



Department of Health

ANDREW M. CUOMO
Governor

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

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

May 27, 2020

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Deborah Beth Medows, Esq.
NYS Department of Health
90 Church Street 4th Floor
New York, New York 10007

Irene G. Gurvits, M.D.
[REDACTED]

Irene G. Gurvits, M.D.
[REDACTED]

RE: In the Matter of Irene G. Gurvits, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 20-136) 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:nm
Enclosure

COPY

DETERMINATION
AND
ORDER
BPMC-20-136

The Department appeared by Deborah Beth Medows, Senior Attorney. The Respondent did not appear at the hearing in person or by a representative. Because the Respondent failed to file an answer to the allegations and charges set forth in the Statement of Charges, all allegations and charges were deemed admitted. PHL § 230(10)(c)(2). The Department charged the Respondent with five specifications of professional misconduct under NY Educ. Law § 6530, specifically: failing to comply with an order issued pursuant to PHL § 230(7)(a) (Educ. Law § 6530(15)); practicing the profession while impaired by alcohol, drugs, physical disability, or

¹ This hearing was originally scheduled to occur on March 30, 2020 at the offices of the New York State Department of Health on 90 Church Street, New York, New York. However, it was rescheduled due to coronavirus-related statewide travel and office-use restrictions imposed by the Governor of the State of New York.

mental disability (Educ. Law § 6530(7)); being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, or having a psychiatric condition which impairs the licensee's ability to practice (Educ. Law § 6530(8)); failing to respond within thirty days to written communications from the Department and to make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct (Educ. Law § 6530(28)); and failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient (Educ. Law § 6530(32)). These charges are sustained. The Hearing Committee was therefore required only to determine what penalty to impose upon the Respondent.

At the hearing, each member of the Committee was given copies of the fourteen exhibits that were received into evidence.² The Department presented one witness, Benjamin Cheney, M.D., a psychiatrist who had evaluated the Respondent in 2015 at the Department's request. A transcript of the proceeding was made. Upon consideration of the record in its entirety, the Hearing Committee determined to impose the penalty of revocation of the Respondent's license.

FINDINGS OF FACT

The following findings of fact are the unanimous determinations of the Hearing Committee:

1. The Respondent was authorized to practice medicine in the State of New York on September 5, 1997 by issuance of license number 208209. (Exhibit 2.)
2. On or about July 20, 2016, Department Nurse Investigator Abby Gordon sent the Respondent a request for a copy of Patient D's complete office medical record and advised that

² The Department's fourteen exhibits were admitted into the record at a pre-hearing conference that was held on April 28, 2020, outside the presence of the Committee. Despite being duly notified of the date and time of the conference, the Respondent failed to appear, either in person or by a representative. (ALJ II.)

the Respondent must respond to the request within 30 business days of receipt of the letter. The Respondent did not respond to the request and did not make Patient D's medical record available for examination. (Exhibit 8.)

3. On or about February 2, 2017, Senior Medical Conduct Investigator Martha Qhizhpi sent the Respondent a request for a copy of Patient A's complete office medical record and advised that the Respondent must respond to the request within 30 business days of receipt of the letter. The Respondent did not respond to the request and did not make Patient A's medical record available for examination. (Exhibit 8.)

4. On or about March 1, 2017, Investigator Quizhpi sent the Respondent a request for a copy of Patient B's complete office medical record and advised that the Respondent must respond to the request within 30 business days of receipt of the letter. The Respondent did not respond and did not make Patient B's medical record available for examination. (Exhibit 8.)

5. On or about May 16, 2017, Investigator Quizhpi sent the Respondent a request for a copy of Patient C's complete office medical record and advised that the Respondent must respond to the request within 30 business days of receipt of the letter. The Respondent did not respond and did not make Patient C's medical record available for examination. (Exhibit 8.)

6. By Order Pursuant to § 230(7)(a) of the Public Health Law dated July 23, 2019, after affording the Respondent an opportunity to be heard, a Committee on Professional Conduct directed the Respondent to submit to and cooperate with a psychiatric examination by John R. Whipple, M.D. within 30 days. This Order was based on the reports made by Investigators Quizhpi and Gordon of interviews conducted with Patients B-D, during which those patients reported that the Respondent withheld prescriptions until they performed work for her, denied patients their medications after expressing disagreement with the diagnoses she had previously

given them, sent text messages to patients, lost medical records, and haphazardly stored medical records without concern for patients' privacy. The Respondent's July 9, 2019 letter to Department Associate Counsel Gerard Cabrera, which was sent in response to the notification of the PHL § 230(7)(a) proceeding, also prompted concerns that the Respondent may be impaired by alcohol, drugs, physical disability or mental disability. (Exhibits 4, 5 and 8.)

7. The Respondent failed to comply with the order to submit to the psychiatric examination. (Exhibit 7.)

DISCUSSION

In or about February 2012, the Respondent was referred to the Committee for Physician Health (CPH), a non-disciplinary assistance program for physicians, by her attorney, who believed she was ill and needed psychiatric treatment. In 2013, CPH discharged the Respondent and referred her case to the Department for failing to continue psychiatric treatment after her psychiatrist relocated. (T 24; Exhibit 10.)

At the Department's request, Dr. Benjamin Cheney performed an Independent Medical Evaluation of the Respondent on December 22, 2014. After meeting with the Respondent and speaking with several professional and personal contacts, Dr. Cheney determined that the Respondent's behavior correlated with major depressive disorder with psychotic features. Despite his surprise at the Respondent's indifference to the interview and the potential consequences of the evaluation (T 27-29), Dr. Cheney ultimately concluded that the Respondent would be able to safely continue her work as a psychiatrist under very specific conditions, including continued receipt of psychiatric care and compliance with prescribed medication, working under the supervision of a practice monitor, and undergoing neuropsychiatric testing to more effectively understand the Respondent's diagnosis and her medication needs. He advised

that the Respondent's failure to comply with all stated conditions should lead to the suspension of the Respondent's licensure. (Exhibit 10.)

In or about May 2016, the Department received a written complaint from Patient D concerning the medical treatment received from and behavior exhibited by the Respondent. During interviews with Patients B-D, the patients reported that the Respondent carelessly left patient records in areas visible to others, advised patients that their records were lost or stolen, disagreed with diagnoses she had previously given them, and sent text messages to patients at various hours expressing concern that she was being followed. Patients B and C both performed work for the Respondent while under her care and stated that she withheld their prescriptions until they helped her move. Patient B observed the Respondent's storage of old medical records in a shopping bag. (Exhibit 8.) The Respondent failed to respond to written requests for the records of Patients A, B, C, and D (sent to her on February 2, March 1, and May 16, 2017, and July 20, 2016, respectively) within 30 days and failed to make those patients' records available. (Exhibit 8.)

In the Respondent's voicemail messages for Investigator Quizhpi (dated September 16, October 24, November 14 and 20, 2017, May 3 and 6, 2018 and February 9, 2019) and a March 1, 2019 letter, the Respondent alleged that the requested patient files were stolen and accused Ms. Quizhpi of taking the files. In other messages, the Respondent claimed that many of her patients committed insurance fraud. (Exhibit 8.)

After receiving the Department's written notification of a July 23, 2019 proceeding scheduled pursuant to PHL §§ 230(7)(a) and (b) to determine whether the Respondent may be impaired by alcohol, drugs, physical disability or mental disability, the Respondent sent the Department's Associate Counsel Gerard Cabrera a 42-page reply, in which she challenged the

Department's jurisdiction over her licensure and alleged that Patient B and other individuals stole medical files from the Respondent's office and engaged in fraudulent billing. (Exhibit 4.) However, she did not attend the July 23, 2019 proceeding and did not comply with the resulting order to undergo a psychiatric evaluation by Dr. John Whipple no later than August 24, 2019 or any time thereafter. (Exhibit 7; T 19.) On August 1, 2019, she sent Mr. Cabrera another letter reiterating that Patient B and others stole files and engaged in fraudulent billing and contested the Department's authority to review her medical files and conduct. (Exhibit 6.)

With respect to the patient complaints documented in the Department's investigative reports, Dr. Cheney characterized the Respondent's behavior as "wildly inappropriate" and found that the Respondent's incoherent text messages to patients showed impaired judgment. (T 39.) Dr. Cheney also testified that the Respondent's letters to Department staff (Exhibits 4, 6 and 8) demonstrated behavior that is not appropriate for the practice of medicine and reflected impaired mental health. (T 44.) Even though the Respondent was offered numerous chances to come in and present her case, Dr. Cheney opined that the Respondent's mental state is preventing her from participating and responding in an organized fashion. He concluded that the Respondent's lack of organization and behavior towards her patients showed that she is unable to properly care for patients. (T 45, 50-52)

Dr. John F. Crow, a psychiatrist who has known and treated the Respondent since 1994, advised the Department that the Respondent is "fueled by an organizing fantasy of authoritarian persecution". The Respondent has attended only 2 or 3 sessions with Dr. Crow each year since 2016, as she has missed most of her scheduled appointments. (Exhibit 12.)

In considering the full spectrum of penalties under PHL § 230-a, including revocation, suspension, probation, censure and reprimand, and the imposition of penalties, the Hearing

Committee determined that revocation of the Respondent's license was the only appropriate means of protecting the public from the potential harm inflicted by a psychiatrist who is not addressing her own psychiatric problems. The Hearing Committee carefully considered the evidence provided by the Department, all of which consistently showed inappropriate behavior by the Respondent, and the opinions offered by Dr. Cheney and Dr. Crow, psychiatrists who were personally familiar with the Respondent and her behavior.

The Hearing Committee noted that the Respondent was given multiple opportunities to address her mental health problems and the charges in this matter. Unfortunately, the Respondent has shown a continued failure to deal with her problems in a productive manner. The Hearing Committee was troubled by the Respondent's failure to regularly seek professional help for her psychiatric problems, particularly because, as Dr. Cheney explained, the Respondent's conditions generally require intensive treatment and do not improve on their own. (T 57-58.) They also found the Respondent's behavior towards her patients completely inappropriate, as she clearly violated the boundaries of the doctor-patient relationship with Patients B and C by employing them, withholding medications until they performed work for her, and using Patient B's credit card for the Respondent's personal expenses. These violations were even more disconcerting because they were committed by a psychiatrist with patients who are often even more vulnerable than those seeking care from an internist and require more frequent attention than patients seeking care from other medical practitioners. The fact that the Respondent diagnosed several patients with psychiatric conditions, prescribed medications for those diagnoses, and subsequently informed the patients that they did not need those medications without providing any explanation further demonstrated the Respondent's lack of fitness to safely continue treating patients. Finally, and no less troubling, was the Respondent's flagrant

violation of patient privacy rules, shown by her loss of patient records, mixing of patient files, and careless storage of records in areas visible to other patients. (Exhibit 8.)

For these reasons, the Hearing Committee determined that the revocation of the Respondent's medical licensure is the only appropriate penalty to impose in this matter. PHL § 230-a(4). As of the effective date of this decision, the Respondent will no longer have the legal ability to practice psychiatry or any other branch of medicine in the State of New York in any manner.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of misconduct as set forth in the Statement of Charges are **SUSTAINED**.
2. The Respondent's license to practice medicine in the State of New York is **REVOKED** pursuant to PHL § 230-a(4).
3. This Determination and Order shall be effective upon service of the Respondent in accordance with PHL § 230(10)(h).

DATED: New York, New York
May 26, 2020

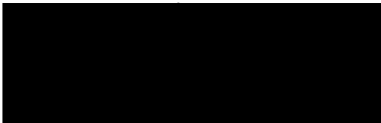

MICHAEL C. IANNUZZI, M.D., Chair
RAMANATHAN RAJU, M.D.
RUTH HOROWITZ, Ph.D.

To: Deborah Beth Medows, Senior Attorney
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, New York 10007

Irene G. Gurvits, M.D.



Irene G. Gurvits, M.D.



APPENDIX I

NEW YORK STATE
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

DEPARTMENT OF HEALTH

IN THE MATTER

OF

IRENE G. GURVITS, M.D.

STATEMENT

OF

CHARGES

IRENE G. GURVITS, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 5, 1997, by the issuance of license number 208209 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 23, 2019, a Hearing Committee of the Board of Professional Medical Conduct found "reason to believe" that Respondent "may be impaired" and issued an Order requiring that Respondent submit to a psychiatric examination by August 24, 2019.

1. Respondent failed to comply with the Board Order to submit to an examination by a psychiatrist.

B. Since on or about and between January 1, 2016 and the present, the Respondent has practiced medicine while impaired by a mental disability, including but not limited to treating the patients listed below:

1. Patient A.
2. Patient B.
3. Patient C.
4. Patient D.

C. Since on or about and between January 1, 2016 and the present, the Respondent has had a psychiatric condition which impairs her ability to practice medicine.

D. Respondent failed to respond within thirty days to written communications from the New York State Department of Health, and to make available Respondent's medical records for the following patients.

1. Patient A---record requested on or about February 2, 2017.
2. Patient B---record requested on or about March 1, 2017.
3. Patient C---record requested on or about May 16, 2017.
4. Patient D---record requested on or about July 20, 2016.

E. Respondent failed to maintain records for the patients referred to in factual allegations D(1) through D(4).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

FAILING TO COMPLY WITH AN ORDER

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(15) by failing to comply with an order issued pursuant to Public Health Law 230 (7)(a), as alleged in the facts of:

1. Paragraphs A and A1.

SECOND SPECIFICATION

PRACTICING WHILE IMPAIRED

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(7) by practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability, as alleged in the facts of the following:

2. Paragraphs B, B(1-4) D, D(1-4) and E.

THIRD SPECIFICATION

HAVING A

PSYCHIATRIC CONDITION WHICH IMPAIRS

THE ABILITY TO PRACTICE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(8) by being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, or having a psychiatric condition which impairs the licensee's ability to practice as alleged in the facts of the following:

3. Paragraph C.

FOURTH SPECIFICATION

FAILURE TO PRODUCE RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(28) by failing to respond within thirty days to written communications from the department of health and to make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct, as alleged in the facts of:

4. Paragraph D, D1, D2, D3 and D4.

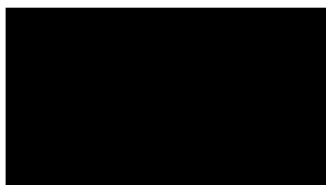
FIFTH SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

5. Paragraph E.

DATE: February 7, 2020
New York, New York



Henry Weintraub
Chief Counsel
Bureau of Professional Medical Conduct