

# Physician Information

**Physician Last Name:** Herskowitz

**Physician First Name:** Ahvie

**Physician Middle Name:**

**Address:** Address redacted

**License Number:** 138098

**License Type:** MD

**Year of Birth:** 1952

**Effective Date:** 12/12/2023

**Action Description for DOH Webpage:** The Administrative Review Board imposes a censure and reprimand and upon the physician's return to practice in New York State, they will be subject to probation for three years.

**Misconduct Description for DOH Webpage:** The Administrative Review Board affirmed the Hearing Committee's June 23, 2023, decision finding the physician committed professional misconduct by having been disciplined by the Medical Board of California for failing to meet professional standards of care in the treatment of two patients.

**License Limitations or Conditions for DOH Webpage:** Upon the physician's return to practice in New York State, they will be subject to probation for three years.

**Board Order:**



[HRG 138098.pdf](#)



[ARB 138098.pdf](#)



## Department of Health

KATHY HOCHUL  
Governor

JAMES V. McDONALD, M.D., M.P.H.  
Commissioner

JOHANNE E. MORNE, M.S.  
Acting Executive Deputy Commissioner

December 5, 2023

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Jacques G. Simon, Esq.  
200 Garden City Plaza  
Suite 301  
Garden City, New York 11530

Ahvie Herskowitz, M.D.  
[REDACTED]

Paul Tsui, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Ahvie Herskowitz, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 23-249) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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to deliver to the Board of Professional Medical Conduct your license to practice medicine **if said license has been revoked, annulled, suspended or surrendered**, together with the registration certificate.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  
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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,



Natalie J. Bordeaux  
Chief Administrative Law Judge  
Bureau of Adjudication

NJB:nm  
Enclosure

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

COPY

In the Matter of

Ahvie Herskowitz, M.D. (Respondent)

Administrative Review Board (ARB)  
Determination and Order No. 23- 249

A proceeding to review a Determination by  
a Committee (Committee) from the Board  
for Professional Medical Conduct (BPMC)

Before ARB Members Torrelli, Rabin, Wilson, Milone, and Reichgott  
Administrative Law Judge Jean T. Carney drafted the Determination

For the Department of Health (Petitioner):  
For the Respondent:

Paul Tsui, Esq.  
Jacques G. Simon, Esq.

Following the Respondent's disciplinary action by the Medical Board of California (CA Board), a BPMC Hearing Committee determined that the Respondent's conduct constituted professional misconduct. In this proceeding pursuant to New York Public Health Law (PHL) § 230-c(4)(a), the Petitioner asked the ARB to review that Determination. After reviewing the hearing record and the parties' review submissions, the ARB affirms the hearing committee's determination and modifies the penalty imposed.

**Committee Determination on the Charges**

Pursuant to PHL § 230 *et seq*, BPMC and its Committees function as a duly authorized professional disciplinary agency of the State of New York. The BPMC Committee in this case conducted a hearing under the expedited hearing procedures (Direct Referral Hearing) in PHL § 230(10)(p). The Petitioner's Statement of Charges alleged that the Respondent committed professional misconduct under New York Education Law (Educ. Law) § 6530(9)(b) by having been found guilty of misconduct by

the CA Board, and § 6530(9)(d) by having disciplinary action taken against his license to practice medicine in California (CA license); where the conduct resulting in the disciplinary action would constitute professional misconduct if committed in New York State. In the Direct Referral Hearing, the statute limits the Committee to determining the nature and severity for the penalty to impose against the licensee, In the Matter of Wolkoff v. Chassin, 89 N.Y.2d 250 (1996). Following the Direct Referral Hearing, the Committee rendered the Determination now on review.

The evidence before the Committee demonstrated that by decision dated November 23, 2021, the CA Board determined to revoke the Respondent's CA license, stay the revocation, and impose a period of probation of five years with conditions including successful completion of a Board approved course in medical recordkeeping. The CA Board's determination was based on findings that the Respondent committed multiple acts of negligence in the treatment of two patients by failing to perform thorough assessments and physical examinations; and failure to document thorough physical examinations, and informed consent for treatment.

The Committee determined that the Respondent's conduct constituted professional misconduct under Educ. Law §§ 6530(9)(b) and (d) in that the conduct for which the Respondent was disciplined would violate Educ. Law § 6530(3), practicing the profession with negligence on more than one occasion; Educ. Law § 6530(4), practicing the profession with gross negligence on a particular occasion; and § 6530(32), failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient; if committed in New York State. The Committee imposed a penalty of censure and reprimand on the Respondent's NY license.

#### Review History and Issues

The Hearing Committee rendered their Determination on June 16, 2023. This proceeding commenced on June 23, 2023, when the ARB received the Petitioner's Notice

requesting a Review. The record for review contained the Committee's Determination, the hearing record, brief and reply brief. The record closed when the ARB received the Respondent's reply brief on August 17, 2023.

The Petitioner contends that the Committee's determination is inconsistent with the findings of fact and insufficient to protect the public. The Petitioner urges that the Respondent's license be subject to a three-year stayed suspension, that he be placed on probation with a practice monitor for three years, and Board approved Continuing Medical Education (CME), with the penalty tolled while the Respondent practices outside of New York state.

The Respondent argues that the Committee's determination was consistent with the facts and the law, and the penalty imposed was appropriate. The Respondent argues that the negligence arose from improper recordkeeping, which he has rectified. Additionally, there is no basis in the record to support a reciprocal penalty to that imposed by the CA Board.

#### ARB Authority

Under PHL §§ 230(10)(i), 230-c(1) and 230-c(4)(b), the ARB may review Determinations by Hearing Committees to determine whether the Determination and Penalty are consistent with the Committee's findings of fact and conclusions of law and whether the Penalty is appropriate and within the scope of penalties which PHL § 230-a permits. The ARB may substitute our judgment for that of the Committee, in deciding upon a penalty Matter of Bogdan v. Med. Conduct Bd., 195 A.D.2d 86, 606 N.Y.S.2d 381 (3<sup>rd</sup> Dept. 1993); in determining guilt on the charges, Matter of Spartalis v. State Bd. for Prof. Med. Conduct, 205 A.D.2d 940, 613 NYS 2d 759 (3<sup>rd</sup> Dept. 1994); and in determining credibility, Matter of Minielly v. Comm. of Health, 222 A.D.2d 750, 634 N.Y.S.2d 856 (3<sup>rd</sup> Dept. 1995). The ARB may choose to impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate, Matter of Kabnick v. Chassin, 89 N.Y.2d 828 (1996). In

determining the appropriate penalty in a case, the ARB may consider both aggravating and mitigating circumstances, as well as considering the protection of society, rehabilitation and deterrence, Matter of Brigham v. DeBuono, 228 A.D.2d 870, 644 N.Y.S.2d 413 (1996).

The statute provides no rules as to the form for briefs, but the statute limits the review to only the record below and the briefs [PHL § 230-c(4)(a)], so the ARB will consider no evidence from outside the hearing record, Matter of Ramos v. DeBuono, 243 A.D.2d 847, 663 N.Y.S.2d 361 (3<sup>rd</sup> Dept. 1997).

A party aggrieved by an administrative decision holds no inherent right to an administrative appeal from that decision, and that party may seek administrative review only pursuant to statute or agency rules, Rooney v. New York State Department of Civil Service, 124 Misc. 2d 866, 477 N.Y.S.2d 939 (Westchester Co. Sup. Ct. 1984). The provisions in PHL §230-c provide the only rules on ARB reviews.

#### Determination

The ARB has considered the record and the parties' briefs. We affirm the Committee's determination that the Respondent's conduct constitutes professional misconduct. We affirm the Committee's determination to impose a censure and reprimand on the Respondent's license. In addition, if the Respondent returns to New York State to practice medicine, he shall be placed on probation for three years, subject to the terms appended hereto.

The Respondent failed to perform a thorough examination of a patient's cervical spine; and failed to perform a thorough examination and assessment of another patient before starting treatment. These findings pertain directly to patient care and were made in addition to the Respondent's failure to maintain accurate records. The Committee found that those acts, if committed in New York, would constitute negligence on more than one occasion, and gross negligence on a particular occasion. The ARB rejects the Petitioner's contention that without a practice monitor, the Respondent will have no

incentive to improve his practice. The record reflects that while California's oversight has been superficial, the Respondent has fully complied, and has changed his documentation practice to be consistent with the course he successfully completed. The ARB agrees with the Petitioner that the Respondent's misconduct raises concerns regarding his patient care. Therefore, we impose a penalty of censure and reprimand, and a term of probation of three years, with the term of probation tolled unless the Respondent returns to New York State to practice.

Order

NOW, with this Determination as our basis, the ARB renders the following ORDER:

1. The ARB affirms the Committee's Determination that the Respondent's conduct constituted professional misconduct pursuant to §§ 6530(9)(b) and (d).
2. The ARB imposes a censure and reprimand on the Respondent's license.
3. The ARB imposes three years of probation, to be tolled unless and until the respondent returns to practice medicine in New York, and pursuant to the terms and conditions attached hereto as Appendix I.

Linda Prescott Wilson

Jill Rabin, M.D.

Carmela Torrelli

Richard D. Milone, M.D.

Michael J. Reichgott, M.D., Ph.D.



In the Matter of Ahvie Herskowitz, M.D.

Linda Prescott Wilson, an ARB Member concurs in the Determination and Order  
in the Matter of Dr. Herskowitz.

Dated: 27 November, 2023



Linda Prescott Wilson

In the Matter of Ahvie Herskowitz, M.D.

Jill M. Rabin, M.D., an ARB Member concurs in the Determination and Order in  
the Matter of Dr. Herskowitz.

Dated: NOVEMBER 17<sup>th</sup>, 2023



Jill M. Rabin, M.D.

In the Matter of Abbie Herskowitz, M.D.

Carmela Terrilli, an ARB Member concurs in the Determination and Order in the  
Matter of Dr. Herskowitz.

Dated: Nov 28, 2023

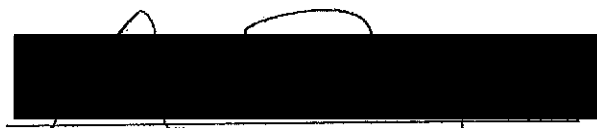
A solid black rectangular box redacting the signature of Carmela Terrilli.

Carmela Terrilli

In the Matter of Ahvie Herskowitz, M.D.

Richard D. Milone, M.D., an ARB Member concurs in the Determination and Order in the Matter of Dr. Herskowitz.

Dated: November 27, 2023

A large black rectangular redaction box covers the signature of Richard D. Milone, M.D.

Richard D. Milone, M.D.

In the Matter of Ahvie Herskowitz, M.D.

Michael J. Reichgott, M.D., Ph.D., an ARB Member concurs in the Determination and Order in the Matter of Dr. Herskowitz.

Dated: 11/27/2023, 2023



Michael J. Reichgott, M.D., Ph.D.

# APPENDIX I

### 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 any 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, NY 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 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 with the Director's designee.
5. 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. Respondent shall fulfill any remaining probation terms and such additional requirements as the Director may reasonably impose related to the matters set forth in the Determination and Order, or are necessary to protect the public health.
6. OPMC's Director 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 periodic visits or interviews with Respondent and his staff at practice locations or OPMC offices.

7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations.

8. Respondent shall comply with these probationary terms and shall bear all associated costs. Upon receiving evidence of noncompliance with, or violations of these terms, the Director of OPMC and/or Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.





## Department of Health

**KATHY HOCHUL**  
Governor

**JAMES V. McDONALD, M.D., M.P.H.**  
Commissioner

**MEGAN E. BALDWIN**  
Acting Executive Deputy Commissioner

June 16, 2023

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Jacques G. Simon, Esq.  
200 Garden City Plaza  
Suite 301  
Garden City, New York 11530

Ahvie Herskowitz, M.D.  


Paul Tsui, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Ahvie Herskowitz, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 23-131) 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:

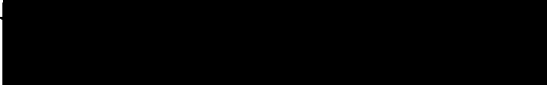
Jean T. Carney, Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Riverview Center  
150 Broadway – Suite 510  
Albany, New York 12204

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,



Natalie J. Bordeaux  
Chief Administrative Law Judge  
Bureau of Adjudication

NJB:nm  
Enclosure

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

COPY

-----X  
: IN THE MATTER :  
: OF :  
: AHVIE HERSKOWITZ, M.D. :  
: :  
-----X

DETERMINATION  
AND  
ORDER

BPMC-23-131

A Notice of Referral Proceeding and Statement of Charges dated January 13, 2023, were duly served upon Ahvie Herskowitz, M.D. (Respondent) pursuant to Public Health Law (PHL) § 230(10)(d)(i). (Exhibits 1, 2.) A hearing was held on May 11, 2023, via WebEx videoconference. Pursuant to PHL § 230(10)(e), **DAVID E. KAPLAN, M.D.**, Chairperson, **MOHAMMAD-REZA GHAZI-MOGHADAM, 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. **NATALIE BORDEAUX**, Administrative Law Judge (ALJ), served as the administrative officer.

The Department appeared by Paul Tsui, Esq. The Respondent was represented by Jacques G. Simon, Esq. The Respondent testified on his own behalf, and called Carmen Forrester, his office manager, as a witness. The Hearing Committee received and examined documents from the Department (Exhibits 1-5), and from the Respondent (Exhibit C-K). A transcript of the proceeding was made (T 1-70). The Respondent submitted a memorandum of law in advance of the hearing, and the Department submitted a post-hearing brief. The hearing record closed on June 12, 2023, and the Hearing Committee deliberated on June 14, 2023. After consideration of the entire hearing record, the Hearing Committee hereby issues this Determination and Order imposing a censure and reprimand on the Respondent's medical license. All findings, conclusions, and determinations are unanimous.

### BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Education Law § 6530(9). The Respondent is charged with two specifications of professional misconduct: (1) Education Law § 6530(9)(b), having been found guilty of improper professional practice or professional misconduct by a duly authorized professional agency of another state where the conduct upon which the finding would, if committed in New York state, constitute professional misconduct under the laws of New York state; and (2) Education Law Education Law § 6530(9)(d), having disciplinary action taken against his medical license in California, after the action was instituted by a duly authorized professional agency of that state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York. Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence.

### FINDINGS OF FACT

1. The Respondent was authorized to practice medicine in New York on May 18, 1979, under license number 138098. (Exhibit 3.)
2. By decision dated November 23, 2021, effective December 23, 2021, the Medical Board of California (California Board) determined to revoke the Respondent's medical license, stay the revocation, and impose a five-year probation period, with conditions, including the Respondent's successful completion of a Board-approved course in medical recordkeeping. The determination was based upon a review of the Respondent's treatment of two patients (Patients 1 and 2), from which the California Board concluded that the Respondent committed multiple acts of negligence with respect to his treatment of the patients and documentation of treatment, acted with gross

negligence with respect to Patient 2, and failed to properly document the extent of his treatment.

(Exhibit 4.)

### DISCUSSION

The California Board found that the Respondent committed multiple acts of negligence by recommending and providing prolozone injections for Patient 1 without having performed a thorough examination of the patient's cervical spine, and that the Respondent also acted negligently in failing to document information he provided to Patient 1 regarding subcutaneous trigger point prolozone injections and the patient's consent to receiving the injections. With respect to Patient 2, the California Board determined that the Respondent acted with gross negligence in failing to perform a thorough assessment and physical examination, including an EKG, of the patient before commencing treatment. The California Board also concluded that the Respondent acted negligently by failing to document: (a) an initial thorough physical examination of Patient 2 or any follow-up examination; and (b) the information he provided Patient 2 about intravenous ozone therapy and the patient's consent to receive the treatment. (Exhibit 4.)

At the hearing, the Department struck factual allegation C(3), which alleged that the Respondent's conduct that resulted in the California Board's disciplinary action would, if committed in New York, constitute misconduct under Education Law § 6530(5), practicing the profession with incompetence on more than one occasion. (T 27.)

The Hearing Committee agreed that the Respondent's conduct resulting in the California Board's disciplinary action would, if committed in New York, constitute misconduct pursuant to Education Law § 6530(3), practicing the professional with negligence on more than one occasion; Education Law § 6530(4), practicing the profession with gross negligence on a particular occasion; and Education Law § 6530(32), failing to maintain a record for each patient which accurately

reflects the evaluation and treatment of the patient. The Hearing Committee thus determined that the Respondent violated Education Law § 6530(9)(b) and § 6530(9)(d), and sustained both specifications.

After determining to sustain the charge, the Hearing Committee considered all possible penalties authorized by PHL § 230-a. The Department recommended the imposition of a minimum three-year suspension of the Respondent's medical license, a stay of the suspension, and a three-year probation term, during which the Respondent would be able to practice medicine only under the supervision of a practice monitor and must complete continuing medical education including, but not limited to, a medical record keeping course. (Department's Brief, p. 10.) The Respondent requested a penalty commensurate with that imposed by the California Board. (T 13-14.)

The Hearing Committee carefully reviewed the California Board's decision, which found no patient harm. The Hearing Committee was not swayed by the Department's assertion that the California Board's decision imposed a restriction upon the Respondent's ability to practice medicine that was somehow prompted by the misconduct findings. They noted that the only restriction imposed regarding the Respondent's practice, included under the heading titled, "General Probation Requirements," was a prohibition against the Respondent practicing medicine in his own or a patient's residence, unless the patient resides in a skilled nursing facility or similar licensed facility. However, the California Board made no finding that the Respondent caused patient harm. Instead, all findings involved the Respondent's recordkeeping practices. To that effect, the Respondent showed compliance with the California Board's decision. (Exhibits C-F.) In addition, he testified that he revised informed consent forms provided to patients, making them more specific, in keeping with the standard of care. The Respondent explained that he made these changes after completing the required recordkeeping course. (T 41-49.)


While the Hearing Committee does not condone the Respondent's previous failings with respect to medical recordkeeping, a crucial component of medical practice, the Hearing Committee is satisfied that the Respondent has learned to correct his recordkeeping issues and has already made improvements. Reciprocal penalties in New York would not prove meaningful, as the Respondent does not practice in the State of New York, and no basis for such penalties were shown to be necessary. The Hearing Committee seeks to impress upon the Respondent the import of medical recordkeeping, while recognizing the Respondent's acceptance of responsibility and continued compliance with the terms of the California Board's decision. For these reasons, the Hearing Committee has determined to impose a censure and reprimand as admonishment for the Respondent's prior omissions, but declines to impose more severe penalties.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The first and second specifications of charges, as set forth in the Statement of Charges, are sustained.
2. A censure and reprimand is imposed on the Respondent's license to practice medicine in the state of New York 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: June 15, 2023  
Albany, New York

  
David E. Kaplan, M.D., Chairperson  
Mohammad-Reza Ghazi-Moghadam, M.D.  
David F. Irvine, DHSc, P.A.

To: Jacques G. Simon, Esq.  
200 Garden City Plaza  
Suite 301  
Garden City, New York 11530

Ahvie Herskowitz, M.D.



Paul Tsui, Associate Esq.  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower Building – 25<sup>th</sup> Floor  
Empire State Plaza  
Albany, New York 12237



IN THE MATTER

OF

AHVIE HERSKOWITZ, M.D.

STATEMENT

OF

CHARGES

Ahvie Herskowitz, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 18, 1979, by the issuance of license number 138098 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about November 23, 2021, the Medical Board of California, Department of Consumer Affairs (hereinafter, "California Board"), by a Decision and Order (hereinafter, "California Order"), inter alia, revoked Respondent's Physician's and Surgeon's Certificate No. C 50117, stayed the revocation, and placed Respondent on probation for five years subject to certain terms and conditions including, but not limited to, enrolling in and completing a medical record keeping course.

B. The California Board's disciplinary action was based upon board findings that Respondent failed to meet professional standards of care in the treatment of two patients by engaging in repeated negligent acts involving simple departures from the professional standards of care and grossly negligent acts involving extreme departures from professional standards of care including, but not limited to, failure to perform thorough patient examinations, failure to perform thorough and complete patient assessments, failure to document such examinations and assessments, failure to document information given to the patients regarding ozone treatment procedures,

failure to document appropriate patient consent to such procedures, failure to perform follow up examinations, and/or failure to include an EKG in the initial assessment of one patient.

C. The conduct resulting in the California Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following section(s) of New York State law:

1. New York State Education Law §6530(3) (Practicing the profession with negligence on more than one occasion); and/or
2. New York State Education Law §6530(4) (Practicing the profession with gross negligence on a particular occasion); and/or
3. New York State Education Law §6530(5) (Practicing the profession with incompetence on more than one occasion); and/or
4. New York State 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 as alleged in the facts of the following:

1. The facts of Paragraphs A, B and C and C1, C and C2, C and C3, and/or C and C4.

**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 as alleged in the facts of the following:

2. The facts of Paragraphs A, B and C and C1, C and C2, C and C3, and/or C and C4.

DATE: January 13, 2023  
Albany, New York



JEFFREY J. CONKLIN  
Deputy Director  
Bureau of Professional Medical Conduct