



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

Public

Wendy E. Saunders
Chief of Staff

March 4, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Peter James Normann, M.D.
1980 Sir Timothy Avenue
Salt Lake City, Utah 84116

Peter James Normann, M.D.
3624 W. Anthem Way
Suite C-108
Anthem, Arizona 85086

Robert Bogan, Esq.
NYS Department of Health
Office of Professional Medical Conduct
433 River Street - Suite 303
Troy, New York 12180-2299

Peter James Normann, M.D.
2915 W. Sousa Drive
Anthem, Arizona 85086-1786

RE: In the Matter of Peter James Normann, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 08-37) 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), (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.

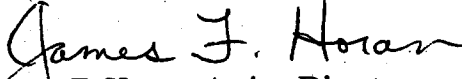
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., 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,


James F. Horan, Acting Director
Bureau of Adjudication

JFH:cah

Enclosure

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

COPY

IN THE MATTER
OF
PETER JAMES NORMANN, M.D.

DETERMINATION
AND
ORDER

BPMC #08-37

A hearing was held on February 21, 2008, 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 January 8, 2008, were served upon the Respondent, **Peter James Normann, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Walter T. Gilsdorf, M.D.**, Chairperson, **Jinil Yoo, M.D.**, and **Mr. Robert M. Briber**, 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 appeared in person and represented himself.

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)(b) and (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:

Peter James Normann, 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. Peter James Normann, M.D., the Respondent, was authorized to practice medicine in New York State on October 9, 1998, by the issuance of license number 212346 by the New York State Education Department (Petitioner's Ex. 7).

2. On October 11, 2007, the Arizona Medical Board ("Arizona Board"), by a Findings of Fact, Conclusions of Law and Order for Revocation of License ("Arizona Order"), revoked the Respondent's license to practice medicine and assessed costs against him, for:

- failure to perform adequate preoperative evaluations, histories and physical exams; failure to perform surgery in a safe and technically correct fashion; failure to provide post-operative care either personally or by adequately supervised and trained staff; and failure to provide postoperative care in a safe environment;
- using Propofol for conscious sedation during surgery without being properly trained, failure to be physically present when patients were under conscious sedation, and failure to monitor patients adequately while they were under conscious sedation;
- employing persons to perform surgery or to assist in the performance of surgery who were not certified or properly trained to perform such functions; and
- failure to keep accurate and complete medical records. (Petitioner's Ex. 8).

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(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(25) - "Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, to perform them;" and

- 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..."

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(b) by having been 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..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having his license to practice medicine revoked and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license revocation and/or other disciplinary action 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, a physician trained in internal medicine, routinely performed outpatient cosmetic surgery in his office. He served as both surgeon and anesthesiologist without comprehensive, formal training in either specialty. One of the Respondent's

patients, RG, died during surgery. The autopsy report stated that the death was caused by an adverse reaction to the medications administered during surgery. In the Arizona Order, the Arizona Board ruled that the Respondent had not been adequately educated in the use of Propofol, the conscious anesthetic used by the Respondent during RG's surgery, and did not have a complete understanding of the drug.

AS, another patient who received cosmetic surgery from the Respondent, died during surgery. The Respondent performed buttock augmentation by injecting fat into the buttocks. The autopsy report stated that the cause of death was "pulmonary fat embolization due to cosmetic surgery procedures." (Petitioner's Ex. 8). The Arizona Board concluded that the only way that this could have happened during surgery is if the Respondent had incorrectly injected the fat into a vein and the fat then traveled to the heart and finally to the lungs.

The Respondent regularly employed unqualified surgical assistants. One of these people was his bookkeeper. Another was a massage therapist. The Respondent allowed the massage therapist to do sutures and to perform liposuction. Neither of these assistants had the training and certification required by law.

The previous three paragraphs are only a sampling of the findings against the Respondent in the Arizona Order. The Arizona Board also made numerous findings regarding inadequacies in preoperative preparation, postoperative care and record keeping.

The case that the Respondent presented at the hearing was, in part, a denial of some of the findings in the Arizona Order. The Hearing Committee is required by law to reject such denials. When the charges in New York State are based on a finding of professional misconduct in another state, Public Health Law Section 230(10)(p) precludes the consideration of any claim that the findings of the other state were incorrect. The

subject matter of the hearing is limited to whether the acts in question would be professional misconduct under New York law, had they been committed in this state (an argument not raised by the Respondent), and a determination of what penalty should be imposed.

The rest of the case presented by the Respondent was unpersuasive. He testified that he provided excellent medical care, but introduced no corroboration for this position from any colleague or patient. He testified that he had trained his surgical assistants thoroughly and had not realized that this training was inadequate under Arizona law. This argument is of no use to the Respondent. If he did not know the law, he should have known the law. The Respondent also testified that he had no prior disciplinary problems, that he had learned valuable lessons from the Arizona proceeding, that all his inadequacies were remediable, and that he would never again engage in the type of practice that led to the problems in Arizona. He testified that he did not use drugs and has young children who rely on him for support. None of this testimony outweighs the egregious nature of the problems disclosed in the Arizona Order. The employment of clearly unqualified people, not only to assist in surgery, but also to perform surgery, is outrageous. The treatment of RG and AS was grossly negligent and grossly incompetent, resulting in the deaths of these patients. The medical care provided by the Respondent was intolerable.


The Petitioner recommended the revocation of the Respondent's license to practice medicine. The Hearing Committee sees no alternative to revocation that would adequately protect the public.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license 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).

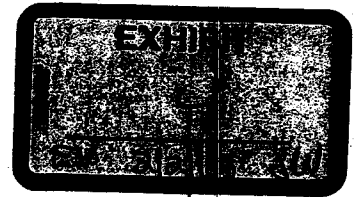
DATED: Lafayette, New York
Feb 26, 2008


Walter T. Gilsdorf, M.D.
Chairperson

Jinil Yoo, M.D.
Robert M. Briber

APPENDIX I

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



IN THE MATTER
OF
PETER JAMES NORMANN, M.D.
CO-07-05-2897-A

NOTICE OF
REFERRAL
PROCEEDING

TO: PETER JAMES NORMANN, M.D.
2915 W. Sousa Drive
Anthem, AZ 85086-1786

PETER JAMES NORMANN, M.D.
3624 W. Anthem Way
Suite C-108
Anthem, AZ 85086

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, 2008, 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

Jan. 8, 2008


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
PETER JAMES NORMANN, M.D.
CO-07-05-2897-A

STATEMENT
OF
CHARGES

PETER JAMES NORMANN, M.D., Respondent, was authorized to practice medicine in New York state on October 9, 1998, by the issuance of license number 212346 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 11, 2007, the Arizona Medical Board (hereinafter "Arizona Board"), by a Findings of Fact, Conclusions of Law and Order for Revocation of License (hereinafter "Arizona Order"), affirmed prior Arizona orders summarily suspending Respondent's license to practice medicine, revoked his license to practice medicine, and assessed him the costs of a formal hearing, based on unprofessional conduct.

B. The conduct resulting in the Arizona 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 §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence on more than once occasion);
4. New York Education Law §6530(6) (gross incompetence);
5. New York Education Law §6530(25) (delegating professional responsibilities to a person who the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, by experience, or by licensure, to perform them); and/or
6. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient provided).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been 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, in that Petitioner charges:

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

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having his license to practice medicine revoked and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license revocation and/or other 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/or B.

DATED: *Jan. 8*, 2008
Albany, New York


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