



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

October 1, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Sagapuram Gowd, M.D.
A/K/A Yadavevdra Sagapuram Gowd M.D.
10 Chereb Court
East Setauket, New York 11733

Sagapuram Gowd, M.D.
A/K/A Yadavevdra Sagapuram Gowd, M.D.
8577 112th Street
Richmond Hill, New York 11418

Robert Bogan, Esq.
Associate Counsel
NYS Department of Health
Office of Professional
Medical Conduct
433 River Street 1st Flr Annex
Troy, New York 12180

Robert S. Asher, Esq.
295 Madison Avenue Ste 700
New York, New York 10017

**RE: In the Matter of Sagapuram Y. Gowd, M.D.,
A/K/A Yadavevdra Sagapuram Gowd, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 02-308) 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), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "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.

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,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:djh
Enclosure

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

COPY

IN THE MATTER
OF
SAGAPURAM Y. GOWD, M.D.
aka
YADAVEVDRA SAGAPURAM GOWD, M.D.

DETERMINATION

AND

ORDER

BPMC NO. 02-308

A hearing was held on September 18, 2002, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated August 11, 2002, were served upon the Respondent, **Sagapuram Y. Gowd, M.D., aka Yadavevdra Sagapuram Gowd, M.D.** **Ernst A. Kopp, M.D.,** Chairperson, **John W. Choate, M.D.,** and **Stephen E. Wear, Ph.D.,** 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. **John Wiley, Esq.,** Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.,** General Counsel, by **Robert Bogan, Esq.,** of Counsel. The Respondent appeared in person and was represented by **Robert S. Asher, Esq.,** 295 Madison Avenue, Suite 700, New York, New York 10017.

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 Section 6530(9)(a)(i). 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:	Sagapuram Y. Gowd, M.D.

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. Sagapuram Y. Gowd, M.D., the Respondent, was authorized to practice medicine in New York State on January 22, 1973, by the issuance of license number 115119 by the New York State Education Department (Petitioner's Ex. 4).

2. On March 28, 2001, in the District Court of the County of Suffolk, First District, Central Islip, New York, the Respondent was found guilty of violating Vehicle and Traffic Law Section 1192.3, Driving While Intoxicated, a misdemeanor. On May 21, 2001, the Respondent was sentenced to six months license revocation, a \$500 fine, 140 hours community service and three years probation. (Petitioner's Exhibit 5).

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent was convicted on March 28, 2001, of Driving While Intoxicated. This was his second conviction for Driving While Intoxicated, the first having occurred in November of 1992 (Petitioner's Ex. 6). Since the September 19, 2000, arrest that led to the March 2001 conviction, the Respondent has taken significant steps to address the problem that caused these convictions. He has not consumed alcohol since September 28, 2000. He successfully completed a sobriety program at Crossings Recovery Centers (Respondent's Ex. A), received therapy from Ann M. Rudolph, C.S.W. (Respondent's Ex. D), and attended Alcoholics Anonymous meetings. He still attends Alcoholics Anonymous meetings once a week.

The Petitioner recommended that the Respondent's license be suspended and remain suspended until he proves to the satisfaction of the Petitioner's Office of Professional Medical Conduct ("OPMC") that his alcoholism is not an impediment to his treatment of patients. The Hearing Committee rejects this recommendation for two reasons. One is that a suspension for an indefinite time period violates the requirements of

Public Health Law Section 230-a(2). The other reason is that a suspension (other than a stayed suspension during a period of probation) is an unnecessarily harsh sanction under the circumstances of this case. Ms. Rudolph wrote on September 12, 2002:

My professional observations and current assessment of Dr. Sagapuram Gowd confirm my belief that he does not exhibit any symptoms of alcohol abuse nor problems related to alcohol. He remains abstinent and appears determined to enhance the quality of his life. In my opinion and with absolute certainty Dr. Gowd can and will continue to practice ethically providing his patients with a safe supportive medical environment. Therefore, it is with confidence that I discharge him from further treatment... (Respondent's Ex. D, p. 2)

Given this assessment and the abstention from drinking for two years, the Hearing Committee does not see a need to interrupt the Respondent's medical practice. However, the Hearing Committee is concerned that the Respondent attends Alcoholics Anonymous meetings only once a week and that there is no monitoring system or program in place to ensure continuing sobriety. The Petitioner recommended that if no suspension is imposed, that the Respondent be placed on probation with monitoring. The Respondent also suggested that probation with monitoring would be a sanction justified by the facts of this case. The Hearing Committee will impose a five year stayed suspension of the Respondent's license and five years of probation and monitoring under the terms described in the Order, below.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine is suspended for five years. The suspension is stayed and will remain stayed as long as the Respondent remains in compliance with the terms of probation imposed by this Order.
2. The Respondent is placed on probation for five years under the terms and conditions in paragraphs 3 through 12 of this Order.

3. The Respondent shall remain drug and alcohol free.
4. Within 30 days, the Respondent shall enroll in a sobriety program with the Committee for Physicians' Health of the Medical Society of the State of New York ("CPH") and shall enter into a contract with CPH which fully describes the terms, conditions and duration of the program. The Respondent shall comply with the contract.
5. The Respondent shall submit to random testing for alcohol and drug use with a monitor supplied by or selected by CPH. The frequency of the testing shall be at the discretion of CPH.
6. The Respondent shall attend Alcoholics Anonymous meetings a minimum of three times per week, unless CPH determines that less frequent attendance is sufficient.
7. The Respondent shall provide a written authorization for CPH to provide OPMC with all information or documentation requested by OPMC to determine whether the Respondent is in compliance with the contract.
8. The Respondent shall authorize CPH to report to OPMC within 48 hours if the Respondent refuses to comply with the contract, if the Respondent refuses to submit to treatment, or if the Respondent's behavior or condition causes CPH to conclude that the Respondent is an imminent danger to the public.
9. The Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession. If, during the period of probation, the Respondent commits professional misconduct as enumerated in New York State Education Law Sections 6530 or 6531, such act shall be deemed a violation of probation and an action may be taken against the Respondent's license pursuant to New York State Public Health Law Section 230(19).

10. The Respondent shall submit to OPMC written notification of any change in employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.

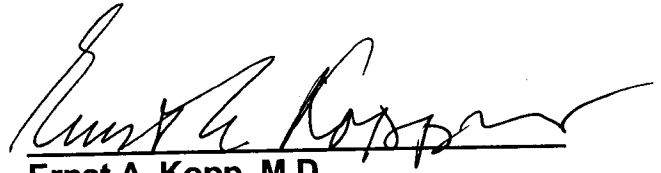
11. The Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of the Respondent's compliance with the terms of this Order and shall personally meet with a person designated by OPMC when so requested.

12. The period of probation shall be tolled during periods in which the Respondent is not engaged in the active practice of medicine in New York State. The Respondent shall notify OPMC, in writing, if the Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of 30 consecutive days or more. The Respondent shall notify OPMC again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon the Respondent's return to practice in New York State.

13. Upon receipt of evidence of noncompliance with the terms of probation, OPMC or the State Board for Professional Medical Conduct may initiate a violation of probation proceeding and/or any other proceeding against the Respondent as may be authorized by law.

14. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Loudonville, New York
Sept 30th, 2002



Ernst A. Kopp, M.D.
Chairperson

John W. Choate, M.D.
Stephen E. Wear, Ph.D.

APPENDIX I

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

EV 9/15/02

IN THE MATTER **NOTICE OF**
OF **REFERRAL**
SAGAPURAM Y. GOWD, M.D., **PROCEEDING**
aka
YADAVEVDRA SAGAPURAM GOWD, M.D.
CO-02-06-3040-A

TO: SAGAPURAM Y. GOWD, M.D., aka YADAVEVDRA SAGAPURAM GOWD, M.D.
10 Chereb Court
East Setauket, NY 11733

SAGAPURAM Y. GOWD, M.D., aka YADAVEVDRA SAGAPURAM GOWD, M.D.
8577 112th Street
Richmond Hill, NY 11418

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 230(10)(p) and N.Y. State Admin. Proc. Act Sections 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 18th day of September 2002, at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. 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. You may produce evidence or sworn testimony on your behalf. Such evidence 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, 5th Floor, 433 River Street, Troy, New York, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before September 9, 2002.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an 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 brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before September 9, 2002, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 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.

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 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

August 2, 2002

Peter D. Van Buren

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

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

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

IN THE MATTER
OF
SAGAPURAM Y. GOWD, M.D. aka
YADAVEVDRA SAGAPURAM GOWD, M.D.
CO-02-06-3040-A

STATEMENT
OF
CHARGES

SAGAPURAM Y. GOWD, M.D., aka YADAVEVDRA SAGAPURAM GOWD, M.D., the Respondent, was authorized to practice medicine in New York state on January 22, 1973, by the issuance of license number 115119 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about ^{March 28, 2001 to 2/19/02} ~~May 21~~, 2001, in the District Court of the County of Suffolk, First District Court held at Central Islip, New York, Respondent was found guilty of violating Vehicle and Traffic Law §1192.3, Driving While Intoxicated, a misdemeanor, and on or about May 21, 1985, was sentenced to six (6) months license revocation, a \$500 fine, 140 hours community service, and three (3) years probation.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(i) by having been convicted of an act constituting a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: August 2, 2002
Albany, New York

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