



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

Public

August 16, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Sumathi Paturu, M.B.B.S.
401 19th Street, Apt. 308
Birmingham, Alabama 35233-1934

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

RE: In the Matter of Sumathi Paturu, M.B.B.S.

Dear Parties:

Enclosed please find the Determination and Order (No. 07-96) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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.

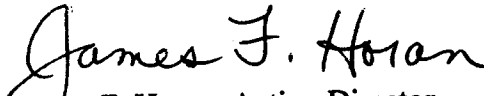
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,


James F. Horan, Acting Director
Bureau of Adjudication

JFH:cah

Enclosure

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

In the Matter of

Sumathi Pataru, M.B.B.S. (Respondent)

A proceeding to review a Determination by a
Committee (Committee) from the Board for
Professional Medical Conduct (BPMC)

Administrative Review Board (ARB)

Determination and Order No. 07-96

COPY

Before ARB Members Grossman, Lynch, Pellman and Wagle¹
Administrative Law Judge James F. Horan drafted the Determination

For the Department of Health (Petitioner):
For the Respondent:

Joel E. Ablove, Esq.
Pro Se

The Respondent has held medical licenses in New York and Alabama. In this proceeding pursuant to New York Public Health Law (PHL) § 230-c (4)(a)(McKinney 2007), the ARB determines what action to take concerning the Respondent's license to practice medicine in New York, following the revocation of the Respondent's medical license in Alabama. After a hearing below, a BPMC Committee voted to revoke the Respondent's License. In this review, the Respondent asks the ARB to overturn the Committee and to disregard the Alabama action. After reviewing the hearing record and the parties' review submissions, the ARB affirms the Committee's Determination.

Committee Determination on the Charges

The Committee conducted a hearing in this matter under the expedited hearing procedures (Direct Referral Hearing) in PHL § 230(10)(p). The Petitioner commenced the

¹ ARB Member Linda Prescott Wilson was unable to participate in the deliberations in this matter, so the ARB considered the case with a four-member quorum.

proceeding by a July 5, 2006 Summary Order from the New York Commissioner of Health suspending the Respondent's License pursuant to the Commissioner's authority under PHL § 230(12)(b). The Petitioner alleged that the Respondent violated N. Y. Education Law (EL) §§ 6530(9)(d) by committing professional misconduct, because the duly authorized professional disciplinary agency from another state, Alabama, took disciplinary action against the Respondent's medical license in that state for conduct that would constitute professional misconduct, if the Respondent had committed such conduct in New York. The Petitioner's Statement of Charges [Petitioner Exhibit 1] alleged that the Respondent's misconduct in Alabama would constitute misconduct if committed in New York, under the following specifications:

- failure to comply with an order, a violation under EL § 6530(15);
- a willful or grossly negligent failure to comply with substantial provisions of law governing the practice of medicine, a violation under EL § 6530(16); and,
- violating a condition or limitation on a medical license, a violation under EL §6530(29).

Following the Direct Referral Proceeding, the Committee rendered the Determination now on review. In the Proceeding, the statute limits the Committee to determining the nature and severity for the penalty to impose against the licensee, see In the Matter of Wolkoff v. Chassin, 89 N.Y.2d 250 (1996).

The evidence at the hearing demonstrated that the Alabama Board of Medical Licensure (Alabama Board) revoked the Respondent's license to practice medicine in that state upon the Respondent's failure to authorize release of a psychiatric evaluation that the Alabama Board had ordered and upon the Respondent's refusal to appear before the Alabama Board. The Respondent failed to appear at the New York Direct Referral hearing and to offer any evidence on mitigating circumstances, rehabilitation or remorse.

The Committee found that the Respondent's conduct in Alabama would constitute misconduct in New York, if the Respondent committed such conduct in this state. The Committee found further that the Respondent's failure to appear for the hearing in New York left the Committee without any evidence that the Committee could trust the Respondent to practice medicine in New York State. The Committee voted to revoke the Respondent's License.

Review History and Issues

The Committee rendered their Determination on May 2, 2007. This proceeding commenced on May 14, 2007, when the ARB received the Respondent's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record, the Respondent's brief and the Petitioner reply brief. The Respondent submitted additional material on July 20, 2007.

The Respondent indicated that she failed to appear at the New York hearing due to anxiety and mental distraction resulting from the action by the Alabama Board. The Respondent submitted extensive material concerning the Alabama disciplinary action and arguing that the Alabama Board revoked the Respondent's License in that state improperly. In reply, the Petitioner argues that the Respondent's attempt to re-litigate the Alabama proceeding should play no part in this review and that the evidence before the Committee provided sufficient grounds to revoke the Respondent's License.

ARB Authority

Under PHL §§ 230(10)(i), 230-c(1) and 230-c(4)(b), the ARB may review Determinations by Hearing Committees to determine whether the Determination and Penalty are

consistent with the Committee's findings of fact and conclusions of law and whether the Penalty is appropriate and within the scope of penalties which PHL §230-a permits. The ARB may substitute our judgment for that of the Committee, in deciding upon a penalty Matter of Bogdan v. Med. Conduct Bd. 195 A.D.2d 86, 606 N.Y.S.2d 381 (3rd Dept. 1993); in determining guilt on the charges, Matter of Spartalis v. State Bd. for Prof. Med. Conduct 205 A.D.2d 940, 613 NYS 2d 759 (3rd Dept. 1994); and in determining credibility, Matter of Minielly v. Comm. of Health, 222 A.D.2d 750, 634 N.Y.S.2d 856 (3rd Dept. 1995). The ARB may choose to substitute our judgment and impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate, Matter of Kabnick v. Chassin, 89 N.Y.2d 828 (1996). In determining the appropriate penalty in a case, the ARB may consider both aggravating and mitigating circumstances, as well as considering the protection of society, rehabilitation and deterrence, Matter of Brigham v. DeBuono, 228 A.D.2d 870, 644 N.Y.S.2d 413 (1996).

The statute provides no rules as to the form for briefs, but the statute limits the review to only the record below and the briefs [PHL § 230-c(4)(a)], so the ARB will consider no evidence from outside the hearing record, Matter of Ramos v. DeBuono, 243 A.D.2d 847, 663 N.Y.S.2d 361 (3rd Dept. 1997).

A party aggrieved by an administrative decision holds no inherent right to an administrative appeal from that decision, and that party may seek administrative review only pursuant to statute or agency rules, Rooney v. New York State Department of Civil Service, 124 Misc. 2d 866, 477 N.Y.S.2d 939 (Westchester Co. Sup. Ct. 1984). The provisions in PHL §230-c provide the only rules on ARB reviews.

Determination

The ARB has considered the record and the parties' briefs. The ARB affirms the Committee's Determination to revoke the Respondent's License.

The material the Respondent submitted to the ARB, from the Alabama Board action, does nothing to support the Respondent's request to overturn the Committee's Determination. The material indicates that, in February 2005, the Alabama Board made an inquiry into the reasons why the Respondent had ceased practicing medicine. The Respondent indicated people or organizations had been trying to steal the Respondent's intellectual property, to break into her apartment, to obtain information off her computer, to cause her to wreck her vehicle, to use her license and DEA certificate and to get her to leave Alabama. Following the reply by the Respondent, the Alabama Board ordered the Respondent to undergo a psychiatric evaluation. The Respondent concedes that the evaluation diagnosed the Respondent as delusional and that the Respondent refused to sign a release for the Alabama Board to receive information from the evaluation. The Respondent then failed to comply with an order to appear before a committee from the Alabama Board and failed to appear at a disciplinary hearing before the Alabama Board. The Alabama Board then revoked the Respondent's License. The Montgomery County Circuit Court and the Alabama Court of Civil Appeals have both affirmed the Alabama Board's decision, Pataru v. Medical Licensure Commission of Alabama, Index No. 2060389 (Ala. Ct. Civ. App. June 29, 2007). The Respondent's submission on July 20, 2007 indicated that the Respondent is now seeking certification to appeal to the Alabama Supreme Court.

The ARB agrees with the Petitioner that this review provides no forum for the Respondent to re-litigate the action by the Alabama Board. The Respondent has failed to comply with orders by the Alabama Board and to authorize release of a psychiatric evaluation that the

Alabama Board ordered. The Respondent also failed to attend a disciplinary hearing in Alabama and has now failed to participate in the Direct Referral hearing here in New York. The ARB agrees with the Committee that no evidence in the record indicates that a safe or reasonable option exists other than revoking the Respondent's License.

ORDER

NOW, with this Determination as our basis, the ARB renders the following ORDER:

1. The ARB affirms the Committee's Determination that the Respondent committed professional misconduct.
2. The ARB affirms the Committee's Determination to revoke the Respondent's License.

Thea Graves Pellman
Datta G. Wagle, M.D.
Stanley L. Grossman, M.D.
Therese G. Lynch, M.D.

In the Matter of Sumathi Pataru, M.D.

Thea Graves Pellman, an ARB Member concurs in the Determination and Order in the
Matter of Dr. Pataru.

Dated Aug 14, 2007



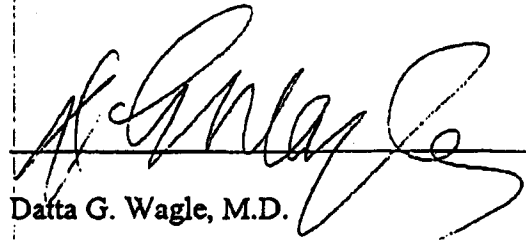
Thea Graves Pellman

In the Matter of Sumathi Pataru, M.D.

Datta G. Wagle, M.D., an ARB Member concurs in the Determination and Order in the

Matter of Dr. Pataru.

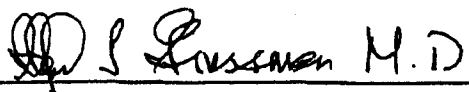
Dated: 8/14/, 2007


Datta G. Wagle, M.D.

In the Matter of Sumathi Pataru, M.D.

Stanley L. Grossman, an ARB Member concurs in the Determination and Order in the Matter of Dr. Pataru.

Dated: August 14, 2007


 M.D.

Stanley L Grossman, M.D.

In the Matter of Sumathi Pataru, M.D.

Therese G. Lynch, M.D., an ARB Member concurs in the Determination and Order in the
Matter of Dr. Pataru.

Dated: August 14, 2007



Therese G. Lynch, M.D.