



**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

January 4, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Frederick Veit, M.D.


Ian H. Silverman, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

RE: In the Matter of Frederick Veit, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 17-006) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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to deliver to the Board of Professional Medical Conduct your license to practice medicine **if said license has been revoked, annulled, suspended or surrendered**, together with the registration certificate.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
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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,



James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH:cah
Enclosure

**STATE OF NEW YORK : DEPARTMENT OF HEALTH
ADMINISTRATIVE REVIEW BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

In the Matter of

Frederick Veit, M.D. (Respondent)

**A proceeding to review a Determination by a Committee
(Committee) from the Board for Professional Medical
Conduct (BPMC)**

Administrative Review Board (ARB)

Determination and Order No. 17-006

COPY

**Before ARB Members D'Anna, Koenig, Grabiec, Wilson and Milone
Administrative Law Judge James F. Horan drafted the Determination**

**For the Department of Health (Petitioner): Ian H. Silverman, Esq.
For the Respondent: No submission**

The Appellant holds a medical license in South Carolina, in addition to his license to practice medicine in New York State (License). In this proceeding pursuant to New York Public Health Law (PHL) § 230-c (4)(a)(McKinney 2016), the ARB considers whether to take disciplinary action against the Respondent's License following the suspension of the Respondent's South Carolina license for engaging in inappropriate sexual relationships. After a hearing below, a BPMC Committee suspended the Respondent's License indefinitely until the conditions on the Respondent's South Carolina license are satisfied and removed. The Petitioner requests in this proceeding that the ARB overturn the Committee's Determination and revoke the Respondent's License. The Respondent made no appearance at the hearing below and made no submission in response to the Petitioner's request. After considering the hearing record and the Petitioner's review submission, the ARB votes to overturn the Committee and to revoke the Respondent's License.

Committee Determination on the Charges

Pursuant to PHL § 230 *et seq.*, BPMC and its Committees function as a duly authorized professional disciplinary agency of the State of New York. The BPMC Committee in this case conducted a hearing under the expedited hearing procedures (Direct Referral Hearing) in PHL §230(10)(p). The Petitioner charged that the Respondent violated New York Education Law (EL) §§ 6530(9)(b) & 6530(9)(d)(McKinney Supp. 2016) by committing professional misconduct, because the duly authorized professional disciplinary agency from another state,

- found the Respondent guilty for improper professional conduct [6530(9)(b)], and/or,
- took disciplinary action against the Respondent's medical license in that state [6530(9)(d)],

for conduct that would constitute professional misconduct, if the Respondent had committed such conduct in New York. The Petitioner's Statement of Charges [Direct Referral Hearing Exhibit 1] alleged that the Respondent's misconduct in South Carolina would constitute misconduct if committed in New York, under the following specifications:

- practicing the profession with negligence on more than one occasion, a violation under EL § 6530(3);
- conduct in the practice of medicine which evidences moral unfitness, a violation under EL § 6530(20),
- failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, a violation under EL § 6530(32), and/or
- engaging in any physical contact of a sexual nature between licensee and patient, a violation under EL § 6530(44).

Following the Direct Referral Hearing, the Committee rendered the Determination now on review. In the Direct Referral Hearing, the statute limits the Committee to determining the nature and severity for the penalty to impose against the licensee, see In the Matter of Wolkoff v. Chassin, 89 N.Y.2d 250 (1996).

The evidence before the Committee demonstrated that the State Board of Medical Examiners of the State of South Carolina (South Carolina Board) reprimanded the Respondent and suspended his medical license indefinitely. The record before the Committee showed that the Respondent, a psychiatrist, had an inappropriate sexual relationship with a former patient and prescribed medications to that person without maintaining a medical record. After the Respondent ended the relationship with the first person, the Respondent began a sexual relationship with the patient of one of the Respondent's medical partners. That patient was also the mother of one of the Respondent's patients. The South Carolina Board reprimanded the Respondent and suspended the Respondent's South Carolina license indefinitely.

The Committee found that the Respondent's conduct in South Carolina would constitute misconduct in New York and then sustained all charges against the Respondent. The Committee agreed with the South Carolina Board that an indefinite suspension constituted the appropriate sanction in the case. The Committee voted to censure and reprimand the Respondent and to suspend the Respondent indefinitely until the Respondent completes and satisfies fully all requirements under the South Carolina Board's order. The Committee provided that if South Carolina lifts the Respondent's suspension that the Respondent could then petition for lifting the New York suspension, if the Respondent can show that he is fit and competent to resume practice in New York.

Review History and Issues

The Committee rendered their Determination on July 28, 2016. This proceeding commenced on August 10, 2016, when the ARB received the Petitioner's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record and Petitioner's brief. The Respondent made no submission nor reply. The record closed when the ARB received the Petitioner's brief on September 12, 2016.

The Petitioner requests that the ARB overturn the sanction that the Committee imposed and that the ARB revoke the Respondent's License. The Petitioner argued that the sanction fell outside the list of sanctioned penalties under PHL § 230-a and that the penalty is unworkable as a practical matter. The Petitioner contended that the Committee's Order failed to specify the conditions the Respondent must comply with in order to regain his License and that if the Respondent did regain his License, he would be left to unfettered practice in New York.

The Petitioner also criticized the sanction as inappropriately lenient. The Petitioner argued that the Respondent engaged in multiple inappropriate sexual relationships. The Petitioner's brief states that while the Respondent worked at the Carolina Center for Behavioral Health, the Respondent began treating Patient M.H. for detoxification from Klonopin. After the Respondent began a sexual relationship he gave M.H. quantities of sample medications: Neurontin, Lunesta and Pelpax. The Respondent also prescribed medication necessary to detoxify the patient: Inderal, Zoloft, Seraquill and Phenobarbital. The Petitioner asserted that the Respondent exploited the physician-patient relationship in a sexual way, prescribed controlled substances to the patient without forming a proper physician-patient relationship and failed to maintain a medical record for the patient. The Respondent's brief indicated that after the Respondent ended the relationship with M.H., the Respondent worked at the Southside Medical

Center (SMC). At the request by the SMC owner, the Respondent saw Patient B.G. and prescribed her Klonopin, Ambien, Trileptal and Lortab. The Respondent discontinued treating Patient B.G., but continued to see her son in the office and prescribed medication. The Respondent also paid utility bills and rent for the patient and gave the patient an engagement ring.

The Petitioner contends that the Respondent exhibited an inherent betrayal of the honesty and integrity expected of physicians and that for such physicians, there is no rehabilitation or retraining. The Petitioner also accused the Respondent of placing Patient M.H. in danger by failing to maintain a record of prescribed medications.

ARB Authority

Under PHL §§ 230(10)(i), 230-c(1) and 230-c(4)(b), the ARB may review Determinations by Hearing Committees to determine whether the Determination and Penalty are consistent with the Committee's findings of fact and conclusions of law and whether the Penalty is appropriate and within the scope of penalties which PHL §230-a permits. The ARB may substitute our judgment for that of the Committee, in deciding upon a penalty Matter of Bogdan v. Med. Conduct Bd. 195 A.D.2d 86, 606 N.Y.S.2d 381 (3rd Dept. 1993); in determining guilt on the charges, Matter of Spartalis v. State Bd. for Prof. Med. Conduct 205 A.D.2d 940, 613 NYS 2d 759 (3rd Dept. 1994); and in determining credibility, Matter of Minielly v. Comm. of Health, 222 A.D.2d 750, 634 N.Y.S.2d 856 (3rd Dept. 1995). The ARB may choose to substitute our judgment and impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate, Matter of Kabnick v.

Chassin, 89 N.Y.2d 828 (1996). In determining the appropriate penalty in a case, the ARB may consider both aggravating and mitigating circumstances, as well as considering the protection of society, rehabilitation and deterrence, Matter of Brigham v. DeBuono, 228 A.D.2d 870, 644 N.Y.S.2d 413 (1996).

The statute provides no rules as to the form for briefs, but the statute limits the review to only the record below and the briefs [PHL § 230-c(4)(a)], so the ARB will consider no evidence from outside the hearing record, Matter of Ramos v. DeBuono, 243 A.D.2d 847, 663 N.Y.S.2d 361 (3rd Dept. 1997).

A party aggrieved by an administrative decision holds no inherent right to an administrative appeal from that decision, and that party may seek administrative review only pursuant to statute or agency rules, Rooney v. New York State Department of Civil Service, 124 Misc. 2d 866, 477 N.Y.S.2d 939 (Westchester Co. Sup. Ct. 1984). The provisions in PHL §230-c provide the only rules on ARB reviews.

Determination

The ARB has considered the record and the Petitioner's brief. The ARB affirms the Committee's Determination to sustain the charges against the Respondent. Neither party challenged the Committee's Determination on the charges. The ARB overturns the Committee's determination to Censure and Reprimand the Respondent and to suspend the Respondent's License indefinitely. The ARB votes 5-0 to revoke the Respondent's License.

We agree with the Petitioner that the sanction the Committee imposed fell outside the list of permissible penalties at PHL §230-a. Under PHL §230-a(2), a Committee may suspend a license wholly for a fixed period of time or until a licensee completes retraining, treatment

rehabilitation and wholly or partially until a licensee satisfies a BPMC Order. A Committee may not impose an indefinite suspension Ostad v. New York State Dept. of Health, 309 A.D.2d 989, 766 N.Y.S.2d 441 (3rd Dept. 2003). In this case, the Committee imposed an indefinite suspension that was tied to an indefinite suspension in South Carolina.

The ARB also agrees with the Petitioner that the Committee imposed an overly lenient penalty. The Respondent betrayed the trust that the public places in physicians for the Respondent's sexual gratification and he placed Patient W.H. at risk by continuing to prescribe her medications without a proper physician-patient relationship and without a medical record that reflected the medications that the patient was receiving. Although the Committee described W.H. as a former patient, if a physician prescribes medication for a person, that person is the physician's patient. We agree further with the Petitioner that there is no rehabilitation or retraining for a physician who commits misconduct such as the Respondent. The Respondent's conduct has demonstrated his unfitness to practice medicine in New York.

ORDER

NOW, with this Determination as our basis, the ARB renders the following ORDER:

- 1. The ARB affirms the Committee's Determination that the Respondent committed professional misconduct.**
- 2. The ARB overturns the Committee's Determination to censure and reprimand the Respondent and to suspend his License indefinitely.**
- 3. The ARB revokes the Respondent's License.**

**Peter S. Koenig, Sr.
Steven Grabiec, M.D.
Linda Prescott Wilson
John A. D'Anna, M.D.
Richard D. Milone, M.D.**

In the Matter of Frederick Veit, M.D.

Linda Prescott Wilson, an ARB Member concurs in the Determination and Order in the

Matter of Dr. Veit.

Dated: 6 January, 2016



Linda Prescott Wilson

In the Matter of Frederick Veit, M.D.

John A. D'Anna, M.D., an ARB Member concurs in the Determination and Order in the Matter of Dr. Veit.

Dated: Dec. 7, 2016

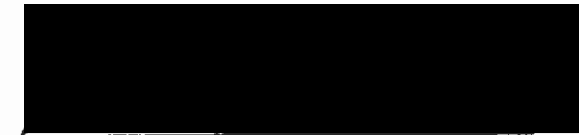

John A. D'Anna, M.D.

In the Matter of Frederick Veit, M.D.

Richard D. Milone, M.D., an ARB Member concurs in the Determination and Order in

the Matter of Dr. Veit.

Dated December 2, 2016

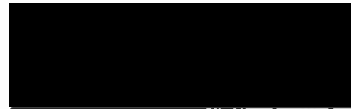


Richard D. Milone, M.D.

In the Matter of Frederick Veit, M.D.

Peter S. Koenig, Sr., an ARB Member concurs in the Determination and Order in the Matter of Dr. Veit.

Dated: December 2, 2016, 2016

A solid black rectangular box redacting the signature of Peter S. Koenig, Sr.

Peter S. Koenig, Sr.