



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

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MAR 07 1995
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT
March 7, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ralph J. Bavaro
Associate Counsel
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, New York 10001

Peter Anyakora, M.D.
P.O. Box 683
4502 Mercado Drive
Avon Park, Florida 33825

RE: In the Matter of Peter Anyakora, M.D.

Effective Date: 03/14/95

Dear Mr. Bavaro and Dr. Anyakora:

Enclosed please find the Determination and Order (No. 95-47) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

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), 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.

Request for review of the Committee's determination by the Administrative Review Board stays all action 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
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

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,
Tyrone T. Butler/slu

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

-----X
IN THE MATTER : DETERMINATION
OF : AND
PETER ANYAKORA, M.D. : ORDER
-----X

BPMC-95-47

A Notice of Referral Proceeding and Statement of Charges, both dated September 26, 1994, were served upon the Respondent, Peter Anyakora, M.D. **EDMUND O. ROTHSCHILD, M.D.** (Chair), **ANN SHAMBERGER**, and **JOHN L.S. HOLLOMAN, JR., M.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. **LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by Ralph J. Bavaro, Esq., Associate Counsel. The Respondent appeared *pro se*. A hearing was held on February 14, 1995. 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)(a)(i). A copy of the Notice of Referral Proceeding and 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. Peter Anyakora, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on August

16, 1991 by the issuance of license number 186628 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine. (Pet. Ex. #2).

2. On or about April 27, 1994, in New York State Supreme Court, New York County, Respondent was convicted of violating Public Health Law §2805-b(2); falsifying business records in violation of Penal Law §175.10, and tampering with physical evidence in violation of Penal Law §215.40. (Pet. Ex. #3 and #4).

3. Respondent, a resident physician at Harlem Hospital Center, was found guilty of refusing to treat a woman brought to the emergency room in need of emergency medical assistance in the delivery of a child. As a result, the woman was forced to deliver her baby on a stretcher in the waiting room, attended only by emergency medical technicians. Respondent was further found guilty of falsifying medical records in an attempt to conceal his conduct. (Pet. Ex. #4; Pet. Ex. #5).

4. Respondent was sentenced to five years of probation, a \$10,000.00 fine and 1200 hours of community service, not involving direct or indirect patient care. (Pet. Ex. #3; Pet. Ex. #5).

5. Respondent is currently practicing obstetrics and gynecology in rural Florida. His probation was transferred to Florida with the approval of the sentencing judge in New York. (Pet. Ex. #3; Pet. Ex. #5).

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 Hearing Committee concluded that the Department has sustained its burden of proof in this matter. The preponderance of the evidence clearly demonstrates that on April 27, 1994, Respondent was found guilty, following a jury trial, of several crimes under New York State law. As a result, Respondent is guilty of professional misconduct within the meaning of Education Law §6530(9)(a)(i). Consequently, the Committee voted to sustain the Specification of professional misconduct set forth within the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in New York State should be suspended for a period of five years. The suspension shall be stayed, contingent on Respondent successfully completing his term of probation and community service, as well as paying the fines imposed by the Court. 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.

Respondent stands convicted of serious crimes. His

failure to provide emergency medical care to a woman in labor could have had disastrous consequences, for the woman and her child. Respondent then compounded his guilt by attempting to cover up his actions. At the hearing, Respondent still maintained his innocence in the face of the evidence against him.

Respondent's misconduct warrants a significant sanction. Accordingly, the Committee decided to impose a five year suspension. However, the Committee considered the fact that Respondent's misconduct took place while still in his residency program. The Committee believes that Respondent should be given an opportunity to rehabilitate himself. As a result, the Committee determined that the suspension should be stayed, contingent upon Respondent's successful completion of the terms of the sentence imposed upon him by the Court. The Committee believes that this sanction strikes the appropriate balance between the need to punish Respondent and protect the public.

APPENDIX I

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

-----X
: IN THE MATTER
: OF
: PETER ANYAKORA, M.D.
: -----X

NOTICE OF
REFERRAL
PROCEEDING

TO: PETER ANYAKORA, M.D.
P.O. Box 683
4502 Mercado Drive
Avon Park, Fl. 33825

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1994) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1994). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 1st day of December, 1994 at 10:00 o'clock in the forenoon of that day at 5 Penn Plaza, 6th Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which 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. 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 which 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, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before November 21, 1994.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before November 21, 1994, 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 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: New York, New York
Sept 26, 1994



Chris Stern Hyman
Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Ralph J. Bavaro
Associate Counsel
212-613-2601

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

-----X
IN THE MATTER : STATEMENT
OF : OF
PETER ANYAKORA, M.D. : CHARGES
-----X

PETER ANYAKORA, M.D., the Respondent, was authorized to practice medicine in New York State on August 16, 1991 by the issuance of license number 186628 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

- A. On or about April 27, 1994, in New York State Supreme Court, County of New York, Respondent was convicted of violating Public Health Law Section 2805-b (2); falsifying business records in violation of Penal Law Section 175.10; and tampering with physical evidence in violation of Penal Law Section 215.40.

SPECIFICATION OF CHARGES

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6530(9)(a)(i) (McKinney Supp. 1994) in that he has been convicted of a crime under New York State law. Petitioner charges:

1. The facts contained in Paragraph A.

DATED: New York, New York

Sept 26, 1994



CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct