceive employers and so constitutes a willful filing of false reports. The Hearing Committee unanimously sustained the charge of filing a false report on the basis of the sustained factual allegations A1-3, B1-4 and B6-7.

3. **Violation of Ed.L 2805-k, failure to disclose. Ninth through eleventh specifications.** The Petitioner charges that the Respondent violated Ed.L 6530(14) by failing to disclose on applications for employment the discontinuance and reasons for discontinuance of his association with other facilities.

Pursuant to Education Law 2805-k, before hiring or granting privileges, hospitals and other facilities are required to request, and physicians are required to provide, the name of any hospital or facility with or at which the physician had or has any association, employment, privileges or practice. Where such association, employment, privilege or practice was discontinued, the physician is also required to disclose the reasons for its discontinuation.

The Respondent's failure to disclose his previous suspensions and terminations in connection with his employment applications to Lewis County and to Oswego Hospital constituted a violation of Ed.L 2805k. The seriousness with which not only medical employers but the State of New York take matters of physician employment history

disclosure is exemplified by this statute. The Hearing Committee unanimously sustained the charge on the basis of the sustained factual allegations A1-2, B1-2 and B4.

4. **Moral unfitness. Twelfth through fifteenth specifications.** The Petitioner charges that the Respondent violated Ed.L 6530(20) by conduct in the practice of medicine which evidences moral unfitness to practice medicine.

There is evidence in this record of serious issues affecting the Respondent's ability to function effectively and responsibly as a physician. In the words of Dr. Ewing, whose evaluation was obtained and presented by the Respondent himself, "to put it most bluntly, his judgment and reasoning were compromised by his depression." (Exhibit M, page 3.) The Hearing Committee concluded that it was neither accurate nor helpful to identify these problems as evidence of moral unfitness to practice medicine. By unanimous vote, the Hearing Committee determined that the Petitioner has not met its burden of proving this charge.

PENALTY DETERMINATION

There are indications in the record of underlying issues that suggest the terminations concealed by the Respondent were for more complex reasons than a simple matter of failure to keep up with paperwork. For example, the Respondent was accused of stealing money from Mountain Medical, and although he now denies he did so, he apparently admitted to it at the time and agreed to pay the money back. (Transcript, pages 252-54.) The arrest he failed to disclose was for domestic violence. (Exhibit 32.) There are suggestions of depression and gambling problems as is set forth in the opinion he presented from a psychologist that he engaged. (Exhibit M.) The Respondent rightly argues that these matters are not charged in this case and should not properly form the basis for the Hearing

Committee's determination whether the charges of misconduct should be sustained. They have not been considered in sustaining these charges.

However, it is pertinent to the Committee's determination of an appropriate penalty that the possibility of deeper issues affecting the Respondent's suitability for employment in the practice of medicine is precisely the question that full disclosure on applications is meant to address. These are not trivial matters. Potential employers are entitled to know about terminations, arrests, and licensure denials so they are in a position to make their own inquiries and arrive at their own decisions about how they affect a physician's suitability for employment by them. This very case presents such an example: After the Respondent corrected his Oswego application to disclose the information about his previous suspensions and terminations, his offer of employment was rescinded. (Transcript, pages 263-64; Exhibit 38.) The Respondent's concealment of these matters thwarted the integrity of the application process.

The Committee is concerned that the Respondent's misrepresentations on employment applications about even minor matters such as his Florida licensure brings into question his reliability in matters more directly related to patient care. With regard to the argument that the Respondent's difficulties did not involve poor patient care but only his recordkeeping, the Committee simply notes that poor recordkeeping is poor patient care.

The Hearing Committee reviewed the penalties available to it under PHL 230-a. It was the opinion of Dr. Ewing, the psychologist that the Respondent himself engaged for this hearing, that the Respondent is in need of psychiatric help. (Exhibit M.) The Committee was particularly concerned that even Dr. Ewing, who was engaged by the Respondent, was unable to say that the Respondent has been obtaining or that he has any intention of obtaining

the appropriate assistance he needs in order to address the issues that led to his poor employment record and his repeated decisions to lie about it. Dr. Ewing instead wrote:

Dr. Janania has not seen a psychiatrist in two years or more. Since then, he has been treated by his primary care physician and nurse practitioners. With all due respect for their competence and expertise, I strongly urged Dr. Janania to consult with a psychiatrist who would be better equipped to assess his psychiatric condition and ensure that he is taking the proper medications. (Exhibit M, page 4.)

Conspicuously missing from this evaluation, and from Dr. Janania's testimony at the hearing, is any representation that Dr. Janania was receptive to this advice or has taken any steps or has any willingness to follow it. He simply believes that because of his ADD and because English is not his native language, he has a bit of difficulty keeping up with medical records. This hardly explains the evidence that he has repeatedly fallen behind in hundreds of charts at a time, been counseled, given extra time, been disciplined with suspension, and even been fired twice with little sign of any improvement or change in attitude. In the Committee's view, it is pointless to direct a physician to get help if he is not willing to do so.

It was clear to the Committee that the Respondent has been offered many chances to do something about his problems and deficiencies, and yet has done nothing to change. Employers have tried to work with him, and yet after repeated efforts, including suspensions, the result has repeatedly been termination. He is on the same path with his current employment, having again fallen seriously behind on recordkeeping, been taken off of the patient schedule in order to catch up, and again risked suspension for failing to do so. (Transcript, pages 300-302.) The record is devoid of any indication that any of his past employment experiences have made any difference. Nothing has changed.

By lying on his applications the Respondent demonstrated he did not believe his professional obligations or his problems should be addressed or taken seriously. He believed

instead that they should be overlooked. His admissions and expressions at this hearing of regret about lying on applications carry little value as indications of his attitude. The evidence on this issue was clear and irrefutable, and there was nothing else he could do but admit it. The Committee did not find good reason to believe that he takes at all seriously the dismal employment history that the lying attempted to hide, or has any plan or intentions to turn it around. Instead he offered excuses for it.

The Committee looked for some reason to believe that some remedy short of license revocation could address the problems underlying the Respondent's misconduct. The Hearing Committee unanimously concluded that it could not, and that the Respondent's license should be revoked.

ORDER

IT IS HEREBY ORDERED THAT:

1. The following charges of misconduct under Ed.L 6530 are sustained:
 - Ed.L 6530(2). Practicing fraudulently.
 - Ed.L 6530(21). Filing a false report.
 - Ed.L 6530(14). Violation of Ed.L 2805-k.
2. The Respondent's license to practice medicine is revoked.
3. 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:


Kendrick A. Sears, M.D., Chair

Therese G. Lynch, M.D.
Virginia R. Marty

OCT 31 2014

To: Paul Tsui, Esq., Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Empire State Plaza
Albany, New York 12237-0032

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2100 Main Place Tower
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Jamal Janania, M.D.

APPENDIX I

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

IN THE MATTER
OF
JAMAL JANANIA, M.D.
SY-12-09-4476-A

AMENDED
STATEMENT
OF
CHARGES

Jamal Janania, M.D., Respondent, was authorized to practice medicine in New York State on November 2, 2009, by the issuance of license number 255326 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent submitted an "Application for Appointment to the Medical Staff" of Lewis County General Hospital, 7785 North State Street, Lowville, New York (Lewis County application), on or about April 30, 2012.

1. Respondent, in his Lewis County Application, dated and signed by the Respondent on or about "4/30/2012," falsely answered "No" to the following question, numbered 6:

Has your membership association, employment or practice at another facility ever been limited, suspended or discontinued? If so, describe the substance of the action and resolution.

In fact, Respondent had been suspended a number of times and his employment with Carthage Area Hospital was terminated by letter dated on or about November 15, 2011, for cause related to repeated performance issues during his employment, and Respondent knew such facts.

2. Respondent, in his Lewis County Application, dated and signed by the Respondent on or about "4/30/2012," falsely answered "No" to the following question, numbered 7:

Have your privileges at any facility ever been denied, suspended, discontinued or granted with stated limitations? If so, describe the substance of the action and resolution.

In fact, Respondent had been suspended a number of times and his employment with Carthage Area Hospital was terminated by letter dated on or about November 15, 2011, for cause related to repeated performance issues during his employment, and Respondent knew such facts.

3. Respondent, in his Lewis County Application, dated and signed by the Respondent on or about "4/30/2012," falsely answered "No" to the following question, numbered 9:

Have you ever been denied membership or renewal of membership or been subject to disciplinary action in any medical or dental organization? If so, describe the substance of the action and resolution.

In fact, Respondent applied for and had his application for a medical license denied by the Kansas Board of Healing Arts on or about March 4, 2008, for failing to meet licensing requirements. The denial was reported to the National Practitioner Data Bank, and Respondent knew such facts.

- B. Respondent completed an "Application for Appointment to the Medical Staff" of Oswego Hospital, 110 West Sixth Street, Oswego, New York (Oswego application), on or about June 11, 2012.

1. Respondent, in his Oswego Application, dated and signed by the Respondent on or about "6/11/2012," falsely answered "No" to the following question, numbered 3:

Are you now or were you subjected to: Limitation, suspension, probation, revocation, denial, non-renewal, voluntary or involuntary or surrender of employment, appointment, privileges or training at any hospital or health care related institution?

In fact, Respondent had been suspended a number of times and his employment with Carthage Area Hospital was terminated by letter dated on or about November 15, 2011, for cause related to repeated performance issues during his employment, and Respondent knew such facts. Respondent had also been terminated from Mountain Medical Services by email on or about May 2, 2012, for cause related to performance and behavior issues, and Respondent knew such facts.

2. Respondent, in his Oswego Application, dated and signed by the Respondent on or about "6/11/2012," falsely answered "No" to the following question, numbered 5:

Are you now or were you subject to: Formal investigation, corrective action, or discipline by any hospital or health care related institution for any reason including patient complaints?

In fact, Respondent had been suspended a number of times and his employment with Carthage Area Hospital was terminated by letter dated on or about November 15, 2011, for cause related to repeated performance issues during his employment, and Respondent knew such facts. Respondent had also been terminated from Mountain Medical Services by email on or about May 2, 2012, for cause related to performance and behavior issues, and Respondent knew such facts.

3. Respondent, in his Oswego Application, dated and signed by the Respondent on or about "6/11/2012," falsely answered "No" to the following question, numbered 11:

Are you now or were you subject to: Criminal convictions, pending criminal proceedings, or arrests for felonies or misdemeanors?

In fact, Respondent was arrested on or about March 14, 2010, by members of the Leominster, Massachusetts Police Department on the charge of assault, a misdemeanor.

4. Respondent, in his Oswego Application, dated and signed by the Respondent on or about "6/11/2012," falsely answered "No" to the following question, numbered 15:

Are you now or were you subject to: Any membership status or clinical privileges ever been revoked suspended, not renewed, or voluntarily surrendered at any facility?

In fact, Respondent had been suspended a number of times and his employment with Carthage Area Hospital was terminated by letter dated on or about November 15, 2011, for cause related to repeated performance issues during his employment, and Respondent knew such facts. Respondent had also been terminated from Mountain Medical Services by email on or about May 2, 2012, for cause related to performance and behavior issues, and Respondent knew such facts.

5. Respondent, in his Oswego Application, dated and signed by the Respondent on or about "6/11/2012," falsely answered "No" to the following question, numbered 17:

Are you now or were you subject to: Is an application for medical staff membership or clinical privileges pending at any other facility?

In fact, Respondent had an application pending for appointment to the medical staff of Lewis County General Hospital as submitted on or about April 30, 2012. Respondent's application was closed by Lewis County General Hospital on or about October 23, 2012, after Respondent failed to reply to a request for information regarding his terminations of employment from Carthage Area Hospital and Mountain Medical Services, and Respondent knew such facts.

6. Respondent, in his Oswego Application, dated and signed by the Respondent on or about "6/11/2012," falsely answered "No" to the following question, numbered 18:

Are you now or were you subject to: Have you ever been reported to the National Practitioner Data Bank, Integrity, and/or protection data bank?

In fact, Respondent's medical license application denial by the Kansas State Board of Healing Arts on or about March 4, 2008, was reported to the National Practitioner Data Bank, and Respondent knew such facts.

7. Respondent, in his Oswego Application, dated and signed by the Respondent on or about "6/11/2012," falsely answered "Section XII. Licenses Held (all past and present)" which asked Respondent to list all of his medical licenses.

Respondent listed only his New York State medical license when, in fact, Respondent also had a Florida medical license.

- C. Respondent was employed by Mountain Medical Services from on or about January 1, 2012 to on or about May 2, 2012, when Respondent's services were terminated.
 1. Respondent provided Mountain Medical Services with a curriculum vitae which included an employment history under which Respondent listed his employment with Carthage Area Hospital as "November, 2009 to Present" when Respondent had, in fact, been terminated by Carthage Hospital on or about November 15, 2011.
- D. Respondent submitted an "application for Medical Staff Appointment and Clinical Privileges" to Orleans Community Health, 200 Ohio Street, Medina, New York (Orleans application), on or about October 8, 2012.

1. Respondent, in his Orleans application, dated and signed by the Respondent on or about "10/08/2012," falsely answered "Temporary for few days until my medical records were updated" to the following question numbered 2 on page 5 of the Orleans application:

Has your medical staff membership, medical staff status, or any other type of affiliation at any healthcare entity been suspended, diminished, not renewed, revoked or subjected to probationary condition, or have proceedings toward any of those ends ever been instituted or recommended by any official, committee, or governing body of any healthcare entity?

In fact, Respondent had been suspended a number of times and his employment with Carthage Area Hospital was terminated by letter dated on or about November 15, 2011, for cause related to repeated performance issues during his employment, and Respondent knew such facts. Respondent had also been terminated from Mountain Medical Services by email on or about May 2, 2012, for cause related to performance issues, and Respondent knew such facts.

SPECIFICATION OF CHARGES

FIRST THROUGH FOURTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent violated New York Education Law §6530(2) (Practicing the profession fraudulently or beyond its authorized scope), in that Petitioner charges:

1. The facts in Paragraphs A and A1, A and A2, and/or A and A3.
2. The facts in Paragraphs B and B1, B and B2, B and B3, B and B4, B and B5, B and B6, and/or B and B7.
3. The facts in Paragraphs C and C1.
4. The facts in Paragraphs D and D1.

FIFTH THROUGH EIGHTH SPECIFICATIONS

FILING A FALSE REPORT

Respondent violated New York Education Law §6530(21) (Willfully making or filing a false report), in that Petitioner charges:

5. The facts in Paragraphs A and A1, A and A2, and/or A and A3.
6. The facts in Paragraphs B and B1, B and B2, B and B3, B and B4, B and B5, B and B6, and/or B and B7.
7. The facts in Paragraphs C and C1.
8. The facts in Paragraphs D and D1.

NINTH THROUGH ELEVENTH SPECIFICATIONS
VIOLATION OF PUBLIC HEALTH LAW §2805-k

Respondent violated New York Education Law §6530(14) (A violation of §2805(k) of the New York State Public Health Law), in that Petitioner charges:

9. The facts in Paragraphs A and A1, and/or A and A2.
10. The facts in Paragraphs B and B1, B and B2, and/or B and B4.
11. The facts in Paragraphs D and D1.

TWELFTH THROUGH FIFTEENTH SPECIFICATIONS
MORAL UNFITNESS

Respondent violated New York Education Law §6530(20) (Conduct in the practice of medicine which evidences moral unfitness to practice medicine), in that Petitioner charges:

12. The facts in Paragraphs A and A1, A and A2, and/or A and A3.
13. The facts in Paragraphs B and B1, B and B2, B and B3, B and B4, B and B5, B and B6, and/or B and B7.
14. The facts in Paragraphs C and C1.
15. The facts in Paragraphs D and D1.

DATED: *Aug. 26*, 2014
Albany, New York

[REDACTED]
MICHAEL A. HISER
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