



*Public*  
STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.  
Commissioner

James W. Clyne, Jr.  
Executive Deputy Commissioner

November 1, 2010

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Jude B. Mulvey, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2512  
Albany, New York 12237-0032

Shailen Rajendra Patel, M.D.  
REDACTED

Shailen Rajendra Patel, M.D.  
REDACTED

Shailen Rajendra Patel, M.D.  
Lacks Cancer Center  
Grand Rapids, MI 49503

Shailen Rajendra Patel, M.D.  
703 Tyler Street – Suite 252  
Sandusky, Ohio 44870

**RE: In the Matter of Shailen Rajendra Patel, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 10-217) 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  
SHAILEN RAJENDRA PATEL, M.D.**

**DETERMINATION  
AND  
ORDER**

BPMC #10-217  
**COPY**

A hearing was held on October 20, 2010, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, dated September 9, 2010, were served upon the Respondent, Shailem Rajendra Patel, M.D. Pursuant to Section 230(10)(e) of the Public Health Law, Andrew J. Merritt, M.D., Chairperson, Jonathan Ecker, M.D., and Irving S. Caplan duly designated members of the State Board for Professional Medical Conduct ("Board"), served as the Hearing Committee in this matter. Christine C. Traskos, Esq., Administrative Law Judge, served as the Administrative Officer.

The Department of Health appeared by Jude B. Mulvey, Esq., Associate Counsel. The Respondent did not appear and was not represented by counsel. 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 THE 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 Section 6530(9)(b) and 6530(9)(d). 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: None

#### 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." or transcript pages "T". 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. Shailen Rajendra Patel, M.D., the Respondent, was authorized to practice medicine in New York State on May 5, 1998, by the issuance of license number 210282 by the New York State Education Department (Petitioner's Ex. 3).

2. Respondent did not appear at the hearing, but was duly served with process on September 17, 2010. (Petitioner's Ex. 2).

3. On or about January 15, 2009, the State Board of Ohio (hereinafter "Ohio Board"), by a Step I Consent Agreement (hereinafter "Ohio Agreement"), inter alia

suspended Respondent's certificate to practice medicine and surgery for an indefinite period of time, based on alcohol impairment that affected his ability to practice medicine and surgery according to acceptable and prevailing standards of care.

4. On or about August 3, 2009 the State of Michigan, Department of Community Health, Bureau of Health Professions, Board of Medicine, Disciplinary Committee (hereinafter "Michigan Board"), by Final Order(hereinafter "Michigan Order"), inter alia, suspended Respondent's license to practice medicine for a minimum of six (6) months and one (1) day, based on the Ohio Board, Ohio Agreement set forth, in Paragraph A, above and Respondent's failure to notify the Michigan Board of that Ohio Board disciplinary action.

5. The conduct resulting in the Ohio Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to:

1. New York Education Law §6530(8) (being a habitual abuser of alcohol);

D. The conduct resulting in the Michigan Board disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to:

1. New York Education Law §6530(21) (failing to file a report required by law or by the department of health of the education department).

#### **VOTE OF THE HEARING COMMITTEE**

#### **FIRST AND SECOND SPECIFICATIONS**

"Respondent violated New York Education Law Section 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 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)

**THIRD AND FOURTH SPECIFICATIONS**

Respondent violated New York Education Law Section 6530(9)(d) by having his license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency or another state, where the conduct resulting in the suspension and/or other disciplinary actions 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 not appear at the hearing and no evidence was offered on his behalf. The Hearing Committee finds that the record demonstrates that Respondent was suspended in Ohio for an alcohol impairment that affected his ability to practice medicine and perform surgery. Respondent also failed to inform the State of Michigan of the Ohio Board's disciplinary action. Both actions constitute professional medical misconduct in the State of New York.

Respondent's failure to appear at this New York State proceeding leads the Hearing Committee to conclude that Respondent's alcohol impairment issues remain unresolved. The Hearing Committee is genuinely concerned that Respondent is living in New York State at present and it would be unsafe for him to practice medicine and surgery if he continues to be impaired by the use of alcohol. The Hearing Committee concludes that revocation is the appropriate sanction to protect the health and safety of New York State residents.



Jude B. Mulvey, Esq.  
Associate Counsel  
Bureau of Professional Medical Conduct  
Corning Tower Building- Rm. 2512  
Empire State Plaza  
Albany, New York 12237-0032

Shailen Rajendra Patel, M.D.

REDACTED

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Shailen Rajendra Patel, M.D.  
Lacks Cancer Center  
Grand Rapids, MI 49503

Shailen Rajendra Patel, M.D.  
703 Tyler St. Suite 252  
Sandusky, OH 44870

# APPENDIX 1

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

IN THE MATTER  
OF  
SHAILEN RAJENDRA PATEL, M.D.  
CO-09-02-1183-A  
CO-10-02-0714-A

NOTICE OF  
REFERRAL  
PROCEEDING

TO: SHAILEN RAJENDRA PATEL, M.D.  
REDACTED

SHAILEN RAJENDRA PATEL, M.D.  
Lacks Cancer Center  
Grand Rapids, MI 49503

SHAILEN RAJENDRA PATEL, M.D.  
REDACTED

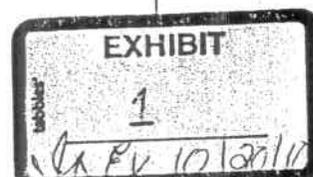
SHAILEN RAJENDRA PATEL, M.D.  
703 Tyler St., Suite 252  
Sandusky, OH 44870

**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 20<sup>th</sup> day of October, 2010, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> 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 \_\_\_\_\_



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

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IN THE MATTER  
OF  
SHAILEN RAJENDRA PATEL, M.D.  
CO-09-02-1183-A  
CO-10-02-0714-A

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STATEMENT  
OF  
CHARGES

SHAILEN RAJENDRA PATEL, M.D., Respondent, was authorized to practice medicine in New York state on May 5, 1998, by the issuance of license number 210282 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 15, 2009, the State Medical Board of Ohio (hereinafter "Ohio Board"), by a Step I Consent Agreement (hereinafter "Ohio Agreement"), inter alia, SUSPENDED Respondent's certificate to practice medicine and surgery for an indefinite period of time, based on alcohol impairment that affected his ability to practice medicine and surgery according to acceptable and prevailing standards of care:

B. On or about August 3, 2009, the State of Michigan, Department of Community Health, Bureau of Health Professions, Board of Medicine, Disciplinary Committee (hereinafter "Michigan Board"), by a Final Order (hereinafter "Michigan Order"), inter alia, SUSPENDED Respondent's license to practice medicine for a minimum of six (6) months and one (1) day, based on the Ohio Board, Ohio Agreement set forth, in Paragraph A, above and Respondent's failure to notify the Michigan Board of that Ohio Board disciplinary action.

C. The conduct resulting in the Ohio 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 §6530(8) (being a habitual abuser of alcohol);

D. The conduct resulting in the Michigan 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:

*to  
with  
by Department  
of hearing on  
(RET.)*

- ① ~~New York Education Law §6530(9)(a)(iii) (being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within New York state, would have constituted a crime under state law); and/or~~
2. New York Education Law §6530(21) (failing to file a report required by law or by the department of health or the education department).

**SPECIFICATIONS**

**FIRST AND SECOND SPECIFICATIONS**

Respondent violated New York Education 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 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/or C.
2. The facts in Paragraphs A, B, C, and/or D.

**THIRD AND FOURTH SPECIFICATIONS**

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

3. The facts in Paragraphs A and/or C.
4. The facts in Paragraphs A, B, C, and/or D.

DATED: *September 9*, 2010  
Albany, New York

REDACTED

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