



**Department
of Health**

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

May 5, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Jonathan Rubin, Esq.
Kaufman Borgeest & Ryan LLP
120 Broadway – 14th Floor
New York, NY 10271

RE: In the Matter of Bryan Boffi, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-106) 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.

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 Respondent or the Department may seek a review of a committee determination.

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:

Jean T. Carney, 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 Judge Carney 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,

A large black rectangular redaction box covering the signature of Dawn MacKillop-Soller.

Dawn MacKillop-Soller
Acting Chief Administrative Law Judge
Bureau of Adjudication

DXM: nm
Enclosure

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

COPY

-----X
IN THE MATTER
OF
BRYAN BOFFI, M.D.
-----X

DETERMINATION
AND
ORDER

BPMC-22-106

A hearing was held on April 27, 2022, by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), **Elisa Burns, MD, Chairperson, David Kirshy, MD, and Richard Goldberg, Esq.**, 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 Marc S. Nash, Esq. A Notice of Referral Proceeding and Statement of Charges dated March 1, 2022, were duly served upon Bryan Boffi, MD (Respondent), who appeared at the hearing with his attorney, Jonathan Rubin, Esq., and provided testimony.

The Hearing Committee received and examined documents from the Department (Dept. Exs. 1-4) and from the Respondent (Resp. Exs. A-C). A stenographic reporter prepared a transcript of the proceeding.

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 one specification of professional misconduct pursuant to Educ. Law § 6530(9)(d) for "[h]aving 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." 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. The Respondent was licensed to practice medicine in New York State on July 1, 1985, by issuance of license number 162688. (Dept. Ex. 3.)
2. On September 15, 2020, by way of a Consent Order, the Connecticut Medical Examining Board (Connecticut Board) reprimanded the Respondent's license and assessed a \$5,000 fine. The Consent Order was entered into as a result of allegations that the Respondent failed to contact a patient's outpatient physician to discuss the patient's history and treatment plan and that the Respondent inappropriately prescribed 90 tablets of Ativan upon the patient's hospital discharge. (Dept. Ex. 4.)

VOTE OF THE HEARING COMMITTEE

The Hearing Committee, by a vote of 3-0, sustains the charges that the Respondent committed professional misconduct as defined in Educ. Law § 6530(9)(d).

HEARING COMMITTEE DETERMINATIONS

The Hearing Committee has thoroughly considered the evidence in this matter. It concludes that the conduct resulting in the disciplinary action in Connecticut, if committed in New York State, would constitute professional misconduct under the laws of New York State as defined in Educ. Law § 6530(3) – practicing the profession with negligence on more than one occasion.

The Respondent testified at the hearing as to the mistake he made with prescribing. He stated that he should have prescribed the patient four days' worth of medication rather than 90 tablets. The Respondent said the error occurred because the number of tablets auto populated as if the patient was outpatient rather than inpatient. The Respondent nonetheless expressed remorse for the error and took full responsibility for not catching it. He testified that he takes the matter very seriously and has taken over 250 hours of continuing medical education of his own accord, has reduced the size of his practice to account for being overworked and tired, and that he now documents everything. The Respondent testified that he is looking to retire soon and has no plans to practice medicine in New York State. The Respondent asks that this matter be dismissed.

The Department recommended that the Respondent receive a censure and reprimand and be fined \$2,500.

The Hearing Committee appreciated the Respondent's candor, particularly in identifying that he made three errors, namely, prescribing too many Ativan tablets, not checking the state registry for controlled substance prescriptions, and not conferring with the patient's primary care physician. The Hearing Committee finds that a censure and reprimand is appropriate. It declines to impose a fine.


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 is subject to censure and reprimand pursuant to PHL § 230-a(1);

3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

Dated: Albany, New York
May 4, 2022


Elisa Burns, MD, Chairperson
David Kirshy, MD
Richard Goldberg, Esq.

Marc S. Nash
Associate Counsel
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Bureau of Professional Medical Conduct
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NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
BRYAN BOFFI, M.D.

STATEMENT
OF
CHARGES

BRYAN BOFFI, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1985, by the issuance of license number 162688 by the New York State Education Department.

FACTUAL ALLEGATIONS

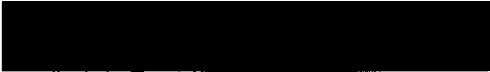
- A. On or about September 15, 2020, by Consent Order, the Connecticut Medical Examining Board (hereinafter, "Connecticut Board") reprimanded Respondent's license and assessed a \$5,000 fine. This Consent Order was issued pursuant to allegations, which Respondent chose not to contest, that Respondent failed to contact a patient's outpatient physician to discuss the patient's history and treatment plan and that Respondent inappropriately prescribed 90 Ativan upon the patient's hospital discharge.
- B. The conduct resulting in the Connecticut Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following Section of New York State Law:
1. New York Education Law § 6530(3) (Practicing the profession 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 (namely N.Y. Educ. Law § 6530(3)) as alleged in the facts of the following:

1. Paragraphs A and B and B.1.

DATE: March 1, 2022
Albany, New York


JEFFREY J. CONKLIN
Acting Deputy Counsel
Bureau of Professional Medical Conduct