



Department of Health

ANDREW M. CUOMO
Governor

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

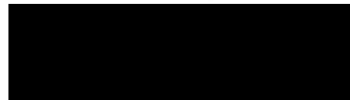
SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

January 9, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Marc S. Nash, Esq.
Bureau of Professional Medical Conduct
NYS Department of Health
Empire State Plaza
Corning Tower, Room 2512
Albany, New York 12237

Clarence White, M.D.



RE: In the Matter of Clarence White, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 20-007) 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

COPY

-----X	:	
IN THE MATTER	:	DETERMINATION
	:	
OF	:	AND
	:	
CLARENCE WHITE, M.D.	:	ORDER
-----X	:	20-007

Pursuant to New York State Public Health Law (PHL) § 230(10)(d)(i), the New York State Department of Health, Bureau of Professional Medical Conduct (Department) served Clarence White, M.D. (Respondent) with a Notice of Hearing and Statement of Charges. The hearing was held at the offices of the New York State Department of Health, located at 217 South Salina Street, Syracuse, New York. **JONATHAN ECKER, M.D.**, Chairperson, **RICHARD F. KASULKE, M.D.**, and **DAVID F. IRVINE, DHSc, P.A.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to PHL § 230(10)(e). **TINA M. CHAMPION**, Administrative Law Judge, served as the Administrative Officer.

The Department appeared by Marc S. Nash, Assistant Counsel. The Respondent failed to file a written answer or appear at the hearing on the date specified in the Notice of Hearing, and the hearing proceeded in his absence.¹ Pursuant to PHL § 230(10)(c), the allegations and charges contained in the Statement of Charges were deemed admitted. Evidence was received,

¹ On December 26, 2019, ALJ Champion received an email from the Respondent requesting that a letter and attachments included therein be sent to the hearing committee for consideration. The sum and substance of the material in the email was an explanation of why the Respondent was not at the hearing, commentary on points the Department raised in this matter or that the Respondent assumed the Department raised in this matter, a request that the Respondent be allowed to maintain his medical license, and character letters on the Respondent's behalf. The Department was provided with the email and attachments from the Respondent and objected to the hearing committee receiving the material. ALJ Champion granted the Respondent's request over the Department's objection. The hearing committee considered the material in the email from the Respondent and determined that no further deliberations were warranted in this matter.

the Department's witness was sworn or affirmed, and a transcript of the proceeding was made.

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

PROCEDURAL HISTORY

Notice of Hearing and Statement of Charges:	September 16, 2019
Service Made:	October 1, 2019
Pre-Hearing Conference:	November 4, 2019
Hearing Date:	November 14, 2019
ALJ Exhibits:	I
Witness for Department:	Rebecca Lee, LMSW
Department Exhibits:	1-7, 7a, 8, 9, 9a, 10-17
Witness for Respondent:	None
Respondent Exhibits:	None
Deliberations Held:	November 14, 2019
Transcript Received:	December 5, 2019

STATEMENT OF CASE

The Department charged the Respondent with seven specifications² of professional misconduct as defined in NY Educ. Law § 6530. These charges and the allegations were deemed admitted because the Respondent failed to submit an answer. The Department recommends that the Respondent's license to practice medicine be revoked. A copy of the Statement of Charges is attached to this Determination and Order as Appendix I.

² The Statement of Charges contains a seemingly typographical error in that it lists two specifications numbered as the "Sixth Specification." It is apparent from the content of the specifications that there are seven specifications of misconduct contained within the Statement of Charges. (Dept. Ex. 1.)

FINDINGS OF FACT

The following findings are the unanimous determinations of the Hearing Committee after consideration of the entire record in this matter. Numbers in parentheses refer to exhibits (Ex.) or transcript page numbers (T.).

1. The Respondent was authorized to practice medicine in New York State on October 9, 2015 by issuance of license number 282030 by the New York State Education Department. (Dept. Ex. 3.)

2. The Respondent was employed as a locum tenens psychiatrist at Cayuga Medical Center in Ithaca, New York from on or about June 5, 2017 to on or about November 21, 2017. (Dept. Ex. 1.)

3. Patient A was admitted to Cayuga Medical Center for psychiatric treatment from August 9, 2017 to August 12, 2017 and from September 19, 2017 to September 22, 2017. (Dept. Exs. 7, 9.)

4. The Respondent treated Patient A for her psychiatric condition during both her August and September 2017 admissions to Cayuga Medical Center. (Dept. Exs. 7, 9.)

5. The Respondent deviated from the standard of care with Patient A by:

- a. Asking Patient A for her phone number during Patient A's September 2017 admission to Cayuga Medical Center;
- b. Engaging in a social relationship with Patient A from on or about September 22, 2017 to November 20, 2017;
- c. Engaging in a sexual relationship with Patient A from on or about September 22, 2017 to November 20, 2017; and
- d. Giving Patient A money and/or his credit card information to purchase merchandise from on or about September 22, 2017 to November 20, 2017. (Dept. Exs. 1, 7, 9.)

CONCLUSIONS OF LAW

As required by PHL § 230(10)(f), the Hearing Committee based its conclusions on whether the Department met its burden of establishing that the allegations contained in the Statement of Charges were more probable than not.

The Department offered into evidence the written medical opinion of Andrea M. Lefton, M.D. regarding the Respondent's care of Patient A. Dr. Lefton concluded that the Respondent's personal relationship with Patient A was "extremely inappropriate" and noted that "having a personal relationship with a patient, especially a psychiatric patient, is completely outside of the acceptable standards of care." Dr. Lefton opined that the Respondent put Patient A "at risk" and that he "abused his position and betrayed [Patient A's] trust, as he pursued and encouraged a social bond between them." Dr. Lefton further opined that the Respondent "violated basic principles of patient care in psychiatry" and that his deviations from acceptable standards of care in this instance were severe deviations. (Dept. Ex. 16.)

The Department also offered into evidence the testimony of Rebecca Lee, LMSW regarding information she received from Patient A about a personal relationship between Patient A and the Respondent.³ Ms. Lee was familiar with Patient A as she had met her years prior while Ms. Lee was working as a social worker in the community and then more recently while working at Cayuga Medical Center when Patient A had multiple admissions to that facility. The information was reportedly received by Ms. Lee after Patient A saw and approached Ms. Lee out at a store in the community and began providing unsolicited information about the relationship. (T. 19-21.)

Having considered the complete record in this matter, the Hearing Committee concludes that the Department has established the seven specifications contained in the Statement of Charges. The Hearing Committee made these conclusions of law pursuant to the factual findings listed above, and all conclusions resulted from a unanimous vote of the Hearing Committee.

³ Patient A provided information to the Department during its investigation into the Respondent but was unavailable to testify at the hearing as she passed away on February 24, 2019. (Dept. Ex. 11; T. 54-57.)

The Department's First Specification charged the Respondent with professional misconduct for engaging in physical conduct of a sexual nature with a patient in the practice of psychiatry, in violation of New York Education Law § 6530(44)(a).

The Department's Second Specification charged the Respondent with professional misconduct for engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice, in violation of New York Education Law § 6530(20).

The Department's Third through Sixth Specifications charge the Respondent with professional misconduct for practicing the profession of medicine with gross negligence on a particular occasion with respect to Patient A, in violation of New York Education Law § 6530(4). Gross negligence is defined as negligence which involves a serious or significant deviation from acceptable medical standards that creates the risk of potentially grave consequences. Post v. State of New York Department of Health, 245 A.D.2d 985 (3d Dept. 1997). There is no need to prove that a physician was conscious of the impending dangerous consequences of his conduct. Minielly v. Commissioner of Health, 222 A.D.2d 750 (3d Dept. 1995).

The Department's Seventh Specification charged the Respondent with professional misconduct for practicing the profession of medicine with negligence on more than one occasion with respect to Patient A, in violation of New York Education Law § 6530(3). Negligence is defined as the failure to exercise the care that would be exercised by a reasonably prudent physician under the circumstances and involves a deviation from acceptable medical standards in the treatment of patients. Bogdan v. State Board for Professional Medical Conduct, 195 A.D.2d 86 (3d Dept. 1993).

The charges against the Respondent were deemed admitted due to the Respondent's failure to file an answer, and the Hearing Committee unanimously concludes that the record establishes these specifications of misconduct.

DETERMINATION AS TO PENALTY


The Hearing Committee considered the full spectrum of penalties available pursuant to statute, including revocation, suspension, probation, censure, and the imposition of civil penalties. Physicians must comply with the highest ethical standards, which are of the utmost importance in the practice of medicine in the field of psychiatry where physicians are working with an inherently vulnerable population. The Hearing Committee concludes that the Respondent's actions with respect to Patient A demonstrate that he is an extreme risk to his patients. Accordingly, the Hearing Committee concurs with the Department's recommendation that the Respondent's license be revoked.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED THAT:

1. The First through Seventh Specifications of professional misconduct, as set forth in the Statement of Charges, are sustained; and
2. Pursuant to PHL § 230-a(4), the Respondent's license to practice medicine is revoked; and
3. 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, whichever is earlier; or by personal service and such service shall be effective upon receipt.

DATED: Syracuse, New York
January 8, 2020


Jonathan Ecker, M.D., Chairperson
Richard F. Kasulke, M.D.
David F. Irvine, DHSc, P.A.

Marc S. Nash
Assistant Counsel
Bureau of Professional Medical Conduct
Division of Legal Affairs
NYS Department of Health
Corning Tower Room 2512
Empire State Plaza
Albany, New York 12237

Clarence White, M.D.

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APPENDIX I

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

IN THE MATTER
OF
CLARENCE WHITE, M.D.

STATEMENT
OF
CHARGES

CLARENCE WHITE, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 9, 2015, by the issuance of license number 282030 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. From on or about June 5, 2017 to on or about November 21, 2017, Respondent, a psychiatrist, was employed as locum tenens at Cayuga Medical Center, located at 100 Dates Drive, Ithaca, New York 14850. During Respondent's employment at Cayuga Medical Center, Patient A was admitted for psychiatric treatment on two occasions, from on or about August 9, 2017 to August 12, 2017, and from on or about September 19, 2017 to September 22, 2017. During both periods of admittance, Respondent treated Patient A for her psychiatric condition. Respondent failed to meet the accepted standards of medical practice, in that:

1. Respondent, during his period of treatment of Patient A between September 19, 2017 and September 22, 2017, asked Patient A for her phone number.
2. Respondent, from on or about September 22, 2017 to November 20, 2017, had a social relationship with Patient A, which included socializing with Patient A on more than one occasion.
3. Respondent, from on or about September 22, 2017 to November 20, 2017, had a sexual relationship with Patient A which included sexual intercourse.
4. Respondent, from on or about September 22, 2017 to November 20, 2017, gave Patient A money and/or his credit card information to purchase merchandise.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

SEXUAL CONTACT BY PSYCHIATRIST WITH PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law § 6530(44)(a) by engaging in physical conduct of a sexual nature between the licensee and the patient in the practice of psychiatry, as alleged in the facts of:

1. Paragraph A and A.3.

SECOND SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law § 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of:

2. Paragraph A and A.1, A and A.2, A and A.3, and/or A and A.4.

THIRD THROUGH SIXTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of:

3. Paragraph A and A.1.

4. Paragraph A and A.2.
5. Paragraph A and A.3.
6. Paragraph A and A.4.

SIXTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of:

7. Paragraph A and A.1, A and A.2, A and A.3 and/or A and A.4.

DATE: September 16, 2019
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct