



**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

December 28, 2016

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Ezekiel Akande, M.D.**  


**John Viti, Esq.**  
NYS Department of Health  
90 Church Street – 4<sup>th</sup> Floor  
New York, New York 10007

**RE: In the Matter of Ezekiel Akande, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 16-416) 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 (l), (McKinney Supp. 2015) and §230-e 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.

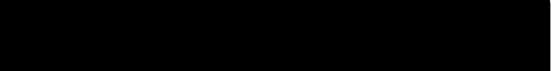
The notice of review served on the Administrative Review Board should be forwarded to:

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**

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**IN THE MATTER  
OF  
EZEKIEL AKANDE, M.D.**

**DETERMINATION  
AND  
ORDER  
BPMC #16-416**

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The New York State Department of Health ("Department") charged Ezekiel Akande, M.D. ("Respondent"), with professional misconduct in violation of New York State Education Law § 6530(9)(d). The Department alleges that actions taken by Respondent, for which his medical license was disciplined in another state, constitute professional misconduct under the laws of New York State.

A hearing was held on October 19, 2016. Pursuant to Section 230(10)(e) of the Public Health Law ("PHL"), Airlie A.C. Cameron, M.D., M.P.H., Chair, Kristin E. Harkin, M.D., and Deborah Whitfield, M.A., Ph.D., duly designated members of the State Board for Professional Medical Conduct ("BPMC"), served as the Hearing Committee ("Committee"). Administrative Law Judge Jankhana Desai ("ALJ") presided over the hearing.

The Department appeared by John Viti, Associate Counsel for the Bureau of Professional Medical Conduct. Respondent appeared by Paul E. Walker, Attorney at law. Respondent was not present at hearing. Evidence was received and a transcript of the proceeding was made. After consideration of the entire record, the Committee issues this Determination and Order.

## **BACKGROUND**

This case was brought pursuant to PHL § 230(10)(p), a statute that provides for a direct referral proceeding when a licensee is charged solely with a violation of Educ. Law § 6530(9). In this case, Respondent is charged with professional misconduct pursuant to Educ. Law § 6530(9)(d), "having his ... license to practice medicine revoked, suspended or having other disciplinary action taken..." 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. New York State Education laws relevant to this case are:

- § 6530(3): practicing the profession with negligence on more than one occasion.
- § 6530(4): practicing the profession with gross negligence on a particular occasion.
- § 6530(7): practicing the profession while impaired by alcohol, drugs, physical ability, or mental impairment.
- § 6530(32): failing to maintain a record of the patient that accurately reflected the evaluation and treatment of the patient.

Respondent's licenses were disciplined in the states of Kentucky, California, and Pennsylvania. The Department charges that the underlying conduct in Kentucky violates New York Educ. Law §§ 6530(3), 6530(4), 6530(7), and 6530(32). The Department charges that the underlying conduct in California violates New York Educ. Law §§ 6530(3), 6530(4), and 6530(32). The Department charges that the underlying conduct in Pennsylvania violates New York Educ. Law §§ 6530(3), 6530(4), and 6530(32).

The scope of this direct referral hearing is limited to whether there was a relevant administrative determination in another state and if so, an assessment of the nature and severity of the penalty to be imposed upon the licensee.

### **FINDINGS OF FACT**

The following findings of fact were made unanimously by the Committee:

1. Respondent was authorized to practice medicine in New York State on or about June 17, 2002, by the issuance of license number 225132, by the New York State Education Department. Respondent's medical license has not been registered in New York State since 2013.

2. On April 7, 2015, the Kentucky Board of Medical Licensure ("Kentucky Board") by Agreed Order ("Kentucky Order") restricted/limited for an indefinite period of time Respondent's license to practice medicine in Kentucky. The Kentucky Order was based on allegations that Respondent inappropriately prescribed controlled substances and failed to adequately document his medical records. The Kentucky Order limited Respondent's right to prescribe and dispense controlled substances.

3. On April 7, 2016, the Kentucky Board, by Amended Agreed Order ("Kentucky Amended Order"), further restricted/limited for an indefinite period of time Respondent's license to practice medicine in Kentucky. The Kentucky Amended Order restricted Respondent's ability to prescribe controlled substances or to independently perform, without direct supervision, epidural steroid injections or radiofrequency ablations.

4. On or about April 22, 2016, the Kentucky Board, by an Emergency Order of Suspension ("Kentucky Emergency Order") suspended Respondent's license to practice medicine in Kentucky. The Kentucky Emergency Order was based on the fact that probable

cause existed to believe that Respondent had violated the terms of the prior orders placing him on probation, the Kentucky Order as set forth in Factual Finding 2 and the Kentucky Amended Order as set forth in Factual Finding 3.

5. On October 27, 2015, the State Board of Medicine for Pennsylvania ("Pennsylvania Board") by Order ("Pennsylvania Order") issued a public reprimand and indefinitely suspended Respondent's license to practice medicine in Pennsylvania. The Pennsylvania Order was predicated upon the Kentucky Order set forth in Factual Finding 2.

6. On March 1, 2016, the Medical Board of California ("California Board") issued a Default Decision and Order ("California Order"), effective March 30, 2016, revoking Respondent's Physician's and Surgeon's Certificate. The California Order was predicated on the Kentucky Order set forth in Factual Finding 2.

#### **VOTE OF THE COMMITTEE**

The Committee unanimously sustained the first through third specifications that Respondent committed professional misconduct as defined in Educ. Law § 6530(9)(d).

#### **COMMITTEE DETERMINATION**

Based on the evidence presented at hearing, the Committee unanimously sustained the factual allegations and the first through third specifications of misconduct contained in the Statement of Charges. The Committee considered the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

Respondent, through his attorney, argued that his license has not been revoked in Kentucky; rather, he argued that his Kentucky medical license has been suspended pending a hearing that has not yet taken place. Therefore, Respondent requested that the Committee

suspend, instead of revoke, his New York medical license, pending the final determination of the status of his Kentucky medical license by the State of Kentucky.

The Committee concluded that the serious nature of the underlying conduct in Kentucky warranted disciplining of Respondent's New York State medical license independent of the final determination of the status of Respondent's Kentucky medical license. Respondent's failure to appear at hearing left the Committee without the opportunity to hear any mitigating or rehabilitative evidence from Respondent. Finally, the Committee noted that Respondent has not registered in New York State since 2013. On these bases and in the interest of public protection, the Committee unanimously agreed the Respondent's license to practice medicine in New York State should be revoked.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The first through third specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**.
2. Respondent's license to practice medicine in New York State is hereby **REVOKED**.
3. This Determination and Order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required by PHL 230(10)(b).

**DATED:** December 15, 2016

[REDACTED]

**Airlie A.C. Cameron, M.D., M.P.H., Chair**

**Kristin E. Harkin, M.D.**

**Deborah Whitfield, M.A., Ph.D.**

**To:**

**Ezekiel Akande**



**John Viti  
Associate Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
90 Church Street, 4<sup>th</sup> Floor  
New York, New York 10007**



# APPENDIX I

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

IN THE MATTER  
OF  
EZEKIEL AKANDE, M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Ezekiel Akande, M.D.  

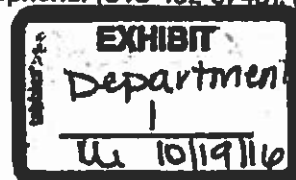

PLEASE TAKE NOTICE THAT:

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 19, 2016, at 10:30 a.m., at the offices of the New York State Department of Health, 90 Church Street, 4<sup>th</sup> 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



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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 

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

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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  
Sept 1, 2016

  
Roy Nenferson  
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, 4<sup>th</sup> 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  
EZEKIEL AKANDE, M.D.

STATEMENT  
OF  
CHARGES

Ezekiel Akande, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 17, 2002, by the issuance of license number 225132 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On three occasions during the approximate period of April 2015 through April 2016, the Kentucky Board of Medical Licensure ("Kentucky Board") issued orders restricting Respondent's privilege to practice medicine in the Commonwealth of Kentucky. The conduct resulting in these orders would constitute misconduct under the laws of New York State, pursuant to New York Education Law Sections 6530(3) (Practicing the profession with negligence on more than one occasion); 6530(4) (Practicing the profession with gross negligence on a particular occasion); 6530(7) (Practicing the profession while impaired by alcohol, drugs, physical disability, or mental impairment); and/or 6530(32) (Failing to maintain a record for each patient which accurately reflects the care and treatment of the patient).

1. On or about April 22, 2016, the Kentucky Board by an Emergency Order of Suspension ("Kentucky Emergency Order"), after having opened an investigation into the conduct and medical practice of Respondent, suspended Respondent's license to practice medicine in the Commonwealth of Kentucky. The Kentucky Emergency Order was predicated on the fact that probable cause existed to believe that

Respondent had violated terms of prior orders placing him on probation (the Kentucky Amended Order and/or the Kentucky Order as set forth below) and/or that the Respondent's practice constituted a danger to the health, welfare and safety of his patients or the general public.

2. On or about March 7, 2016, the Kentucky Board by Amended Agreed Order ("Kentucky Amended Order"), after having opened an investigation into the conduct and medical practice of Respondent, Restricted/Limited for an Indefinite Period of Time Respondent's license to practice medicine in the Commonwealth of Kentucky. The Kentucky Amended Order was predicated on the Kentucky Order (as set forth below) and the fact that Respondent acknowledged, while denying any wrongdoing, that the Board could conclude that Respondent had engaged in conduct which violated KRS 311.595(8), (9) and (13), as illustrated by KRS 311.597(3) and (4) for engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof for engaging in a serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence, or malpractice and been unable or is unable to practice medicine according to acceptable and prevailing standards of care by reason of mental or physical illness or other condition including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills, or by reason of an extended absence from the active practice of medicine.
3. On or about April 7, 2015, the Kentucky Board of Medical Licensure by Agreed Order ("Kentucky Agreed Order"), after having opened an investigation into the conduct and medical practice of Respondent,

**Restricted/Limited for an Indefinite Period of Time Respondent's license to practice medicine in the Commonwealth of Kentucky. The Kentucky Agreed Order was predicated on the fact that Respondent acknowledged, while denying any wrongdoing, that based on the Kentucky Agreed Order's Stipulation of Facts the Board could conclude that Respondent had engaged in conduct which violated KRS 311.595(9) as illustrated by KRS 311.597(3) and (4) for engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof for engaging in a serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence, or malpractice.**

- B. On or about March 1, 2018, the Medical Board for the State of California ("CA Board") by Default Decision and Order ("CA Order"), after having opened an investigation into the conduct and medical practice of Respondent, revoked Respondent's Physician's and Surgeon's Certificate for the State of California. The CA Order was predicated on the Kentucky Agreed Order cited in Paragraph A3, above. The CA Board determined that Respondent's conduct and the action of the Kentucky Board constituted discipline within the meaning of California's Business and Professions Code §2305 and/or 141, in that the revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agent of the federal government, that would have been grounds for discipline in California of a license under this chapter, should constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.**

1. The conduct resulting in the CA Order would constitute misconduct under the laws of New York State, pursuant to New York Education Law Section 6530(3) (Practicing the profession with negligence on more than one occasion); 6530(4) (Practicing the profession with gross negligence on a particular occasion); and/or 6530(32) (Failing to maintain a record for each patient which accurately reflects the care and treatment of the patient.)

C. On or about October 27, 2015, the State Board of Medicine for the Commonwealth of Pennsylvania ("PA Board") by Order ("PA Order"), approved and adopted a Consent Agreement ("PA Consent Agreement"), after having opened an investigation into the conduct and medical practice of Respondent, issued a public reprimand and indefinitely and actively suspended Respondent's license to practice medicine in the Commonwealth of Pennsylvania. The PA Order was predicated on the Kentucky Agreed Order cited in Paragraph A3, above. Respondent acknowledged that he violated the Medical Practice Act §41(4), 63 P.S. §422.41(4), in that Respondent had a license or other authorization to practice the profession suspended, revoked, refused or otherwise disciplined by the proper licensing authority of another state, territory, possession or country, or branch of the federal government.

1. The conduct resulting in the Order would constitute misconduct under the laws of New York State, pursuant to New York Education Law Section 6530(3) (Practicing the profession with negligence on more than one occasion); 6530(4) (Practicing the profession with gross negligence on a particular occasion); and/or 6530(32) (Failing to maintain a record for each patient which accurately reflects the care and treatment of the patient).



**SPECIFICATION OF CHARGES**

**FIRST THROUGH THIRD SPECIFICATIONS**

**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(3), (4), (7) and/or (32) as alleged in the facts of the following:

1. The facts in Paragraph A and its subparagraphs.
2. The facts in Paragraph B and its subparagraphs.
3. The facts in Paragraph C and its subparagraphs.

DATE: <sup>Sept</sup> August 1, 2016  
New York, New York



Roy Nemerson  
Deputy Counsel  
Bureau of Professional Medical Conduct