



STATE OF NEW YORK DEPARTMENT OF HEALTH

Office of Public 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

August 16, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FREDERICK ZIMMER, ESQ.

Assistant Counsel
Bureau of Professional Medical Conduct
New York State Department of Health
Corning Tower Building
Empire State Plaza
Albany, N.Y. 12237

RECEIVED
AUG 16 1995
OFFICE OF PROFESSIONAL MEDICAL CONDUCT

VIKRAM KAJI, M.D.

1900 Yardley-Morrisville Rd.
Yardley, Pennsylvania 19067-1101

RE: In the Matter of Vikram Kaji, M.D.

Effective Date: 08/23/95

Dear Mr. Zimmer and Dr. Kaji :

Enclosed please find the Determination and Order (No. 95-179) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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.

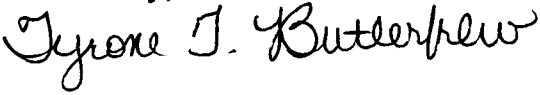
The notice of review served on the Administrative Review Board should be forwarded to:

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,

Handwritten signature of Tyrone T. Butler in cursive script.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:rlw
Enclosure

**STATE OF NEW YORK :DEPARTMENT OF HEALTH
OFFICE OF PROFESSIONAL MEDICAL CONDUCT****IN THE MATTER
-OF-
VIKRAM KAJI, M.D.****Respondent****DECISION
AND
ORDER
OF THE
HEARING COMMITTEE
BPMC ORDER NO. 95-179**

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated July 13, 1995 which were served upon **VIKRAM KAJI, M.D.**, (hereinafter referred to as "Respondent"). **NANCY J. MACINTYRE, R.N., Ph.D.**, Chairperson, **DONALD CHERR, M.D.** and **MARGERY W. SMITH, 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. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on August 9, 1995 at the Cultural Education Center, Empire State Plaza, Albany, New York. The State Board For Professional Medical Conduct (hereinafter referred to as "the State" or "Petitioner") appeared by **JEROME J. JASINSKI, ESQ.**, Acting General Counsel, by **FREDERICK ZIMMER, ESQ.**, Assistant Counsel, Bureau of Professional Medical Conduct, of counsel. Respondent made no appearance whatsoever. Evidence was received. A transcript of these proceedings was made.

After consideration of the entire record, the Hearing Committee issues this Decision and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing where 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 prior professional disciplinary action or criminal conviction. The scope of this 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 Section 6530(9)(b) [having been found guilty of professional misconduct by the authorized agency of another state] and 6530(9)(d) [Having voluntarily or otherwise surrendered his license after disciplinary action was instituted by the authorized state agency for professional discipline of another state, where the activity from which the action arose would constitute misconduct in this state]. The charge herein arises from a Consent Order between Respondent and The State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners (hereinafter referred to as "the New Jersey Board"). The Consent Order found Respondent guilty of gross malpractice and suspended Respondent's license. The acts upon which the findings were based include sexual misconduct and drug abuse. The allegations in this proceeding and the underlying basis are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges, a copy of which is attached to this Decision and Order as Appendix One.

FINDINGS OF FACT

The Committee adopts the factual statement set forth on pages one through five of the Statement of Charges (Appendix One) as its findings of fact and incorporates them herein.

CONCLUSIONS

Respondent chose not to appear in this proceeding. The documents submitted by the State establish that Respondent was personally served. Hence he had notice of this proceeding and a fair opportunity to present mitigation had he so desired.

To establish the First Specification of misconduct in this proceeding the State must prove that Respondent:

1. Has been found guilty of professional misconduct by the duly authorized professional disciplinary agency of another state; and
2. the conduct upon which the finding was based would constitute misconduct in this State

To establish the Second Specification of misconduct in this proceeding the State must prove that Respondent:

1. Had his license suspended or was subjected to discipline in another state; and
2. the conduct upon which the discipline was based would constitute misconduct in this State

The State has proven by clear and convincing evidence that Respondent was found guilty of misconduct by the appropriate authorities in New Jersey and Pennsylvania. Both States suspended Respondent's license. The State has established with equal clarity that the facts underlying the actions by New Jersey and Pennsylvania include acts which would constitute negligence, incompetence, moral unfitness and patient abuse as those violations are defined in this state. Therefore, the State has sustained its burden of proof in both Specifications of misconduct.

The remaining issue is what, if any, penalty should be imposed. In assessing the underlying facts in this case, the Committee finds them to be extremely serious. Furthermore, Respondent has demonstrated that he is neither a competent clinician nor a moral care-giver. Having so found, and in the absence of any mitigation, the Committee finds Respondent would be an extreme danger to the public of this state, were he allowed to practice here. Under the circumstances, the only appropriate sanction is revocation.

ORDER

WHEREFORE, Based upon the forgoing facts and conclusions,

IT IS HEREBY ORDERED THAT:

1. The Factual allegations in the Statement of Charges are SUSTAINED.

Furthermore, it is hereby ORDERED that;

2. The Specifications of Misconduct contained within the Statement of Charges (Appendix One) are SUSTAINED;

Furthermore, it is hereby ORDERED that;

3. The license of Respondent to practice medicine in the State of New York is REVOKED;

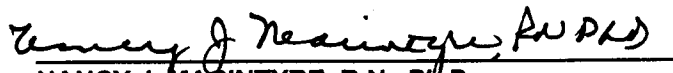
Furthermore, it is hereby ORDERED that;

4. This order shall take effect UPON RECEIPT or SEVEN (7) DAYS after mailing of this order by

Certified Mail.

Dated:
East Greenbush, New York

August 16 1995



NANCY J. MACINTYRE, R.N., PH.D.,
Chairperson

DONALD CHERR, M.D.
MARGERY W. SMITH, M.D.,



TO: **FREDERICK ZIMMER, ESQ.**
Assistant Counsel
Bureau of Professional Medical Conduct
New York State Department of Health
Corning Tower Building
Empire State Plaza
Albany, N.Y. 12237

VIKRAM KAJI, M.D.
1900 Yardley-Morrisville Rd.
Yardley, Pennsylvania 19067-1101

APPENDIX ONE



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Coming 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

July 13, 1995

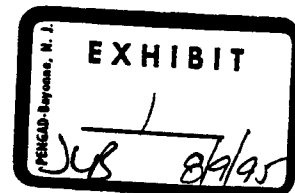
Vikram Kaji, M.D.
1900 Yardley Morrisville road
Yardley, Pennsylvania 19067-1101

Dear Dr. Kaji:

Attached are a Notice of Referral Proceeding, Statement of Charges and copy of Department of Health hearing rules which are being formally served upon you. A hearing is currently scheduled regarding the charges against you on August 9, 1995 at 10:00 a.m. at the Room E on the Concourse Level of the Cultural Education Center, New York State Musuem, Empire State Plaza, Albany, New York.

Very truly yours,

Frederick Zimmer
Assistant Counsel
(Tel.) 518-473-4282



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

-----x
IN THE MATTER : NOTICE OF
OF : REFERRAL
VIKRAM KAJI, M.D., : PROCEEDING
RESPONDENT
-----x

TO: VIKRAM KAJI, M.D.

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. 1995) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1995). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 9th day of August, 1995 at 10:00 a.m. in the forenoon of that day at Room E, at the Concourse Level of the Cultural Education Center, New York State Musuem, Empire State Plaza, Albany, New York 12237.

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 August 2, 1995.

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 August 7, 1995 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
July 13, 1995

Peter D. Van Buren

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

Inquiries should be addressed to:

FREDERICK ZIMMER
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2429
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
VIKRAM KAJI, M.D., : CHARGES

Respondent :
-----X

VIKRAM KAJI, M.D., the Respondent, was authorized to practice medicine in New York State on July 5, 1968 by the issuance of license number 101580 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine in New York State.

FACTUAL ALLEGATIONS

A. The State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners ("the "New Jersey Board") by a Consent Order dated October 20, 1993, entered into by Respondent and the New Jersey Board, found Respondent guilty of gross malpractice and suspended Respondent's license to practice medicine and surgery for a period of three years, effective November 1, 1993, with the final two years of the suspension being stayed and serving as a period of probation. The New Jersey Board required Respondent, among other things, to undergo psychological counseling and to attend a continuing medical education course in the proper use of controlled dangerous substances during the active period of

suspension. Respondent was also required to attend and complete a medical ethics course during the active period of suspension. Respondent was also fined in the amount of \$5,000.



B. The conduct underlying the suspension of Respondent's license included complaints of his having engaged in the sexual abuse of three patients and of his having indiscriminately prescribed an anabolic steroid and Seconal, a controlled dangerous substance, to one of the patients. Specifically, Patient L.C. complained of an improper rectal examination, Patient P.W. complained of an improper breast examination. Respondent admitted to the New Jersey Board that he had in fact engaged in sexual intercourse with Patient V.V. on the bed in the birthing room of his Yardley, Pennsylvania office while the staff was in the office and the doors unlocked. Respondent acknowledged that he had not worn a condom during intercourse and that the incident was planned in that he had invited V.V. to his office, to provide her with sexual stimulation. Respondent also acknowledged that he had prescribed Seconal to V.V. and that he had prescribed an anabolic hormone for her. Respondent's conduct is more particularly set forth in the Consent Order of the New Jersey Board.

C. The Commonwealth of Pennsylvania, Department of State, State Board of Medicine (the "Pennsylvania Board") by an Order of December 23, 1994, adopted a Consent Agreement entered into by Respondent and the Pennsylvania Board on November 22, 1994. The Pennsylvania Board suspended Respondent's license to practice medicine and surgery for a period of three years, with the proviso that following an active suspension of twelve months,

Respondent could petition the board to stay the balance of the suspension in favor of probation. Respondent was also fined in the amount of \$5,000.00.

D. The conduct resulting in the Pennsylvania Board's Consent Agreement and Order included the suspension of Respondent's license and other disciplinary action taken by the New Jersey Board for the reasons set forth in paragraph B above.

E. The conduct resulting in the New Jersey and Pennsylvania actions against Respondent would, if committed in New York State constitute professional misconduct under the following provisions of New York State Education Law;

1. §6530(3) (McKinney Supp. 1995) - practicing the profession with negligence on more than one occasion; and/or
2. §6530(4) (McKinney Supp. 1995) - practicing the profession with gross negligence on a particular occasion; and/or
3. §6530(5) (McKinney Supp. 1995) - practicing the profession with incompetence on more than one occasion; and/or
4. §6530(6) (McKinney Supp. 1995) - practicing the profession with gross incompetence; and/or
5. §6530(20) (McKinney Supp. 1995) - conduct in the practice of medicine which evidences moral unfitness to practice medicine; and/or
6. §6530(31) (McKinney Supp. 1995) willfully physically harassing, abusing or intimidating a patient.

SPECIFICATIONS

FIRST SPECIFICATION

Respondent is charged with professional misconduct by reason of his having been found guilty of professional misconduct by the 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 violation of N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1995) in that the Petitioner alleges the facts in Paragraphs A and B and/or C and D, and E and E.1, E.2, E.3, E.4, E.5 and/or E.6.

SECOND SPECIFICATION

Respondent is charged with professional misconduct by reason of his having had his license to practice medicine suspended or having had other disciplinary action taken by the duly authorized professional disciplinary agency of another state where the conduct resulting in the suspension or other disciplinary action would, if committed in New York State constitute professional misconduct under the laws of New York State in violation of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1995) in that the Petitioner alleges the facts in Paragraphs A and B and/or C and D, and E and E.1, E.2, E.3, E.4, E.5 and/or E.6.

DATED: *July 13*, 1995
Albany, New York

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

SUMMARY OF DEPARTMENT OF HEALTH HEARING RULES

(Pursuant to Section 301 SAPA)

The following items are addressed by the Uniform Hearing Procedures Rules of the New York State Department of Health:

Applicability

Definitions

Notice of Hearing

Adjournment

Answer or Responsive Pleading

Amendment of Pleadings

Service of Papers

Discovery

Hearing Officer/Pre-Hearing Conference

Pre-Hearing Conference

Stipulations and Consent Orders

The Hearing

Hearing Officer's Report

Exceptions

Final Determination and Order

Waiver of Rules

Time Frames

Disqualification for Bias

The exact wording of the rules is found at 10 NYCRR Part 51 of Volume 10 of the New York Code of Rules and Regulations. Each of the above items may be summarized as following:

51.1 Applicability. These regulations apply to most hearings conducted by the Department of Health.

51.2 Definitions.

1. "Commissioner" means Commissioner of the New York State Department of Health.
2. "CPLR" means Civil Practice Law and Rules.
3. "Department" means New York State Department of Health.
4. "Hearing Officer" means the person appointed to preside at the hearing or the person designated as administrative officer pursuant to Public Health Law Section 230.
5. "Party" means all persons designated as petitioner, respondent or intervenor.
6. "Report" means the Hearing Officer's summary of the proceeding and written recommendation or the findings, conclusions and determination of the hearing committee pursuant to Public Health Law Section 230.

51.3 The Department's Notice of Hearing and/or Statement of Charges should be served at least 15 days prior to the first hearing date, specify time, place and date(s) and should contain the basis for the proceeding.

51.4 Adjournment. Only the Hearing Officer may grant an adjournment and only after he/she has consulted with both parties. In hearings pursuant to Public Health Law Section 230, an adjournment on the initial day may be granted by the hearing committee.

and each party has the right to present its case and to cross-examine. The Department has broad discretion to place documents into evidence. A record of the proceeding must be made. In enforcement cases, the Department has the burden of proof and of going forward. In matters relating to neglect or abuse of patients under Public Health Law Section 2803-d, the Hearing Officer may not compel disclosure of the identity of the person making the report or who provided information in the investigation of the report.

Complaints relating to Public Health Law Section 230 may not be introduced into evidence by either party and their production cannot be required by the Hearing Officer.

Claims that a hearing has been unreasonably delayed is treated as an affirmative defense (Section 51.5) or as part of claimant's case. The burden of going forward and of proof are on the claimant.

A verbatim record of the proceeding shall be made by any means determined by the Department. The record shall include notice of hearing and any statement of charges, responsive pleadings, motions, rulings, transcript or recording, exhibits, stipulations, briefs, any objections filed, any decision, determination, opinion, order or report rendered.

51.12 Hearing Officer's Report. In matters governed by Public Health Law Sections 230, 230-a and 230-b, the final report should be submitted not more than 52 days after completion of the hearing if service is effectuated by mail and not more than 58 days of service if effectuated personally. In all other matters, the Hearing Officer, within 60 days of the completion of the hearing, should submit a report.

51.13 Filing of Exceptions. Within 30 days of the date of a copy of the report of the Hearing Officer and proposed order or, within 15 days of a date a report of the hearing committee and proposed recommendation for hearings conducted pursuant to Public Health Law Section 230 is sent to the parties, any party may submit exceptions to said report and proposed order to the Supervising Administrative Law Judge. On notice of all parties, a party may request, before the expiration of the exception period, the Supervising Law Judge to extend the exception period. All parties have the opportunity to state their position on the extension on the record. Extensions may be granted on good cause shown; however, they are not granted to allow a party to respond to exceptions already filed.

