



Department
of Health

Public

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

May 20, 2015

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Curtis Lieber, R.P.A.

Curtis Lieber, R.P.A.

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

RE: In the Matter of Curtis Lieber, R.P.A.

Dear Parties:

Enclosed please find the Determination and Order (No. 15-135) 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.

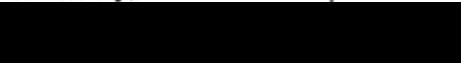
The notice of review served on the Administrative Review Board should be forwarded to:

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

CURTIS LIEBER, R.P.A.
CO-13-03-1089A

DETERMINATION

AND

COPY

ORDER

BPMC #15-135

A hearing was held on April 22, 2015 at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Hearing, dated January 28, 2015, and a Statement of Charges, dated February 3, 2015, were served upon the Respondent, **Curtis Lieber, R.P.A.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Robert A. Catalano, M.D., M.B.A.**, Chair, **Mehdi A. Khan, D.O.** and **Gail S. Homick Herrling**, 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 **Jude B. Mulvey, Esq.**, of Counsel. The Respondent, **Curtis Lieber, R.P.A.**, did not appear, although 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 three sections of the Education Law. First, the Respondent is charged with violation of 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. Second, the Respondent is charged with violation of New York Education Law §6530(1) by obtaining his license fraudulently. Finally, the Respondent is charged with violating New York Education Law §6530(21) for filing a false report.

Copies of the Notice of Hearing and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None
For the Respondent: None

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. Curtis Lieber, R.P.A., the Respondent, did not appear at the hearing and was duly served and notified of the hearing, by substitute service of process, on March 13, 2015. (Petitioner's Exhibit 2.)
2. Curtis Lieber, R.P.A., the Respondent, was authorized to practice as a physician's assistant in New York State on June 8, 2012, by the issuance of license number 015635 by the New York State Education Department. (Petitioner's Ex. 4)
3. On or about April 18, 2011, the State of Florida Department of Health filed an Administrative Complaint against Respondent. The Florida complaint alleged, among others, that Respondent was diagnosed with opiate dependence and depression not otherwise specified, that Respondent refused to cooperate with the Florida.

Professionals Resource Network ("PRN") for impaired practitioners, and was subsequently terminated from the PRN program for failure to comply with the terms of his revised Dual Diagnosis Monitoring Contract, and that Respondent improperly interfered with a disciplinary investigation. (Petitioner's Ex. 4)

4. On or about June 3, 2011, the State of Florida Department of Health accepted Respondent's voluntary relinquishment of his physician's assistants license by a Final Order ("Florida Order") dated August 17, 2011. (Petitioner's Ex. 4)

5. The conduct resulting in the Florida Order against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

a.. Education Law § 6530(8) (habitual abuser of alcohol or habitual user of narcotics or other drugs)

b. Education Law § 6530(20) (moral unfitness)

c. Education Law § 6530(21) (willfully making or filing a false report or failing to file a report)

6. On or about April 24, 2012, Respondent answered "no" on his New York licensure application to the question "Has any licensing or disciplinary authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, placed on probation, refused to renew a professional license or certificate held by you now or previously, or ever fined, censured, reprimanded or otherwise disciplined you?" (Petitioner's Ex. 4)

7. The Respondent voluntarily relinquished his Florida license, a disciplinary action, on or about August 17, 2011, after professional misconduct charges were brought against him. Respondent knew such facts. Respondent made a false representation, knew the representation was false and intended to mislead through the false Representation

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

"Respondent violated New York Education Law §6530(9)(d) by having his license to practice as a physician's assistant suspended, or having other disciplinary action taken, after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or disciplinary action would, if committed in New York State, constitute professional misconduct..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated Education Law §5530(1) by obtaining his license fraudulently..."

VOTE: Sustained (3-0)

THIRD SPECIFICATION

"Respondent violated Education Law §6530(21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department or willfully impeding or obstructing such filing or inducing another person to do so..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing, either in person or by counsel. The Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Substituted Service of the Notice of Hearing and the Statement of Charges (Petitioner's Exhibit 2) ruled that the Petitioner had met the requirements of law for service of process, that jurisdiction had been established over the Respondent and that the hearing could proceed on the merits notwithstanding the Respondent's absence.

The record in this case indicates that the State of Florida Department of Health had filed an Administrative Complaint against Respondent. The Florida complaint alleged, among others, that Respondent was diagnosed with opiate dependence and depression and that Respondent refused to cooperate with the Florida Professionals Resource Network ("PRN") for impaired practitioners. The record goes on to show that the Respondent was subsequently terminated from the PRN program for failure to comply with

the terms of his revised Dual Diagnosis Monitoring Contract and that Respondent improperly interfered with a disciplinary investigation.

The documentation submitted by the Department at the hearing shows that the State of Florida Department of Health eventually accepted Respondent's voluntary relinquishment of his license in 2011 to avoid further administrative action by the Florida Board.

It is clear from the record that the conduct resulting in the Florida Order against Respondent would constitute misconduct under the laws of New York State, pursuant to several sections of New York State law, including Education Law § 6530(8) (habitual abuser of alcohol or habitual user of narcotics or other drugs); Education Law § 6530(20) (moral unfitness); and Education Law § 6530(21) (willfully making or filing a false report or failing to file a report).

Furthermore, the record, at Exhibit # 4, goes on to show that the Respondent answered "no" on his New York licensure application to the question about prior discipline action taken against him. The panel found that the Respondent's answer to this question was a clear lie. The record shows that the Respondent voluntarily relinquished his Florida license in response to a disciplinary action brought against him. The panel determined that this was a false representation and that the Respondent knew the representation was false and intended to mislead through the false Representation

The Respondent has not appeared by a New York Attorney for the present matter and the hearing commenced in his absence. The record does not contain any evidence of mitigating circumstances, or remorse. The panel noted that that the Respondent was aware

of this proceeding and chose not to appear or be represented by counsel in New York. As to an appropriate penalty, the Hearing Committee considered the full range of penalties available and determined that the people of New York State would be protected by a revocation of the Respondent's license.

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 revoked.
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Delmar, New York

May 19, 2015



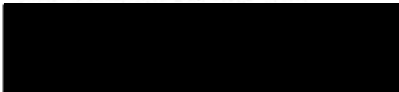
Robert A. Catalano, M.D., M.B.A.

**Mehdi A. Khan, D.O.
Gail S. Homick Herrling**

To:
Curtis Lieber, R.P.A.



Curtis Lieber, R.P.A.



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

APPENDIX 1

IN THE MATTER

OF

CURTIS LIEBER, R.P.A.

STATEMENT

OF

CHARGES

CURTIS LIEBER, R.P.A., the Respondent, was authorized to practice as a physician's assistant in New York State on or about June 8, 2012 by the issuance of license number 015635 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 18, 2011, the State of Florida Department of Health filed an Administrative Complaint against Respondent. The Florida complaint alleged, among others, that Respondent was diagnosed with opiate dependence and depression not otherwise specified, that Respondent refused to cooperate with the Florida Professionals Resource Network ("PRN") for impaired practitioners, and was subsequently terminated from the PRN program for failure to comply with the terms of his revised Dual Diagnosis Monitoring Contract, and that Respondent improperly interfered with a disciplinary investigation.

B. On or about June 3, 2011 the State of Florida Department of Health accepted Respondent's voluntary relinquishment of his license to avoid further administrative action. The Florida Board of Medicine ("Florida Board") accepted Respondent's

voluntary relinquishment of his physician's assistants license by Final Order ("Florida Order") dated on or about August 17, 2011.

C. The conduct resulting in the Florida Order against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. Education Law § 6530(8) (habitual abuser of alcohol or habitual user of narcotics or other drugs)
2. Education Law § 6530(20) (moral unfitness)
3. Education Law § 6530(21) (willfully making or filing a false report or failing to file a report)

D. On or about April 24, 2012, Respondent answered "no" on his New York licensure application to the question "Has any licensing or disciplinary authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, placed on probation, refused to renew a professional license or certificate held by you now or previously, or ever fined, censured, reprimanded or otherwise disciplined you?" In fact, Respondent voluntarily relinquished his Florida license, a disciplinary action, on or about August 17, 2011 after professional misconduct charges were brought against him, and Respondent knew such facts. Respondent made a false representation, knew the representation was false, and intended to mislead through the false representation.

SPECIFICATION OF MISCONDUCT

FIRST SPECIFICATION

Respondent violated Education Law § 6530(9)(d) by having his license to practice as a physician's assistant suspended, or having other disciplinary action taken, after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or disciplinary action would, if committed in New York State, constitute professional misconduct, in that Petitioner charges.

1. The facts in Paragraph A, B and C.

SECOND SPECIFICATION

OBTAINING THE LICENSE FRAUDULENTLY

Respondent violated Education Law §6530(1) by obtaining his license fraudulently, in that Petitioner charges.

2. The facts in Paragraphs D.

THIRD SPECIFICATION

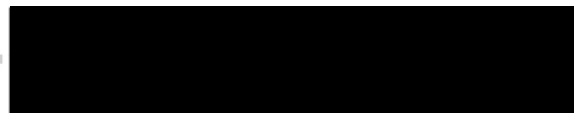
Filing A False Report

Respondent violated Education Law §6530(21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the

education department, or willfully impeding or obstructing such filing or inducing another person to do so, in that Petitioner charges:

3. The facts in Paragraphs D.

DATE: February 3, 2015
Albany, New York



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct