



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

July 26, 2019

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Pooja Rawal  
Senior Attorney  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Room 2512, Corning Tower, ESP  
Albany, New York 12237

Alexander Babayants, M.D.  


**RE: In the Matter of Alexander Babayants, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 19-191) 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: cmg  
Enclosure

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

-----X  
: **IN THE MATTER** :  
: **OF** :  
: **ALEXANDER BABAYANTS, M.D.** :  
-----X

**DETERMINATION**  
  
**AND**  
  
**ORDER**  
19-191

A hearing was held on July 17, 2019, at the offices of the New York State Department of Health (Department), 150 Broadway, Menands, New York. Pursuant to Public Health Law (PHL) § 230(10)(e), Steven I. Sherman, M.D., Chairperson, Mehdi A. Khan, D.O., and Paul J. Lambiase, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Tina M. Champion, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by Pooja Rawal, Senior Attorney. A Notice of Referral Proceeding and Statement of Charges, dated May 22, 2019, were duly served upon Alexander Babayants, M.D. (Respondent), who appeared at the hearing by telephone.

The Hearing Committee received and examined documents from the Department (Exhibits 1-4) and heard testimony from the Respondent. A stenographic reporter prepared a transcript of the proceeding.

After consideration of the entire record, the Hearing Committee sustains the charge that the Respondent committed professional misconduct in violation of Education Law (Educ. Law) § 6530(9) and votes that the penalty of suspension of his medical license followed by limitation of his medical license is appropriate.

### **BACKGROUND**

The Department brought this case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Educ. Law § 6530(9). The Respondent is charged with professional misconduct pursuant to Educ. Law § 6530(9)(d) for "[h]aving his...license to practice medicine revoked, suspended or having other disciplinary action taken...where the conduct resulting in the revocation, suspension or other disciplinary action involving the license...would, if committed in New York state, constitute professional misconduct under the laws of New York state." Pursuant to PHL § 230(10), the Department has the burden of proving its case by a preponderance of the evidence. Any licensee found guilty of professional misconduct under the procedures prescribed in PHL § 230 "shall be subject to penalties as prescribed in [PHL § 230-a] except that the charges may be dismissed in the interest of justice."

### **FINDINGS OF FACT**

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. Alexander Babayants, M.D., the Respondent, was authorized to practice medicine in New York State on July 6, 2000 by issuance of license number 218269 by the New York State Education Department. (Ex. 4.)
2. On or about February 20, 2019, the Respondent entered into a Final Consent Order ("Order") with the New Jersey Board of Medical Examiners ("NJBME"). Pursuant to the Order, the Respondent's license was suspended for three years as of June 5, 2017, which was the date that the Respondent surrendered his controlled substance license and ceased practicing medicine. The Respondent agreed that after successful re-education, re-evaluation, and re-licensing, he will practice only in a NJBME-approved supervised setting. The Order states that prior to the NJBME reinstating the Respondent, the Respondent must prove that he successfully completed a



recordkeeping course, an eight-hour re-certification course on prescribing Suboxone if he chooses to practice in addiction medicine, and a re-education program in general psychiatry with a focus on addiction medicine if he chooses to practice in addiction medicine. The Order also states that following re-education the Respondent must satisfactorily participate in another assessment including an evaluation of his knowledge base of, and his ability to safely and competently engage in the general practice of psychiatry, and he must follow all recommendations. The NJBME assessed \$90,000.00 in monetary penalties, \$50,000.00 of which shall be stayed if the Respondent fully complies with all terms of the Order. The Respondent was further ordered to have no financial interest or benefit from, or involvement in, the practice of medicine or provision of healthcare activities until further order of the NJBME. (Ex. 3).

3. The NJBME Order was based on the Respondent's care and treatment of six patients from November 2011 to July 2017, each of whom the Respondent treated for mental health disorders for periods spanning multiple years. The NJBME alleged that, without limitation, the Respondent deviated from the standard of care in prescribing controlled substances to each of the six patients without properly diagnosing and/or treating the underlying medical conditions, and without properly documenting the diagnoses/treatments. (Ex. 3.)

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

The Hearing Committee decides, by a vote of 3-0, that the evidence supports sustaining the charge of the Respondent having committed professional misconduct as defined in Educ. Law § 6530(9)(d).

#### **HEARING COMMITTEE DETERMINATIONS**

The Department charged the Respondent with one specification of professional misconduct pursuant to Educ. Law § 6530(9)(d) for having disciplinary action taken in another state. The Hearing Committee concludes that the Respondent's actions giving rise to the Final Consent Order in New

Jersey would constitute professional misconduct under the laws of New York State pursuant to Educ. Law § 6530(3) [practicing the profession of medicine with negligence on more than one occasion] and Educ. Law § 6530(4) [practicing the profession of medicine with gross negligence on a particular occasion].

The Department has requested that the Hearing Committee revoke the Respondent's license to practice medicine in New York State, opining that the Respondent has betrayed the trust of the public, abused his position as a physician, and is a danger to individuals in the State of New York.

The Hearing Committee takes very seriously the Respondent's alleged conduct in New Jersey that resulted in the Final Consent Order with the NJBME. The Hearing Committee considered the Respondent's testimony and found it to be confusing with respect to the re-education that the Respondent has engaged in since 2017, and less than truthful and forthcoming with respect to his prior practice of medicine in the State of New York. The Hearing Committee did, however, find sincere the Respondent's testimony that he became overwhelmed in his practice of medicine due to the volume and type of patients that he was treating, and appreciated the Respondent's candid acknowledgement that his prior medical recordkeeping was a "joke."

In considering the full spectrum of penalties available under PHL § 230-a, the Hearing Committee finds appropriate a four (4) year suspension from the date of issuance of this Order. The Hearing Committee also finds appropriate a permanent limitation of the Respondent's license to require that the Respondent practice medicine only in a hospital-based setting, the nature of which will provide the necessary structure and oversight to the Respondent should he choose to practice medicine in the State of New York after his suspension is lifted.

ORDER

Now, after reviewing the evidence from the hearing, it is hereby ordered that:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is sustained;
2. The Respondent's license to practice medicine in the State of New York is wholly suspended under PHL § 230-a(2)(a) for a period of four (4) years;
3. The Respondent's license to practice medicine shall be permanently limited under PHL § 230-a(3) such that the Respondent shall practice medicine only in a hospital-based setting; and
4. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

Dated: Albany, New York  
July 25, 2019

  
Steven I. Sherman, M.D. P.O.  
Mehdi A. Khan, D.O.  
Paul J. Lambiase

Pooja Rawal  
Senior Attorney  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Room 2512, Corning Tower, ESP  
Albany, New York 12237

Alexander Babayants, M.D.  


## APPENDIX I

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

IN THE MATTER

OF

ALEXANDER BABAYANTS, M.D.

STATEMENT

OF

CHARGES

ALEXANDER BABAYANTS, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 6, 2000, by the issuance of license number 218269 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about February 20, 2019, the Respondent entered into a Final Consent Order ("Order") with the New Jersey Board of Medical Examiners ("NJBME"). The Respondent's license was suspended for three years made retroactively and effective as of June 5, 2017, the date he surrendered his controlled substance license and ceased practicing medicine. The Order also stated that after successful re-education, re-evaluation, and relicensing by the NJBME, he will practice in a NJBME-approved supervised setting. Prior to reinstatement the Respondent must prove he successfully completed a recordkeeping course, a re-certification course on prescribing Suboxone (if practicing addiction medicine), and a re-education program in general psychiatry (with a focus on addiction medicine if he chooses to practice that specialty). Following re-education, the Respondent must participate in another assessment regarding his knowledge base in and ability to safely practice general psychiatry and follow all

recommendations. The Respondent may petition for re-instatement of his NJBME license six months prior to the expiration of suspension, and he must demonstrate fitness and compliance before the NJBME. The Respondent was also ordered to pay \$90,000.00 in monetary penalties and ordered to cease and desist all patient contact in New Jersey and the rendering of medical care including the issuance or dispensation of any medications. The Respondent was also ordered to have no financial interest or benefit from, or involvement in, the practice of medicine or provision of healthcare activities.

B. The Order was based off the Respondent's care and treatment of six patients from November 2011 to July 2017, each of whom the Respondent treated for mental health disorders for periods spanning multiple years. In each case it was alleged the Respondent indiscriminately prescribed large quantities of opiates and other controlled substances without properly diagnosing and/or treating the underlying medical conditions and without properly documenting diagnoses/treatment.

C. The conduct resulting in the NJBME's disciplinary action against the Respondent would constitute misconduct under the law of New York State pursuant to the following section of New York State Law:

1. NY Educ. Law § 6530 (4) (Practicing the profession of medicine with gross negligence on a particular occasion) and/or
2. NY Educ. Law § 6530 (3) (Practicing the profession of medicine with negligence on more than one occasion.

**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 as alleged in the facts of the following:

3. The facts in Paragraphs A, B, C and/or C1 and/or C2.

DATE: May 22, 2019  
Albany, New York

  
TIMOTHY MAHAR  
Deputy Counsel  
Bureau of Professional Medical Conduct