

**These charges are only allegations which
may be contested by the licensee in an
Administrative hearing.**

IN THE MATTER
OF
GARY ALAN RUST, M.D.

STATEMENT
OF
CHARGES

GARY ALAN RUST, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 7, 1994, by the issuance of license number 196453 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 19, 2013, the Medical Board of California ("Board") issued a Decision and Order, based on a Stipulated Settlement and Disciplinary Order agreed to by Respondent and dated on or about November 18, 2013. Pursuant to the terms of the Stipulated Settlement and Disciplinary Order, Respondent admitted to the truth of each and every charge and allegation in the associated Accusation No. 03-2012-226052. A clerical error related to Respondent's California license number was corrected pursuant to an "Order Correcting Nunc Pro Tunc Clerical Error in 'License Number' Portion of Decision" issued by the Board on or about January 6, 2014.

B. The charges in Accusation No. 03-2012-226052 resulted from two misdemeanor criminal convictions, both as the result of a plea by Respondent to driving under the

influence with a blood alcohol content of 0.08% or higher. The first of those convictions occurred on or about May 2, 2012 in Riverside County, California as the result of a guilty plea; the second of those convictions occurred on or about May 10, 2012 (the Board order references that conviction as occurring on or about June 20, 2012) in San Francisco County, California as a the result of a plea of no contest. The Board ordered stayed revocation of Respondent's license and placed him on probation for a period of five years subject to requirements for education in ethics, abstention from the use of alcohol, biological fluid testing, psychotherapy, medical evaluation and treatment, prohibition from solo practice, prohibition from supervising physician assistants, notification, and other requirements.

C. The conduct resulting in the Board's Decision and Order against Respondent would constitute misconduct under the laws of New York State pursuant to New York Education Law Section 6530(9)(a) (conviction of a crime).

D. On or about May 2, 2012, in the Superior Court of California, County of Riverside, Respondent pled guilty to one misdemeanor count of driving under the influence with a blood alcohol content of 0.08% or higher. Respondent was sentenced to 36 months' probation, subject to terms, payment of fines and/or penalties, completion of a first offender DUI program, and completion of a drug/alcohol program.

E. On or about May 10, 2012, in the Superior Court of California, County of San Francisco, Respondent pled *nolo contendere* to one misdemeanor count of driving

under the influence with a blood alcohol content of 0.08% or higher. Respondent was subsequently sentenced to 36 months' probation, subject to conditions, payment of fines and/or penalties, completion of a first offender DUI program, completion of an outpatient program, and other conditions.

F. Each of the convictions for driving a vehicle while having a blood alcohol content of 0.08% or more were for a crime which, had it been committed in New York, would have been a crime pursuant to § 1192(2) of the Vehicle and Traffic Law (operation of a motor vehicle with greater than 0.08% blood alcohol content)..

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(b) by having been found guilty of improper professional practice or 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 (namely N.Y. Educ. Law §§ 6530(9)(a) as alleged in the facts of the following:

1. The facts in Paragraphs A, B, C and F.

SECOND SPECIFICATION

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(9)(a)) as alleged in the facts of the following:

2. The facts in Paragraphs A, B, C and F.

THIRD AND FOURTH SPECIFICATIONS

CRIMINAL CONVICTION (Other Jurisdiction)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law (namely N.Y. Vehicle and Traffic Law § 1192(2)) as alleged in the facts of the following:

3. The facts in Paragraphs D and F.

4. The facts in Paragraphs E and F.

DATE: December 15, 2015
Albany, New York



MICHAEL A. HISER, ESQ.
Deputy Counsel
Bureau of Professional Medical Conduct