



Department of Health

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

April 21, 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

Sari Gabay, Esq.
Gabay & Bowler
48 West 21st Street
Suite 1000
New York, NY 10010

RE: In the Matter of Vadim Baram, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 22-085) 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:

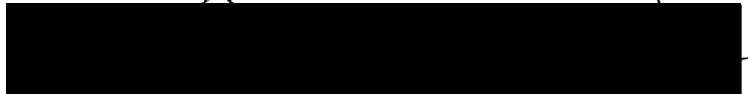
Jean T. Carney, Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

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,



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
VADIM BARAM, M.D.
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DETERMINATION
AND
ORDER

BPMC-22-085

A hearing was held on March 24, 2022, by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), **Jonathan Ecker, MD, Chairperson, Rose Berkun, MD, and Thomas Lahut, DHSc, PA-C**, 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, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges, both dated January 18, 2022, were duly served upon Vadim Baram, MD (Respondent), who appeared at the hearing with his attorney, Sari Gabay, Esq., and testified in his own behalf.

The Hearing Committee received and examined documents from the Department (Dept. Exs. 1-4) and the Respondent (Resp. Exs. C-L). 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 two specifications of professional misconduct. The first specification is pursuant to Educ. Law § 6530(9)(b) for "[h]aving been found guilty of improper professional practice or

professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state.” The second specification is 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 November 12, 2003 by issuance of license number 230500. (Dept. Ex. 3.)
2. On May 13, 2021, following a hearing, the Missouri State Board of Registration for the Healing Arts (Missouri Board) issued a Findings of Fact, Conclusions of Law and Disciplinary Order which publicly reprimanded the Respondent's physician and surgeon's license. This disciplinary action was based on findings and conclusions that, in the course of treatment of three patients from 2009 to 2013, the Respondent failed to attempt to reduce the frequency of electroconvulsive therapy

(ECT); failed to perform assessments within 24 hours of performing ECT; failed to include information sufficient to justify continuing ECT treatment; failed to properly note assessments and did not adequately determine if any side effects and cognitive function were present after each administration of ECT; copied and pasted repetitive phrases in his documentation; failed to include relevant information in the patients' records; and failed to document sufficient assessment of the patients' cognitive side effects and present conditions. (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)(b) and (d).

HEARING COMMITTEE DETERMINATIONS

The Hearing Committee finds that the conduct upon which the findings and disciplinary action by the Missouri Board was based, if committed in New York, would constitute professional misconduct under the laws of New York State pursuant to Educ. Law § 6530(3) for practicing the profession with negligence on more than one occasion and pursuant to Educ. Law § 6530(32) for failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

The Respondent did not dispute the charges against him. He testified to understanding the importance of recordkeeping and assessments. He testified that he learned a strong lesson on patient assessments and now assesses patients both immediately after a procedure and then again within 24 hours, as well as documenting immediately afterward. The Respondent testified that he is starting a psychiatry practice in New York State that currently has 5 patients, that it is telemedicine based, and that he has no plans to perform ECT in New York. The Respondent testified that he feels he can fill a need in New York State, particularly given that he is fluent in both Ukrainian and Russian. The Respondent also testified that he has had no other disciplinary actions against him. The Respondent requested that this matter be dismissed in the interest of justice.

The Department has recommended that the Respondent's license be suspended for three years with a full stay of suspension and that the Respondent be placed on probation for three years with a practice monitor.

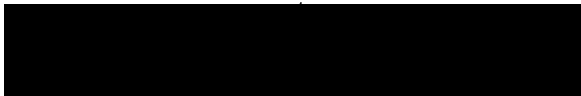
The Hearing Committee appreciated the Respondent's candor and acceptance of responsibility for his actions leading to the findings and disciplinary action in Missouri. In considering the totality of evidence before it, the Hearing Committee finds that a one year stayed suspension and one year of probation with a practice monitor is an appropriate penalty and will provide appropriate protection to the public of the State of New York.

ORDER

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

1. The charges of professional 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 suspended under PHL § 230-a(2)&(9) for a period of one year; which suspension shall be stayed;
3. The Respondent is subject to probation pursuant to PHL § 230-a(9) for a period of one year in accordance with the Terms of Probation annexed hereto; 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
April 21, 2022


Jonathan Ecker, MD, Chairperson
Rose Berkun, MD
Thomas Lahut, DHSc, PA-C

Marc S. Nash
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
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New York, NY 10010
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NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

VADIM BARAM, M.D.

STATEMENT

OF

CHARGES

VADIM BARAM, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 12, 2003, by the issuance of license number 230500 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 13, 2021, following a hearing, the Missouri State Board of Registration for the Healing Arts (hereinafter, "Missouri Board") issued a Findings of Fact, Conclusions of Law and Disciplinary Order which publicly reprimanded Respondent's license. This disciplinary action was based on findings and conclusions that, in the course of treatment of three patients from 2009 to 2013, Respondent: failed to reduce the frequency of electroconvulsive therapy (ECT); failed to perform assessments within 24 hours of performing ECT; failed to include information sufficient to justify continuing ECT treatment; failed to properly note assessments and did not adequately determine or assess if any side effects and cognitive function were present after each administration of ECT; copied and pasted repetitive phrases; failed to include relevant information in the patients' records; and failed to document sufficient assessments of the patients' cognitive side effects and present conditions.

B. The conduct resulting in the Missouri Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following sections of New York State Law:

1. New York Education Law § 6530(3) (Practicing the profession with negligence on more than one occasion); and/or
2. New York Education Law § 6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §§ 6530(3) and (32)) as alleged in the facts of the following:

1. Paragraphs A, B and B.1 and/or A, B, and B.2

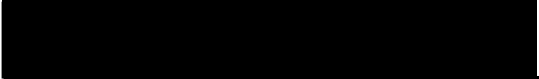
SECOND SPECIFICATION

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having the Respondent's license to practice medicine revoked, suspended or having other disciplinary action taken, or having the Respondent's application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered the Respondent's 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) and (32)) as alleged in the facts of the following:

2. Paragraphs A, B and B.1 and/or A, B, and B.2.

DATE: January 18, 2022
Albany, New York


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

TERMS OF PROBATION

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
2. Respondent shall maintain active registration of his license with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204 with the following information, in writing, and ensure that this information is kept current: a full description of his employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall provide to the Director of OPMC copies of all applications relating to the practice of medicine, including but not limited to, privileges, insurance, and licensure, in any jurisdiction, concurrent with submission of the applications.
5. Respondent shall cooperate fully with and respond in a timely manner to OPMC requests to provide written periodic verification of his compliance with these terms. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
6. Respondent shall practice medicine in New York State only when monitored by a licensed physician, board certified in an appropriate specialty (practice monitor), who is proposed by Respondent and subject to the written approval of the Director of the OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit the Respondent's medical practice at each and every location, on a random, unannounced basis at least monthly and shall examine a selection (no fewer than 20, or, if there are less than 20, then all) of the records maintained by the Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to the OPMC.
 - b. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of the OPMC.
 - c. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.

- d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with § 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent commencing practice within the State of New York.
7. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if he is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30-day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in the Determination and Order or as are necessary to protect the public health.
8. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
9. Respondent shall comply with these probationary terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.