



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Public

March 5, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kazuko Traci Matsuda, M.D.
2665 30th Street
Suite 204
Santa Monica, California 90405

Robert Bogan, Esq.
NYS Department of Health
Hedley Building - 4th Floor
433 River Street
Troy, New York 12180

RE: In the Matter of Kazuko Traci Matsuda, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 07-49) 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), 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 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,



Sean D. O'Brien, Director
Bureau of Adjudication

SDO:cah

Enclosure

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

COPY

IN THE MATTER
OF
KAZUKO TRACI MATSUDA, M.D.

DETERMINATION

AND

ORDER

BPMC #07-49

A hearing regarding the Respondent, **Kazuko Traci Matsuda, M.D.**, was held on February 21, 2007, at the offices of the New York State Department of Health ("the Petitioner"). The proceeding was commenced by means of a Notice of Referral Proceeding and a Statement of Charges, both dated January 18, 2007. Pursuant to Section 230(10)(e) of the Public Health Law, **James D. Hayes II, M.D.**, Chairperson, **Nisha K. Sethi, M.D.**, and **Mr. Irving S. Caplan**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Thomas Conway, Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent did not appear at the hearing, either in person or 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.

BACKGROUND

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)(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." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding.

1. Kazuko Traci Matsuda, M.D., the Respondent, was authorized to practice medicine in New York State on April 13, 1994, by the issuance of license number 195357 by the New York State Education Department (Petitioner's Ex. 4).

2. On August 25, 2006, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, accepted the surrender of the Respondent's license to practice medicine, based on gross negligence, repeated negligent acts, incompetence, failure to maintain adequate medical records, excessive prescribing,

sexual misconduct, sexual exploitation of a patient, violation of a Federal statute regulating dangerous drugs, and responsibility for a false document. (Petitioner's Ex. 5).

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State, had the conduct occurred in New York State, pursuant to:

- New York Education Law Section 6530(2) - "Practicing the profession fraudulently or beyond its authorized scope;"
- New York Education Law Section 6530(3) - "Practicing the profession with negligence on more than one occasion;"
- New York Education Law Section 6530(4) - "Practicing the profession with gross negligence on a particular occasion;"
- New York Education Law Section 6530(5) - "Practicing the profession with incompetence on more than one occasion;"
- New York Education Law Section 6530(6) - "Practicing the profession with gross incompetence;"
- New York Education Law Section 6530(16) - "A willful or grossly negligent failure to comply with substantial provisions of federal, state or local laws, rules, or regulations governing the practice of medicine;"
- New York Education Law Section 6530(17) - "Exercising undue influence on the patient, including the promotion of the sale of services, goods, appliances, or drugs in such manner as to exploit the patient for the financial gain of the licensee or of a third party;"
- New York Education Law Section 6530(20) - "Conduct in the practice of medicine which evidences moral unfitness to practice medicine;"

- New York Education Law Section 6530(31) - "Willfully harassing, abusing, or intimidating a patient either physically or verbally;"

- New York Education Law Section 6530(32) - "Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of eighteen years;" and

- New York Education Law Section 6530(44) - "In the practice of psychiatry, (a) any physical contact of a sexual nature between licensee and patient except the use of films and/or other audiovisual aids with individuals or groups in the development of appropriate responses to overcome sexual dysfunction and (b) in therapy groups, activities which promote explicit physical sexual contact between group members during sessions..."

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having surrendered her license to practice medicine after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the surrender 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. The Administrative Law Judge ruled that the Petitioner had satisfied the requirements of law for the service of the Notice

of Referral Proceeding and the Statement of Charges and that the hearing could proceed on the merits despite the absence of the Respondent.

The disciplinary proceeding in California discloses serious problems with the quality of medical care provided by the Respondent and with the ethics of her conduct toward a patient. Regarding patient S.I., the Respondent, who specializes in psychiatry, diagnosed ADHD without performing necessary testing to determine whether that diagnosis was accurate. The Respondent proceeded to prescribe Ritalin and Adderall for this unconfirmed diagnosis. Some of the Adderall prescriptions were for a dosage that was three times the Food and Drug Administration's recommended maximum dosage. There was no explanation for this dosage in the Respondent's medical chart for S.I. As a result of this dosage of Adderall, the patient suffered serious side effects, including dizziness upon standing up, blacking out, palpitations, and a serious decrease in the ability to stand and walk.

Regarding patient F.N., the Respondent once again diagnosed ADHD without performing necessary diagnostic tests. The diagnosis was inaccurate. The Respondent prescribed Adderall in progressively larger dosages. Eventually the prescribed dosage reached three times the Food and Drug Administration's recommended maximum. No explanation for this dosage appears in the medical record for F.N. This dosage caused significant side effects including dizziness upon standing up, excessive fatigue, sluggishness, low energy, insomnia, concentration difficulties, morning hyperactivity, numbness, palpitations, obsessive behavior and inability to handle daily activities.

The Respondent was guilty of sexual misconduct with a patient, M.I. While the patient was in therapy with the Respondent, they commenced a sexual relationship. M.I. moved into the Respondent's home. The Respondent was physically abusive to M.I. during the time that they lived together. During this time, the Respondent also self-

prescribed a dangerous drug, Adderall, and falsely indicated on the prescription form that the prescription was for M.I.

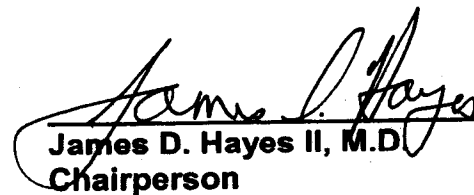
The Respondent committed a large number of serious violations of her professional responsibilities. Since she did not appear at the hearing, there is no evidence in the hearing record of mitigating circumstances, rehabilitation or remorse. The Petitioner recommended that the Respondent's license to practice medicine be revoked. This Hearing Committee concludes that there is no other penalty sufficient to protect the public from the Respondent's dangerous and irresponsible practice of medicine.

ORDER

IT IS HEREBY ORDERED THAT:

1. The license of the Respondent to practice medicine in New York State is revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Endwell, New York
March, 2007


James D. Hayes II, M.D.
Chairperson

Nisha K. Sethi, M.D.
Irving S. Caplan

APPENDIX I

ORIGINAL

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

IN THE MATTER

OF

KAZUKO TRACI MATSUDA, M.D.
CO-06-09-5028-A

NOTICE OF

REFERRAL

PROCEEDING

TO: KAZUKO TRACI MATSUDA, M.D.
2665 30th Street
Suite 204
Santa Monica, CA 90405

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 21st day of February, 2007, 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, 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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, 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 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 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 copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen 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 hereby demands disclosure of the evidence that the 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 or other evidence which cannot be photocopied.

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

January 18, 2007



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	STATEMENT
OF	OF
KAZUKO TRACI MATSUDA, M.D.	CHARGES
CO-06-09-5028-A	

KAZUKO TRACI MATSUDA, M.D., Respondent, was authorized to practice medicine in New York State on April 13, 1994, by the issuance of license number 195357 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 25, 2006, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision and Order (hereinafter "California Order"), accepted the surrender of Respondent's license to practice medicine, based on gross negligence, repeated negligent acts, incompetence, failure to maintain adequate medical records, excessive prescribing, sexual misconduct, sexual exploitation of a patient, violation of Federal statute regulating dangerous drugs, false document, and unprofessional conduct.

B. The conduct resulting in the California 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 State Education Law §6530(2) (practicing the profession fraudulently);
2. New York State Education Law §6530(3) (negligence on more than one occasion);
3. New York State Education Law §6530(4) (gross negligence);
4. New York State Education Law §6530(5) (incompetence on more than one occasion);
5. New York State Education Law §6530(6) (gross incompetence);

6. New York State Education Law §6530(16) failure to comply with substantial provisions of federal, state, or local laws, rules or regulations governing the practice of medicine);
7. New York State Education Law §6530(17) (exercising undue influence on the patient);
8. New York State Education Law §6530(20) (moral unfitness);
9. New York State Education Law §6530(31) (willfully harassing, abusing, or intimidating a patient);
10. New York State Education Law §6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient provided); and/or
11. New York State Education Law §6530(44) (in the practice of psychiatry, any physical conduct of a sexual nature between licensee and patient).

SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having surrendered her license to practice medicine after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the surrender would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that the Petitioner charges:

1. The facts in Paragraphs A and/or B.

DATED: *January 18, 2007*


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