



**Department
of Health**

ANDREW M. CUOMO
Governor

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

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

November 15, 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John Thomas Viti, Esq.
NYS Department of Health
90 Church Street - 4th Floor
New York, New York 10007

Jackie Pujol, M.D.


RE: In the Matter of Jackie Pujol, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 16-374) 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. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "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.

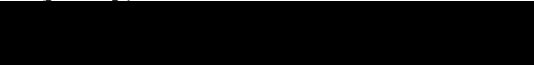
The notice of review served on the Administrative Review Board should be forwarded to:

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
JACKIE PUJOL, M.D.**

**DETERMINATION
AND
ORDER**

BPMC #16-374

COPY

A hearing was held on October 20, 2016, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and Statement of Charges dated August 31, 2016, were served upon Jackie Pujol, M.D., the Respondent. Pursuant to Section 230(10)(e) of the Public Health Law, Airlie A.C. Cameron, M.D., Chairperson, Florence Kavaler, M.D., M.P.H., and Michael N.J. Colon, Esq., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. William J. Lynch, Esq., Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by Richard J. Zahnleuter, Esq., General Counsel, by John Thomas Viti, Esq., of Counsel. The Respondent did not appear at the hearing, either in person or by counsel. The Administrative Law Judge, after considering the documentary evidence concerning service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Ex. 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 despite the Respondent's absence.

The Department made a motion to have the charges and allegations in the Statement of Charges deemed admitted because the Respondent did not file a written answer. After determining that the Notice of Hearing complied with the requirement that a licensee be provided with notice pursuant to Public Health Law § 230(10)(c), the ALJ ruled that the factual

allegations and specifications of misconduct contained in the Statement of Charges were deemed admitted.

Evidence was received and transcripts of these proceedings were made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

BACKGROUND

This 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 New York 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.

In the instant case, the Respondent is charged with professional misconduct pursuant to New York Education Law Section 6530(9)(d). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 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. Jackie Pujol, M.D., the Respondent, was authorized to practice medicine in New York State on June 15, 1972, by the issuance of license number 112525 by the New York State Education Department (Petitioner's Ex. 3).

2. On April 1, 2015, the Commonwealth of Virginia Department of Health Professions ("Virginia Disciplinary Agency") suspended the Respondent's license to practice medicine in the Commonwealth of Virginia. The basis for the Virginia Disciplinary Agency's action was the State of Maryland Board of Physicians' acceptance of the Respondent's voluntary surrender of his license in lieu of further disciplinary action related to his moral unfitness and his selling, prescribing, giving away or administering drugs for illegal or illegitimate medical purposes (Petitioner's Ex. 4).

HEARING COMMITTEE CONCLUSIONS

The Virginia Disciplinary Agency suspended the Respondent's license based on his agreement to surrender his Maryland license to avoid further investigation regarding his moral unfitness and his having prescribed large amounts of controlled dangerous substances without medical indication and his failure to keep medical records. If the Respondent had committed this conduct in New York State, his actions would constitute professional misconduct as defined in Education Law Sections 6530(2) [fraudulent practice], 6530(3) [negligent practice on more than one occasion], 6530(20) [conduct which evidences moral unfitness, and 6530(32) [failing to maintain accurate patient records]. Therefore, the Hearing Committee concludes that the

Respondent has committed misconduct as defined in New York Education Law Section 6530(9)(d) based upon the disciplinary action taken by the Virginia Disciplinary Agency.

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

Respondent violated New York State Education Law Section 6530(9)(d) by having his license to practice medicine revoked 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.

VOTE: (3-0) Sustained

HEARING COMMITTEE DETERMINATION

The Respondent consented to the surrender of his medical license to the Maryland Board of Physicians to avoid further investigation, and there is no evidence that he appeared before the Virginia Disciplinary Agency. The Respondent also failed to submit a written answer to the Statement of Charges served upon him by the Petitioner or to appear at the hearing in New York State. Therefore, the record contains no evidence of mitigating circumstances, rehabilitation or remorse. The Petitioner recommended that the Respondent's license be revoked.

The Hearing Committee considered the full spectrum of penalties available pursuant to statute, including revocation, suspension, probation, censure, and the imposition of civil penalties. The Hearing Committee determined that the Respondent's license must be revoked because the record contains no evidence that he can practice medicine safely, and no other penalty will adequately protect the people of New York State.

ORDER

IT IS HEREBY ORDERED THAT:

The Respondent's license to practice medicine in the State of New York is revoked;

and

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

DATED: New York, New York
November 11, 2016


Airlie A.C. Cameron, M.D.
Chairperson

Florence Kavalier, M.D., M.P.H.
Michael N.J. Colon, Esq.

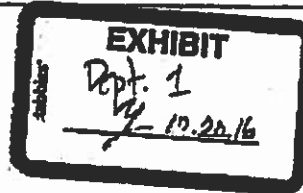
APPENDIX I

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

IN THE MATTER
OF
JACKIE PUJOL, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Jackie Pujol, M.D.

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. 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 October 20, 2016, at 10:30 a.m., at the offices of the New York State Department of Health, 90 Church Street, 4th Floor, New York, NY 10007.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which 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 or sworn testimony on your behalf. Such evidence 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 which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau

Dept Ex 1

(1)

of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least ten 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. You may also file a written brief and affidavits with the Committee. All such documents 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, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

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 N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the 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 or other evidence which cannot be photocopied.

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

Department attorney: Initial here [REDACTED]

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

(2)

appears below, at least five 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.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
August 9, 2016



Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

John Thomas Viti
Associate Counsel
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, NY 10007
(212) 417-4450

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

IN THE MATTER
OF
JACKIE PUJOL, M.D.

STATEMENT
OF
CHARGES

Jackie Pujol, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 15, 1972, by the issuance of license number 112525 by the New York State Education Department.

FACTUAL ALLEGATIONS

1. On or about April 1, 2015, the Virginia Department of Health Professions (herein after the "VDHP") by Order (herein after the "Virginia Order"), after having opened an inquiry into the conduct and medical practice of Respondent, suspended the Respondent's license to practice medicine and surgery in the Commonwealth of Virginia. The VDHP based its determination on evidence that the State of Maryland Board of Physicians accepted a voluntary surrender letter, in lieu of further disciplinary action of Respondent's license to practice medicine in Maryland. The letter of surrender was predicated on the fact that Respondent acknowledged the fact that there was sufficient evidence to impose discipline on Respondent pursuant to Maryland Medical Practice Act, Health Occ. §14-404(a)(3)(ii) and (27) for the unprofessional conduct in the practice of medicine for the selling, prescribing giving away, or administering drugs for illegal or illegitimate medical purposes.
 - a. The conduct resulting in the Virginia Order would constitute misconduct under the laws of New York State, pursuant to the following section of New York State Law:

- i. New York Education Law Section 6530(2) (Practicing the profession fraudulently or beyond its authorized scope.)
- ii. New York Education Law Section 6530(3) (Practicing the profession with negligence on more than one occasion.)
- iii. New York Education Law Section 6530(20) (Conduct in the practice of medicine which evidences moral unfitness to practice medicine.)
- iv. New York Education Law Section 6530(32) (Failing to maintain a record for each patient which accurately reflects the care and treatment of the patient.)

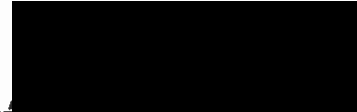
SPECIFICATION OF CHARGES

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §6530(2),(3),(20), and/or (32) as alleged in the facts of the following:

1. The facts in Paragraph 1 and its subparagraphs.

DATE: *Aug 21* .2016
New York, New York



Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct