



Department of Health

ANDREW M. CUOMO
Governor

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

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

March 9, 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jeffrey J. Conklin
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

Andrea Williams, M.D.


RE: In the Matter of Andrea Williams, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 16-079) 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.

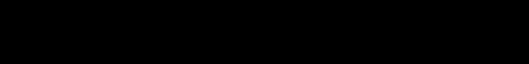
The notice of review served on the Administrative Review Board should be forwarded to:

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

COPY

-----X
IN THE MATTER : DETERMINATION
: :
OF : AND
: :
ANDREA WILLIAMS, M.D. : ORDER
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BPMC# 16-079

A Notice of Hearing dated November 22, 2015, and a Statement of Charges dated December 1, 2015, were served on ANDREA WILLIAMS, M.D. ("Respondent"). WILLIAM P. DILLON, M.D., Chairperson, JANET R. AXELROD, ESQ., and JOSEPH S. BALER, M.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to § 230(10)(e) of the Public Health Law of the State of New York ("Public Health Law"). WILLIAM J. LYNCH, ESQ., ADMINISTRATIVE LAW JUDGE ("ALJ"), served as the Administrative Officer.

The Department of Health ("Petitioner" or "the Department") appeared by RICHARD J. ZAHNLEUTER, General Counsel, by JEFFREY J. CONKLIN, ESQ., of Counsel. Respondent did not appear at the proceeding in person or by an attorney. Evidence was received, and a transcript of the proceeding was made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

PROCEDURAL HISTORY

Date Charges Served:	January 8, 2016
Date of Answer to Charges:	None submitted
Hearing Date:	February 17, 2016
Witnesses for the Department:	None
Witnesses for the Respondent:	None
Deliberations Held:	February 17, 2016

Respondent did not appear at the hearing in person or by an attorney. As required by Public Health Law § 230(10)(d), the Department provided an affidavit establishing due diligence in its unsuccessful attempt to serve Respondent personally with a copy of the charges and the notice of hearing, and an affidavit establishing that the Department then served a copy of the charges and the notice of hearing by certified mail to Respondent's last known address by the board. Therefore, the ALJ ruled that the Board for Professional Medical Conduct had obtained jurisdiction over Respondent.

The ALJ reviewed the Notice of Hearing and determined that the notice complied with the requirements of Public Health Law § 230(10)(c). Respondent did not file a written answer as required in the notice. Therefore, the ALJ ruled that the factual allegations and specifications of misconduct contained in the Statement of Charges were deemed admitted. Corsello v. New York State Department of Health, 300 A.D.2d 849 (3rd Dept. 2002)

STATEMENT OF CASE

This case was brought pursuant to Public Health Law § 230. Respondent was charged with eight specifications of professional misconduct, as defined in § 6530 of the Education Law of the State of New York ("Education Law"). The first six specifications charge Respondent with violations of Education Law § 6530(9), which relates to misconduct based on a criminal conviction, an administrative adjudication or a disciplinary action by the licensing board of another state. Public Health Law § 230(10)(p) limits the scope of the hearing on these specifications to whether the factual allegations establish a violation of Education Law § 6530(9), and if so, to the nature and severity of the penalty which should be imposed. The latter two specifications charge Respondent with violations of Education Law §§ 6530(2) and 6530(21). A copy of the Statement of Charges is attached to this Determination and Order as Appendix 1.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. All findings and conclusions set forth below are the unanimous determinations of the Hearing Committee. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. Numbers below in parentheses refer to exhibits

("Ex.") or transcript page numbers ("T."). These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding.

1. Andrea Bailey Williams, M.D., also known as Andrea Neolus Bailey, M.D. ("Respondent") was authorized to practice medicine in New York State on November 13, 1991, with the issuance of license number 187533 by the New York State Education Department ("Education Department"). (Ex. 1, 3).

2. On April 30, 2013, Respondent appeared in the Norfolk Circuit Court, Commonwealth of Virginia and pled guilty to a felony charge of obtaining drugs by fraud. The Court deferred disposition until May 1, 2015, at which time Respondent was convicted, pursuant to a guilty plea, of obtaining drugs by fraud, a misdemeanor. (Ex. 5).¹

3. On June 4, 2013, Respondent appeared in the City of Virginia Beach Circuit Court, Commonwealth of Virginia, and pled guilty to a felony charge of attempted prescription fraud. The Court deferred entry of a finding until July 9, 2014, at which time Respondent was convicted, pursuant to a guilty plea, of attempted prescription fraud, a misdemeanor. (Ex. 4).

¹ Citing to New York State Criminal Procedure Law § 1.20(13), the Department contended that Respondent was convicted on an earlier date when she pled guilty to a felony. However, the New York statute does not determine when an individual has been convicted in the Commonwealth of Virginia. In addition, courts in the Commonwealth of Virginia may defer entry of a felony plea pursuant to § 18.2-258.1 of the Virginia Code and place a defendant on probation until the court determines whether a adjudication of guilt to a felony or a misdemeanor should be entered depending on whether the defendant has fulfilled the terms and conditions of probation.

4. On or about January 7, 2014, Respondent submitted an application to the Education Department to renew her medical license registration. Respondent certified that her statements in the application were "true, complete and correct." Respondent answered "No" to the following questions:

Since your last registration application, [h]ave you been found guilty after trial, or pleaded guilty, no contest, or nolo contendere to a crime (felony or misdemeanor) in any court?

Since your last registration application, [a]re criminal charges pending against you in any court?

Respondent knew that her statements denying the guilty pleas and pending criminal charges in the Commonwealth of Virginia were false, and she intended to mislead the Education Department with these false statements. (Ex. 9).

5. On March 12, 2015, a quorum of the Virginia Board of Medicine ("Virginia Board") met by telephone conference call concerning information indicating that Respondent may have violated laws relating to the practice of medicine in the Commonwealth of Virginia. Based on these allegations, the Virginia Board concluded that a substantial danger to the public health or safety existed and issued an order summarily suspending Respondent's medical license. (Ex. 6).

6. Respondent appeared at a formal administrative hearing before the Virginia Board and was represented by an attorney. On May 29, 2015, the Virginia Board issued an order containing findings that

Respondent had fraudulently written prescriptions using the prescription pad of another physician, that she had a history of chemical dependence and obtaining drugs by fraud, that she had been convicted twice of the misdemeanor offense of attempted prescription fraud, and that she had been cited for non-compliance with her Virginia Health Practitioners' Monitoring Program ("HPMP") contract. The Virginia Board ordered that Respondent's medical license continue on indefinite suspension, but that the suspension be stayed upon Respondent's compliance with several terms and conditions.

CONCLUSIONS OF LAW

Respondent was deemed to have admitted the factual allegations and specifications of misconduct contained in the Statement of Charges because she failed to file a written answer. In addition, the Department offered nine documents which were admitted in evidence. The Hearing Committee placed greater weight on the exhibits which were obtained from the Virginia Circuit Courts and the Virginia Board than Respondent's deemed admissions. Therefore, the Hearing Committee rejected those admissions which were inconsistent with the exhibits obtained from the Virginia Circuit Courts and the Virginia Board.

The First and Second Specifications of Misconduct allege that Respondent committed professional misconduct as defined in Education Law § 6530(9)(a)(iii), because she was convicted of a crime under the

law of another jurisdiction. In addition to Respondent's deemed admission, the documentary evidence established that Respondent was convicted in two different circuit courts within the Commonwealth of Virginia of attempting to obtain drugs by fraud. The Hearing Committee concluded that attempting to obtain drugs by fraud is also a crime under New York State law and unanimously sustained these two specifications.

The Third and Fourth Specifications of Misconduct are that Respondent committed professional misconduct as defined in Education Law § 6530(9)(b), because she was found guilty of professional misconduct by the professional disciplinary agency of another state.

The Third Specification is based on an Order of Summary Suspension entered by the Virginia Board on March 12, 2015. The Hearing Committee determined that the Order of Summary Suspension contained allegations of professional misconduct, but no finding of guilt. The Hearing Committee therefore unanimously concluded that the Third Specification should not be sustained because the charge is inconsistent with the evidence.

The Fourth Specification is based on an Order entered by the Virginia Board of Medicine on May 29, 2015. The Hearing Committee unanimously determined that the Fourth Specification should be sustained because the Virginia Board found Respondent guilty of professional misconduct, and that the conduct upon which their finding was based would, if committed in New York State, have constituted

misconduct as defined in Education Law § 6530(2) [practicing the profession fraudulently] and § 6530(8) [being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having a similar effect].

The Fifth and Sixth Specifications of Misconduct are that Respondent committed professional misconduct as defined in Education Law § 6530(9)(d), by having her license to practice medicine revoked, suspended or having other disciplinary action taken after a disciplinary action was instituted by the professional disciplinary agency of another state.

The Fifth Specification is based on the Order of Summary Suspension entered by the Virginia Board on March 12, 2015. The record establishes that the Virginia Board issued both the summary suspension and the Notice of Hearing and Statement of Particulars on the same day, March 12, 2015. At that time, Respondent had neither had the opportunity for a hearing nor had she consented to the Virginia Board's disciplinary action to resolve charges against her. Sustaining this specification of misconduct as defined in Education Law § 6530(9)(d) would require that the Virginia Board suspended Respondent's license after the Virginia Board had instituted a disciplinary action. The Hearing Committee unanimously concluded that the Fifth Specification should not be sustained because the charge is inconsistent with the documentary evidence which establishes that the Virginia Board summarily suspended

Respondent and instituted its disciplinary action against her on the same day.

The Sixth Specification is based on the order entered by the Virginia Board on May 29, 2015. The Hearing Committee unanimously determined that the Sixth Specification should be sustained because the Virginia Board instituted the disciplinary action against Respondent on March 12, 2015, and imposed a stayed suspension of Respondent's license with conditions on May 29, 2015, after Respondent had been provided with an opportunity to be heard. As previously stated with regard to the Fourth Specification, the Hearing Committee concluded that the conduct upon which this disciplinary action was based would, if committed in New York State, have constituted misconduct as defined in Education Law § 6530(2) [practicing the profession fraudulently] and § 6530(8) [being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having a similar effect].

The Seventh Specification charged the Respondent with committing professional misconduct as defined in Education Law § 6530(2), by practicing the profession of medicine fraudulently. The Hearing Committee considered Respondent's conduct in answering questions on her registration renewal application to be the practice of medicine because her ability to practice medicine in New York State is dependent on the filing of that application. In addition, the Department established

that Respondent's statements on her renewal application were false and she knew they were false. The Hearing Committee inferred from the overwhelming evidence of Respondent's knowledge that criminal charges were pending against her in the Commonwealth of Virginia as well as her probable motivation to avoid scrutiny of her registration renewal in New York State, that Respondent intended to mislead the Education Department. Therefore, the Hearing Committee unanimously sustained the Seventh Specification.

The Eighth Specification of Misconduct charged Respondent with committing professional misconduct as defined by Education Law § 6530(21), by willfully making or filing a false report. The Hearing Committee considered the registration renewal application a false report and that Respondent's actions were willful as explained in the specification above. Therefore, the Hearing Committee sustained the Eighth Specification.

The Hearing Committee considered the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties. The evidence and the sustained specifications indicate that Respondent has a history of chemical dependence, that she has used her position as a physician to illegally obtain drugs for her personal use, that she has been twice convicted in the Commonwealth of Virginia, that she has been cited for noncompliance with the physicians' monitoring

program there, and that she made false statements in her New York State registration renewal application. This evidence established that Respondent has breached the moral and ethical standards of the medical profession both in her conduct in the Commonwealth of Virginia as well as her fraudulent renewal application to New York State. Respondent failed to appear to defend herself or to submit any evidence which might be considered in mitigation of her offenses. Under the circumstances, revocation is the only sanction that can protect the public.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

1. The First, Second, Fourth, Sixth, Seventh and Eighth Specifications of professional misconduct set forth in the Statement of Charges are SUSTAINED;

2. The Third and Fifth Specifications of professional misconduct are DISMISSED;

3. Respondent's license to practice medicine as a physician in the State of New York is REVOKED;

4. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon the Respondent at his last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is


earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York
March 8, 2016


WILLIAM P. DILLON, M.D. (CHAIR)

JANET R. AXELROD, ESQ.
JOSEPH S. BALER, M.D.

TO: Jeffrey J. Conklin
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower - Room 2512
Empire State Plaza
Albany, New York 12237

Andrea Williams, M.D.


APPENDIX 1

IN THE MATTER

OF

ANDREA WILLIAMS, M.D.

STATEMENT
OF
CHARGES

ANDREA WILLIAMS, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 13, 1991, by the issuance of license number 187533 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about the 4th day of June, 2014, in the Circuit Court of the City of Virginia Beach in the Commonwealth of Virginia, the Respondent pled guilty to attempting to obtain drugs by fraud, a felony, in violation of §§18.2-258.1; 18.2-28; and 54.1-3446 through 54.1-3452 of the Virginia Crime Code. The Respondent was in possession of controlled substances, which had been obtained by fraud. The Respondent was sentenced to 60 days in jail, suspended on the condition that Respondent shall be of good behavior for one year.
- B. On or about the 10th day of April, 2013, in the Norfolk Circuit Court in the Commonwealth of Virginia, the Respondent was charged with five felony counts of obtaining drugs by fraud, in violation of §§18.2-258.1; 18.2-28; and 54.1-3446 through 54.1-3452 of the Virginia Crime Code. The Respondent wrote prescriptions for controlled substances on another physician's prescription pad knowing that her Drug Enforcement Agency license had expired. On or about the 30th day of April, 2013, the Respondent pled guilty to one count of obtaining drugs by fraud, a misdemeanor. The Respondent was sentenced to 60 days in jail, suspended on the condition that Respondent shall be of good behavior for one year; 12 months probation; and 100 hours of community service at a charitable organization. The final disposition of the criminal charges was deferred until the 1st day of May, 2015.
- C. On or about the 12th day of March, 2015, the Virginia Board of Medicine (Virginia Board) issued an Order of Summary Suspension, pursuant to §54.1-2408.1 of the Code of Virginia, based upon allegations that the Respondent violated certain laws relating to the practice of

medicine and surgery, and posed a substantial danger to the public health or safety. The Virginia Board found that the Respondent, by her own admission, from April 1, 2010, through February 2, 2013, with the intent to evade the law with respect to the disposition of controlled substances, fraudulently wrote prescriptions for several hundred doses of Alprazolam, Promethazine with codeine, and Acetaminophen with codeine in the names of fictitious patients, which Respondent diverted for her personal and unauthorized use. The Virginia Board further found that the Respondent was in violation of §§54.1-2915. A(1), (8), (10), (16) and (17) of the Virginia Code in that Respondent wrote prescriptions for patients using another physician's prescription pad and while she was aware that her DEA number had expired. The Virginia Board further found that the Respondent was in violation of §§ 54.1-2915. A(2), (4) and (14) of the Virginia Code in that Respondent was unfit for the performance of her professional obligations and duties and unable to practice medicine with reasonable skill and safety due to mental or physical illness or substance abuse.

D. The conduct resulting in the Virginia Board Order of Summary Suspension 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(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (practicing the profession with negligence on more than one occasion);
3. New York Education Law §6530(4) (practicing the profession with gross negligence on a particular occasion);
4. New York Education Law §6530(8) (being a habitual abuser of alcohol or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, or other drugs);
5. New York Education Law §6530(16) (willfully or grossly negligently failing to comply with substantial provisions of federal, state, or local laws, rule, or regulations governing the practice of medicine).

E. On or about the 29th day of May, 2015, the Virginia Board issued an Order of Continued Indefinite Suspension, stayed, pursuant to §§ 54.1-2915.A (1), (2), (8), (10), (14), (16) and (17) of the Virginia Code. The Virginia Board stayed the indefinite suspension upon certain terms and conditions, to wit: requirements that the Respondent enter the Virginia Health Practitioners'

Monitoring Program (HPMP); comply with HPMP contract and successfully complete the program; and comply with the Drug Law and Regulations for Practitioners governing prescribing in the Commonwealth of Virginia.

F. The conduct resulting in the Virginia Board Order of Indefinite Suspension 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(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (practicing the profession with negligence on more than one occasion);
3. New York Education Law §6530(4) (practicing the profession with gross negligence on a particular occasion);
4. New York Education Law §6530(8) (being a habitual abuser of alcohol or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, or other drugs);
5. New York Education Law §6530(16) (willfully or grossly negligently failing to comply with substantial provisions of federal, state, or local laws, rule, or regulations governing the practice of medicine).

G. On or about January 7, 2014, Respondent prepared and/or submitted to the New York State Education Department a Registration Renewal document wherein Respondent falsely answered "No" to the questions, "Since your last registration application, [a]re any criminal charges pending against you in any court"; and "Since your last registration application, [h]ave you been found guilty after trial, or pleaded guilty, no contest, or nolo contendere to a crime (felony or misdemeanor) in any court?" At that time, and since the Respondent's last New York State Registration application, criminal charges were pending against the Respondent in the Norfolk Circuit Court in the Commonwealth of Virginia. The Respondent pled guilty to obtaining drugs by fraud, a misdemeanor, and the disposition of said charges was deferred until the 1st day of May, 2015. Respondent's Registration Renewal document contained false representations; Respondent knew the statements were false; and Respondent intended to mislead through the false representations.

6

SPECIFICATIONS OF CHARGES
FIRST AND SECOND SPECIFICATIONS
BEING CONVICTED OF AN ACT CONSTITUTING A CRIME
UNDER THE LAWS OF ANOTHER JURISDICTION

Respondent is charged with committing professional misconduct as defined in New York Education 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 in this state, would have constituted a crime under the New York State law as alleged in the facts of the following:

1. The facts in Paragraph "A".
2. The facts in Paragraph "B".

THIRD AND FOURTH SPECIFICATIONS
HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in New York Education Law §6530(9)(b) by having been found guilty of improper professional conduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committing in New York State, constitute professional misconduct under the laws of New York State, [namely New York Education Law §§6530(2); and/or 6530(3); and/or 6530(4); and/or 6530(8); and/or 6530(16)] as alleged in the facts of the following:

3. The facts in Paragraph "C" and "D".
4. The facts in Paragraph "E" and "F".

FIFTH AND SIXTH SPECIFICATIONS
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in New York Education 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 New York Education Law §§ 6530(2); and/or 6530(3); and/or 6530(4); and/or 6530(8); and/or 6530(16)] as alleged in the facts of the following:

5. The facts in Paragraphs "C" and "D".
6. The facts in Paragraphs "E" and "F".

SEVENTH SPECIFICATION
PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with committing professional misconduct as defined by New York Education Law § 6530(2) by practicing the profession of medicine fraudulently and as alleged in the facts of the following:

7. The facts in Paragraph "G".

EIGHTH SPECIFICATION
WILLFULLY MAKING OR FILING A FALSE REPORT

Respondent is charged with committing professional misconduct as defined by New York Education Law § 6530(21) by willfully making or filing a false report as alleged in the facts of the following:

8. The facts in Paragraph "G".

DATE: December / , 2015
Albany, New York


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