Public

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D , M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

July 26, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joseph Alexander Jackson, IV, D.O.

REDACTED

Joseph Alexander Jackson, IV, D.O.
Cambridge Health Alliance
101 Station Landing
Medford, Massachusetts 02155

Michael G. Bass, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

RE: In the Matter of Joseph Alexander Jackson, IV, D.O.

Dear Parties:

Enclosed please find the Determination and Order (No. 11-185) 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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

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,
REDACTED

James F. Horan, Acting Director
Bureau of Adjudication

JFH:cah
Enclosure

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

IN THE MATTER

OF

JOSEPH ALEXANDER JACKSON, IV, D.O.
CO-10-10-6537-A

DETERMINATION

AND

COPY

ORDER

BPMC #11-185

A hearing was held on June 23, 2011 at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and Statement of Charges, dated April 21, 2011, were served upon the Respondent, **Joseph Alexander Jackson, IV, D.O.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Jerry Waisman M.D.**, Chair, **Samuel F. Bosco, M.D.** and **Thomas W. King, Jr., M.P.A., P.E.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **James E. Dering, Esq.**, General Counsel, by **Michael G. Bass, Esq.**, of Counsel. The Respondent, **Joseph Alexander Jackson, IV, D.O.**, did appear, *pro se*, and was duly served. Evidence was received and transcripts of these proceedings were made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10) (p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(a)(b) by having been found guilty of improper 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. Specifically, the Respondent was charged with having sexual relations with a patient in the practice of psychiatry. Respondent is also charged with violation New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another 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 state. Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:	None
For the Respondent:	Joseph Alexander Jackson, IV, D.O.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Joseph Alexander Jackson, IV, D.O., the Respondent, did appear at the hearing and was duly served and notified of the hearing, by personal service of process, on April 27, 2011. (Petitioner's Exhibit 2.)
2. Joseph Alexander Jackson, IV, D.O., the Respondent, was authorized to practice medicine in New York State on August 13, 2002, by the issuance of license number 225956 by the New York State Education Department (Petitioner's Ex. 3).
3. On or about April 29, 2010, an Administrative Magistrate with the Division of

Administrative Law Appeals, Commonwealth of Massachusetts, in the matter of Board of Registration in Medicine (hereinafter "Massachusetts Board") v. Joseph A. Jackson, IV, D.O., in a RECOMMENDED DECISION, concluded that the Massachusetts Board had met its burden of proof, that Respondent engaged in conduct which: calls into question his competence to practice medicine, undermines public confidence in the integrity of the medical profession, and engaged in misconduct in the practice of medicine. The Administrative Magistrate concluded that Respondent, a psychiatrist, had engaged in boundary violations that resulted in a sexual encounter with a patient. (Petitioner's Ex. 4).

4. On or about July 21, 2010, the Massachusetts Board, in its PARTIAL FINAL DECISION AS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW ONLY, adopted the aforementioned RECOMMENDED DECISION, with an amendment to paragraph 21 of the decision. (Petitioner's Ex. 4).

5. On or about October 6, 2010, in a FINAL DECISION AND ORDER, the Massachusetts Board, based on the above RECOMMENDED DECISION and FINAL DECISION AS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW ONLY, REVOKED Respondent's license to practice medicine, retroactive to January 22, 2008.

6. The conduct resulting in the Massachusetts Board 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 Sec. 6530(44) (physical contact between a licensee and a patient in the practice of psychiatry).

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

"Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper 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..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another 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 state..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, in person, *pro se*. The Respondent indicated that he was proceeding *pro se* because he had exhausted his financial resources on his defense in Massachusetts. (T. 11) . The Administrative Office, after considering the documentary evidence, which included an Affidavit of Personal Service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Exhibit 2) ruled that the Petitioner had met the requirements of law for service of process, that jurisdiction had been established over the Respondent and that the hearing could proceed with proper jurisdiction.

The record in this case indicates that the Commonwealth of Massachusetts concluded that the Massachusetts Board had met its burden of proof and found that Respondent had engaged in conduct, which calls into question his competence to practice medicine, and undermines public confidence in the integrity of the medical profession. The Massachusetts Board found that Respondent engaged in misconduct in the practice of medicine in that, as a psychiatrist, the Respondent had engaged in boundary violations that resulted in a sexual encounter with a patient. (Petitioner's Ex. 4).

It is noted that the Massachusetts Board, in its PARTIAL FINAL DECISION AS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW ONLY, adopted the aforementioned RECOMMENDED DECISION and in a FINAL DECISION AND ORDER, the

Massachusetts Board REVOKED Respondent's license to practice medicine, retroactive to January 22, 2008.

The Respondent argued that the Massachusetts decision was improper because the final decision merely borrowed the language from the earlier decision and contained several factual errors, thereby depriving him of due process. (T. 8) The Administrative Officer ruled that the Respondent was attempting to relitigate the Massachusetts decision and he would not allow him to do so, indicating that the proper forum for such an appeal would be in Massachusetts. (T. 10)

As to an appropriate penalty, the Hearing Committee reviewed the entire record and examined the documentation submitted by the Respondent, which included the psychiatric examination report on the Respondent, done by Donald Meyer, M.D. (Respondent's Exhibit B) The panel noted that the Respondent did express remorse for what he had done and recognized that this case was a matter of sex with one patient. The panel took the testimony of the Respondent into account and considered the full range of penalties available and determined that the people of New York State would be protected by a revocation of the Respondent's license.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED.**

2. The license of the Respondent to practice medicine in New York State is **revoked.**

3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: New York, New York
July 23, 2011

REDACTED

Jerry Waisman M.D., Char

Samuel F. Bosco, M.D.
Thomas W. King, Jr., M.P.A., P.E.,

To:
Joseph Alexander Jackson, IV, D.O.. Respondent
REDACTED

Joseph Alexander Jackson, IV, D.O., Respondent
Cambridge Health Alliance
101 Station Landing
Medford, MA 02155

Michael G. Bass, Esq., Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX 1

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

IN THE MATTER

OF

JOSEPH ALEXANDER JACKSON, IV, D.O.
CO-10-10-6537-A

NOTICE OF

REFERRAL

PROCEEDING

TO: JOSEPH ALEXANDER JACKSON. IV. D.O.

REDACTED

JOSEPH ALEXANDER JACKSON, IV, D.O.
Cambridge Health Alliance
101 Station Landing
Medford, MA 02155

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 23rd day of June, 2011, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered that would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten (10) days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health, whose name appears below. You may file a written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney, indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide, at no charge, a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence, and a description of physical and/or other evidence that cannot be photocopied.

YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here _____

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five (5) days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
April 21, 2011

REDACTED

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Michael G. Bass
Assistant Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

STATE OF NEW YORK DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER OF JOSEPH ALEXANDER JACKSON, IV, D.O. CO-10-10-6537-A	STATEMENT OF CHARGES

JOSEPH ALEXANDER JACKSON, IV, D.O., Respondent, was authorized to practice medicine in New York state on August 13, 2002, by the issuance of license number 225956 by the New York State Education Department.

FACTUAL ALLEGATIONS

A On or about April 29, 2010, an Administrative Magistrate with the Division of Administrative Law Appeals, Commonwealth of Massachusetts, in the matter of Board of Registration in Medicine (hereinafter "Massachusetts Board") v Joseph A. Jackson, IV, D.O., in a RECOMMENDED DECISION, concluded that the Massachusetts Board hat met its burden of proof that Respondent, engaged in conduct which: calls into question his competence to practice medicine, undermines public confidence in the integrity of the medical profession, and engaged in misconduct in the practice of medicine. The Administrative Magistrate concluded that Respondent, a psychiatrist, had engaged in boundary violations that resulted in a sexual encounter with Patient A. On or about July 21, 2010, the Massachusetts Board, in its PARTIAL FINAL DECISION AS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW ONLY, adopted the aforementioned RECOMMENDED DECISION, with an amendment to paragraph 21 of the decision. On or about October 6, 2010, in a FINAL DECISION AND ORDER, the Massachusetts Board, based on the above RECOMMENDED DECISION and FINAL DECISION AS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW ONLY, REVOKED Respondent's license to practice medicine, retroactive to January 22, 2008.

B. The conduct resulting in the Massachusetts Board 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 Sec. 6530(44) (physical contact between a licensee and patient of a sexual nature in the practice of psychiatry).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper 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, in that Petitioner charges:

1. The facts in Paragraphs A and B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another 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 state, in that Petitioner charges:

2. The facts in Paragraphs A and B.

DATED: April 21, 2011
Albany, New York

REDACTED

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct