

November 14, 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Jeffrey Wong, M.D.
REDACTED

RE: In the Matter of Jeffrey Wong, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 12-243) 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. 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., 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,

REDACTED

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH:cah

Enclosure

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

-----X
IN THE MATTER : DETERMINATION
OF : AND
JEFFREY WONG, M.D. : ORDER
CO-11-03-1489-A :
-----X

BPMC #12-243

COPY

A Notice of Referral Proceeding and a Statement of Charges, both dated August 22, 2012, were served upon the Respondent, Jeffrey Wong, M.D. **IRVING S. CAPLAN (Chair), ELISA E. BURNS, M.D., and LELAND DEANE, M.D., M.B.A.,** duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE,** served as the Administrative Officer. The Department of Health appeared by Michael G. Bass, Esq., Assistant Counsel. The Respondent failed to appear in person and was not represented by counsel. A hearing was held on October 17, 2012. Evidence was received and witnesses sworn and heard 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 where a licensee is charged solely with a violation of Education Law §6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which 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, Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(b), in that he was 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 well as Education Law §6530(d) by having his action taken against his license by the duly authorized professional disciplinary agency of another state, for conduct which would, if committed in New York State, constitute professional misconduct.

A copy of the Statement of Charges is attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent 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.

1. Jeffrey Wong, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on November 24, 1986 by the issuance of license number 168763 by the New York State Education Department. (Exhibit #3).

2. On or about March 17, 2011, the State of Washington, Department of Health, Medical Quality Assurance Commission (hereinafter the "Washington Board") issued a Final Order following a hearing, suspending Respondent's license to practice medicine for a period of five (5) years. (Exhibit #4).

3. The Washington Board found that Respondent, an anesthesiologist, potentially exposed staff and patients to airborne bacteria by bringing a fish tank with live fish into a surgical area, created an unreasonable risk of harm to surgical patients by distracting others during the delivery of surgical services, failed to complete billing procedures and medical record documents, created a potential safety hazard by leaving

oxygen tanks open and running after anesthesia was completed, and altered hospital anesthesia equipment without permission or notice to members of the health care team. (Exhibit #4).

CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The evidence established that the Respondent was disciplined by the Washington Board for serious deficiencies in his performance of anesthesiology services. The findings detailed in the Washington decision would have constituted negligence on more than one occasion, in violation of Education Law §6530(3); gross negligence, in violation of Education Law §6530(4); failure to maintain records, in violation of Education Law §6530(32), and failure to use accepted infection control practices, in violation of Education Law §6530(47), had they occurred in New York State.

Accordingly, he is guilty of professional misconduct in violation of New York Education Law §6530(9)(b) and §6530(9)(d). Therefore, the First and Second Specifications of professional misconduct set forth in the Statement of Charges are sustained.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondents license to practice medicine in New York State should be revoked. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The Respondent failed to appear at the hearing. He did, however, send a letter to counsel for the Department, which was received into the record as Exhibit #5. In this letter, Respondent states, "I have no intention of returning to medical practice, let alone NY State." (Exhibit #5). He further indicated no recognition of any wrongdoing on his part, blaming his disciplinary action on improper conduct by others.

Given Respondent's lack of insight in his deficiencies, and his stated intent to leave the practice of medicine permanently, the Committee unanimously determined to revoke his medical license.

ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First and Second Specifications of professional misconduct, as set forth in the Statement of Charges (Exhibit # 1) are SUSTAINED;

2. Respondent's license to practice medicine in New York State be and hereby is REVOKED;

3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York
10-30, 2012

REDACTED

~~IRVING S. CAPLAN (CHAIR)~~

ELISA E. BURNS, M.D.

LELAND DEANE, M.D., M.B.A.

TO: Michael G. Bass, Esq.
Assistant Counsel
New York State Department of Health
Corning Tower, Room 2512
Albany, New York 12237

Jeffrey Wong, M.D.

REDACTED

APPENDIX I

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

IN THE MATTER
OF
JEFFREY WONG, M.D.
CO-11-03-1489-A

STATEMENT
OF
CHARGES

JEFFREY WONG, M.D., Respondent, was authorized to practice medicine in New York state on November 24, 1986, by the issuance of license number 168763 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 2, 2011, the State of Washington, Department of Health, Medical Quality Assurance Commission, (hereinafter "Washington State Board"), by FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER, (hereinafter "Washington State Order"), SUSPENDED Respondent's license to practice as a physician and surgeon in the state of Washington for five (5) years. In the FINDINGS OF FACT in the Washington State Order, the Washington State Board found, *inter alia*, that, Respondent potentially exposed staff and patients to airborne bacterium by bringing a fish tank with live fish into a surgical area, created an unreasonable risk of harm to surgical patients by distracting others during the delivery of surgical services, failed to complete billing procedures and medical record documents, created a potential safety hazard by leaving oxygen tanks open and running after anesthesia was completed, and altered hospital anesthesia equipment without permission or notice to members of the health care team. On or about March 17, 2011, by CORRECTED FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER, the Washington State Board corrected any scrivener's errors in the Washington State Order.

B. The conduct resulting in the Washington State 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(3) (negligence on more than one occasion) and/or;

2. New York Education Law Sec. 6530(4) (gross negligence) and/or;
3. New York Education Law Sec. 6530(32) (failure to maintain a record) and/or;
4. New York Education Law Sec. 6530(47) (failure to use scientifically accepted barrier precautions and infection control practices).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law Sec. 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 Sec. 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: *August 22*, 2012
Albany, New York

REDACTED

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