STATE OF NEW YORK
DEPARTMENT OF HEALTH

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

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

November 9, 1994

RECEIVED
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OFFICE OF PROFESSIONAL MEDICAL CONDUCT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Terrence Sheehan, Esq.
Associate Counsel
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, NY 10001

Anatesh Patel, M.D.
P.O. Box 2099
Southampton, NY 11969-2099

Effective Date: 11/16/94

RE: In the Matter of Anatesh Patel, M.D.

Dear Mr. Sheehan and Dr. Patel:

Enclosed please find the Determination and Order (No. 94-239) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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), "(t)he 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.

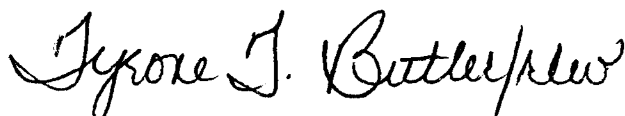
The notice of review served on the Administrative Review Board should be forwarded to:

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, Director
Bureau of Adjudication

TTB:rlw

Enclosure

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

IN THE MATTER OF ANATESH PATEL, M.D.	DETERMINATION AND ORDER

BPMC-94-239

ROBERT J. O'CONNOR, M.D., Chairperson, **ADEL ABADIR , M.D.**, and **MICHAEL GONZALEZ, R.P.A.**, duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230(1)(e) and 230(12) of the Public Health Law. **CHRISTINE C. TRASKOS , Esq.**, served as Administrative Officer for the Hearing Committee. The Department appeared by **TERRENCE SHEEHAN**, Associate Counsel. The Respondent failed to appear and was not represented by counsel. 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

The Statement of Charges alleged twelve specifications of professional misconduct, including allegations of gross negligence, negligence on more than one occasion, fraudulent practice, moral unfitness and failure to maintain adequate records.

The charges are more specifically set forth in the Statement of Charges, a copy of which is attached hereto and made a part of this Determination and Order.

SUMMARY OF PROCEEDINGS

Notice of Hearing Date:	March 9, 1994
Prehearing Conference:	June 14, 1994
Hearing Dates:	June 21, 1994 July 25, 1994
Received Petitioner's Proposed Findings of Fact, Conclusions of Law:	September 19, 1994
Deliberation Date:	September 19, 1994
Place of Hearing:	NYS Department of Health 5 Penn Plaza New York, New York
Petitioner Appeared By:	Peter J. Millock, Esq. General Counsel NYS Department of Health By: Terrence Sheehan, Esq.
Respondent Appeared By:	None

WITNESSES

For the Petitioner:	Paul Goldiner, M.D. Richard A. Nigro, M.D. Jonathan Levitsky, M.D.
For the Respondent:	None

FINDINGS OF FACT

Numbers in parenthesis refer to transcript pages or exhibits, and they denote evidence that the Hearing Committee found persuasive in determining a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited.

PATIENT A

1. Paul Goldiner, M.D. testified as an expert witness for Petitioner. From 1969 to 1985 Dr. Goldiner was on the staff of Memorial Sloan Kettering Cancer Center. His final position was Chairman of the Department and Professor of Anesthesiology. He is presently Professor of Anesthesia and an attending anesthesiologist at Mt. Sinai Medical Center. (T. 8-9)

2. Patient A, 75 year-old man, was admitted to Southampton Hospital on June 21, 1993 for a resection of a polyp of the right colon, suspected colon cancer and right inguinal hernia repair. The patient also had a history of diabetes and hypertension. Respondent was Patient A's anesthesiologist. (Pet. Ex. 4, p. 3, 86, T. 13)

3. Dr. Goldiner testified that because of the patient's's age and medical condition, Patient A carried an increased risk regarding any contemplated anesthetic intervention. (T. 13)

4. Dr. Goldiner testified that an epidural anesthetic was administered to Patient A at 9:00 a.m. on the date of surgery. This administration was totally inappropriate since the operation did not begin for another hour and a half. Such an anesthetic is supposed to be administered in very close proximity to the beginning of a particular operation. (Pet. Ex. 4, p.86, T. 14-5)

5. Dr. Goldiner testified that Deprivan was also administered to Patient A. The recommended dose for a healthy adult up to 55 years of age is 2 mg. per kilogram. In individuals over 55, the dosage must be reduced, because the medication can cause hypotension. Also when other medical conditions are present, the medication must be further reduced. (T. 16-17)

6. Respondent administered 200 mg. of Deprivan in a bolus to Patient A. Dr. Goldiner testified that the administration of this drug by Respondent constitutes a gross deviation from accepted standards of care. In fact, no Deprivan was indicated in the treatment of this patient because of the patient's condition at the time the Deprivan was administered. In addition, the amount of the medication administered was highly excessive. (Pet. Ex. 4, p. 86; T. 17-19)

7. Dr. Goldiner testified that Respondent further aggravated the situation by administering this large amount of medication in bolus rather that titrating it. A bolus injection

deprives the anesthesiologist of the ability to control the amount of drug administered while monitoring the effect on the patient. (T. 18-19)

8. Dr. Goldiner testified that prior to the administration of the Deprivan, Respondent should have administered a vasopressor in this already hypotensive patient, but he failed to do so. (T.20-21)

9. Dr. Goldiner testified that given this patient's age and medical condition, it was incumbent upon the anesthesiologist caring for him to place a central venous pressure line to monitor the patient's fluid level. Respondent failed to do so. (T. 20-21)

10. Dr. Goldiner testified that deactivating the alarm systems on a patient's cardiac and other monitors represents a deviation from accepted medical practice. (T. 22)

11. Dr. Goldiner testified that Patient A became severely hypotensive as a result of Respondent's's various actions and inactions. (T. 22-3)

12. Dr. Goldiner testified that an arterial blood gas test evaluates a patient's oxygenation. He further stated than such a test was indicated for Patient A, but Respondent failed to order one. (T. 23)

13. After the colon resection procedure, a hernia repair was performed on the same day. Dr. Goldiner testified that Respondent should have ordered this second procedure postponed in view of the patient's age and hypotensive condition. (Pet. Ex. 4, p. , T. 23-4)

14. After the second operation, Patient A was transferred to a Post-Anesthetic Care Unit (PACU) where he went into congestive heart failure. Dr. Goldiner testified that the problem Patient A experienced in the PACU was caused by Respondent's lack of monitoring of this patient and inadequate replacement of fluids during the surgery. (Pet. Ex. 4, p. , T. 24-5)

15. Dr. Goldiner testified that the treatment given Patient A by Respondent does not meet acceptable standards of medical practice in the field of anesthesiology. (T. 27)

16. Dr. Goldiner testified that the medical record maintained by Respondent for Patient A does not constitute an acceptable medical record. (T. 25, 27)

PATIENT B

1. Patient B was an 85 year-old female admitted to Southampton Hospital on July 5, 1993 with a fracture of the right hip. Respondent was Patient B's anesthesiologist. (Pet. Ex. 5, p.6, T. 30)

2. Dr. Goldiner testified that Succinylcholine is a de-polarizing muscle relaxant which can be used, as it was in the case of Patient B, to facilitate the intubation of a patient. (T. 31-2)

3. Respondent Administered 200 mg. of Succinylcholine to Patient B. Dr. Goldiner testified that while this medication was indicated in the treatment of Patient B, 200 mg. is a grossly excessive amount. An appropriate dose would be 60 mg. (T. 31-3)

4. Respondent also administered 200 mg. of Deprivan in a single bolus injection to Patient B. Dr. Goldiner testified that this amount of Deprivan was excessive and caused Patient B to develop hypotension. (Pet. Ex. 5 ,p. 161, T. 33-4)

5. Patient B was hypotensive for more that one hour. Dr. Goldiner testified that during this period, Respondent should have , but failed to, administer a vasopressor. Dr. Goldiner further testified that this represented a gross departure from accepted medical practice. (T. 34-5)

6. After the operation, Patient B was transferred to a Post Anesthesia Care Unit. (Pet. Ex. 5, pp, 167-8)

7. Dr. Goldiner testified that Patient B suffered an hypoxic episode which led to her death. This episode was a direct result of a long-standing period of hypotension which Respondent produced by his administration of an excessive dose of Deprivan to this patient. (T.38)

8. Dr. Goldiner also testified that Respondent prepared a very poor medical record with respect to Patient B's anesthetic treatment. The record does not describe the positioning of the endotracheal tube and contains an incomplete pre-operative evaluation. (Pet. Ex. 5, pp. 161-2, T. 36-7)

9. Jonathan Levitsky, M.D., Chief of the Anesthesiology Department at

Southampton Hospital testified that the hospital took administrative action against Respondent based upon his treatment of Patient B. (T. 74)

PATIENT C

1. Patient C, a 10 year old female, was admitted to Southampton Hospital on March 30, 1993 for a tonsillectomy. Respondent was Patient C's anesthesiologist.. (Pet. Ex. 6, pp.2, 20)

2. Respondent administered Deprivan in a 200 mg. single bolus injection. Dr. Goldiner testified that based on Patient C's weight of 43 kilograms and her age, she should have received 80 mgs. in increments and not as a single injection. Dr. Goldiner further stated that 200 mgs. was a gross overdose. (T. 38-9)

3. Richard A. Nigro, M.D., performed the tonsillectomy on Patient C. Dr. Nigro testified that during the operation, the patient experienced bradycardia and tachycardia with accompanying fluctuating blood pressure. Dr. Nigro further testified that Respondent failed to adequately address the problems the patient was experiencing. It was not until Dr. Nigro insisted that Respondent do something to stabilize the patient that a medication was prescribed. (T. 59-61)

4. Dr. Goldiner testified that Respondent's medical record for Patient C does not constitute a minimally acceptable record of anesthetic care in that the record is incomplete, the evaluation is poor and the record is contradictory in several places. (T. 43)

PATIENT D

1. Patient D, was an 85 year old male with urinary retention. He had a history of hypertension and cardiac arrhythmia. Patient D was admitted to Southampton Hospital on January 1, 1993, for a cystoscopy and a transurethral resection to relieve a bladder neck obstruction. Respondent was Patient D's anesthesiologist. (Pet. Ex. 7, p. 6, T. 46)

2. The anesthesia record is unclear as to the amount of Deprivan that was administered to this patient. For some unknown reason, the number entry representing the amount of Deprivan has been written over to the point that it is illegible. (Pet. Ex. 7, p .103)

3. James Kattau is a nurse anesthetist who participated in Patient D's operation . According to Mr. Kattau the actual amount of Deprivan administered by Respondent to Patient's D was 200 mg. (Pet. Ex. 10; T. 77-8)

4. Dr. Goldiner testified that 200 mg. of Deprivan was an excessive dosage for Patient D and it caused the patient to develop hypotension. (T. 48)

5. Dr. Goldiner testified that Respondent's administration of 200 mg. of Deprivan to Patient D constitutes a departure from accepted medical practice. (T. 52)

6. Dr. Levitsky testified that Respondent left the operating room after administering the Deprivan . He further stated that given the excessive amount of Deprivan used, it was improper for Respondent to do so, even given the fact that a nurse anesthetist was present. (T. 85)

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 following Factual Allegations should be sustained. The citations in parentheses refer to the Findings of Fact which support each Factual Allegation:

Paragraph A: (2)

Paragraph A.1: (2)

Paragraph A.2: withdrawn

Paragraph A.3:	withdrawn
Paragraph A.4:	withdrawn
Paragraph A.5:	**Not sustained**
Paragraph A.6:	**(5, 6, 7,)**
Paragraph A.7:	**(8)**
Paragraph A.8:	**(9)**
Paragraph A.9:	**Not sustained**
Paragraph A. 10:	**Not sustained**
Paragraph A.11:	**(9)**
Paragraph A.12:	**(12)**
Paragraph A.13:	**(13)**
Paragraph A.14:	**(9)**
Paragraph A.15:	**(16)**
Paragraph B:	**(1)**
Paragraph B.1:	**(1)**
Paragraph B.2:	**Not sustained**
Paragraph B.3:	**(3)**
Paragraph B.4:	**(4)**
Paragraph B.5:	**(4)**
Paragraph B.6:	**(5)**
Paragraph B.7:	**Not sustained**
Paragraph B.8:	**Not sustained**
Paragraph B.9:	**(7)**
Paragraph B.10:	**(8)**
Paragraph C:	**(1)**
Paragraph C.1:	**(3)**

Paragraph C.2: **(2) except with regard to charge that Deprivan is not indicated in the treatment of children.**

Paragraph C.3: **Not sustained**

Paragraph C.4: **Not sustained**

Paragraph C.5: **(4)**

Paragraph D: **(1)**

Paragraph D.1: **(1)**

Paragraph D.2: **(3, 4)**

Paragraph D.3: **(6)**

Paragraph D.4: **(4, 5)**

Paragraph D.5: **Not sustained**

The Hearing Committee further concluded that the following Specifications should be sustained. The citations in parentheses refer to the Factual Allegations which support each specification:

PRACTICING WITH GROSS NEGLIGENCE

First Specification: (Paragraphs A, A.6 and A.7)

Second Specification:(Paragraphs B, B.4 and B.5)

Third Specification: (Paragraphs C and C.2)

Fourth Specification:(Paragraphs D and D.2)

PRACTICING WITH NEGLIGENCE ON MORE THAN ONE OCCASION

Fifth Specification: (Paragraphs A, A.1, A.6, A.7, A.8 and A.11 through A.15, B. B.1, B.3 through B.6, B.9 and B.10, C and C.1, C.2, C.5, D and D.1 through D.4.

FAILURE TO MAINTAIN ADEQUATE RECORDS

Eighth Specification:(Paragraphs A and A.15)

Ninth Specification: (Paragraphs B and B.10)

Tenth Specification: (Paragraphs C and C.5)

The Hearing Committee further concluded that the following specifications should not be sustained:

Sixth Specification

Seventh Specification

Eleventh Specification

Twelfth Specification

DISCUSSION

Respondent is charged with twelve specifications alleging professional misconduct within the meaning of Education Law Section 6530. This statute sets forth numerous forms of conduct which constitute professional misconduct, but does not provide definitions of the various types of misconduct. During the course of its deliberations on these charges, the Hearing Committee consulted a memorandum prepared by Peter J. Millock, Esq. General Counsel for the Department of Health. This document, entitled "Definitions of Professional Misconduct Under the New York Education Law:, sets forth suggested definitions for gross negligence, negligence, gross incompetence, incompetence, and the fraudulent practice of medicine.

The following definitions were utilized by the Hearing Committee during deliberations:

Negligence is the failure to exercise the care that would be exercised by a reasonably prudent licensee under the circumstances.

Gross Negligence is the failure to exercise the care that would be exercised by a reasonably prudent physician under the circumstances, and which failure is manifested by conduct that is egregious or conspicuously bad.

Fraudulent Practice of the Profession is an intentional misrepresentation or concealment of a known fact. An individual's knowledge that he/she is making a misrepresentation or concealing a known fact with the intention to mislead may properly be inferred from certain facts. A licensee may be found to have fraudulently practiced the profession if he or she has prescribed controlled substances for other than a good faith medical purpose. (**See,** Katz v, Ambach, 72 A.D. 2d 894, 422 N.Y.S. 2d 159 (3rd Dept. 1979); Kenna v. Ambach, 61 A.D. 2d 1091, 403 N.Y.S. 2d. 351 (3rd Dept. 1978)).

Using the above-referenced definitions as a framework for its deliberations, the Hearing Committee unanimously concluded, by a preponderance of the evidence, that eight specifications of professional misconduct should be sustained. The rationale for the Committee's conclusions is set forth below.

PATIENT A

The Hearing Committee generally finds the testimony of Respondent's expert, Dr. Paul Goldiner to be credible as well as uncontroverted. With respect to Patient A, Dr. Goldiner, testified that the single bolus injection of Deprivan to a 75 year old patient with a history of diabetes and hypertension constitutes a gross overdose of medication and a gross deviation from the accepted standard of medical care. (T. 18-19) The Hearing Committee concurs that consideration of the medical condition and age of Patient A should have played an obvious factor in titrating the dosage to the patient. Giving 200 mg. of Deprivan is poor judgment and failure to order administration of the vasopressor prior to the administration of the Deprivan constitutes gross negligence. In addition, Respondent's failure to take the appropriate measures to correct the ensuing hypotension constitutes neglect and his record keeping in this instance was totally inadequate. However, with respect to the charge that Respondent administered an epidural anesthetic which was not indicated, no convincing testimony was offered to the Hearing Committee, therefore this charge could not be sustained.

PATIENT B

Patient B was the 85 year-old female who was admitted to Southampton Hospital with a fracture of the right hip. Dr. Goldiner testified that Respondent administered excessive dosages of not only Deprivan, but also Succinylcholine, a muscle relaxant. (T. 31-34) He further testified that as a result of the overdose of Deprivan, the patient developed a long-standing period of hypotension . This in turn caused the patient to suffer hypoxic or anoxic brain disease that resulted in her death. (T. 36) Again the Hearing Committee finds Respondent to be grossly negligent for disregarding Patient A's advanced age as a pertinent factor when administering the excessive amount of Deprivan. The Committee also believes that Respondent was negligent for administering an improper amount of Succinylcholine, for allowing the patient to develop hypotension and failing to correct it by administering a vasopressor. Again, the medical records for this patient are deemed inadequate.

PATIENT C

Patient C was a 10 year-old female on which Dr. Richard A. Nigro performed a tonsillectomy. Respondent as the anesthesiologist administered 200 mgs. of Deprivan in a single bolus injection. Dr. Goldiner testified that due to her weight and age, this child should have received only 80 mgs. in increments. Once again, Respondent administered a gross overdose. (T.38-9) Dr. Nigro testified that during the course of the operation, the patient experienced bradycardia and tachycardia with accompanying fluctuating blood pressure. (T. 59-61) The Hearing Committee once again finds gross misconduct on part of Respondent for this reckless overdosage of Deprivan to a child. The Hearing Committee further finds that there is insufficient proof from the medical records and testimony offered to establish exactly what harm was incurred by Patient C. There is also insufficient evidence to determine the appropriateness of Respondent's management of Patient C's change of condition during the operation. However, the Hearing Committee once again concurs with Dr. Goldiner that Respondent's medical documentation in this instance is

incomplete and inconsistent.

PATIENT D

Patient D was an 85 year old male admitted to the hospital for cystoscopy and transurethral resection. He had a history of hypertension and cardiac arrhythmia. Respondent's anesthesia record is unclear as to the amount of Deprivan administered. However, a statement in the medical record by the nurse anesthetist, James Kattau states that Respondent administered 200 mg. (Pet. Ex. 10) In the absence of clarification by Respondent, the Hearing Committee accepts Mr. Kattaus statement as being credible. The Hearing Committee again accepts Dr. Goldiner's opinion that 200 mg, is excessive for an elderly patient and finds this to constitute gross negligence. Dr. Levitsky testified that Respondent left the room after administering the Deprivan. (T.85) The Hearing Committee agrees that this was inappropriate due to the overdosage, even if the nurse anesthetist was present. This act constitutes negligence on part of Respondent. No convincing proof was offered regarding the adequacy of the medical record in this instance. Therefore the Eleventh Specification is not sustained.

In addition, no convincing evidence was offered to establish that Respondent had practiced the profession fraudulently or that he practiced with moral unfitness, therefore the Sixth, Seventh and Twelfth Specifications are not sustained.

DETERMINATION AS TO PENALTY

The Hearing Committee unanimously determined that Respondent's license to practice medicine in New York State should be revoked. 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's failure to appear at the hearing to offer any explanation for his actions

precludes the Hearing Committee from considering any mitigation on Respondent's behalf. Respondent's reckless use of Deprivan placed patients at grave risk of harm when most were admitted for routine surgery. The Hearing Committee must act to protect the health and safety of any potential patients that may come under Respondent's care. Therefore, revocation is the appropriate sanction. In the event that Respondent is able to correct whatever situation caused his irresponsible professional actions under the enumerated circumstances, he may petition the Board of Regents for reinstatement.

ORDER

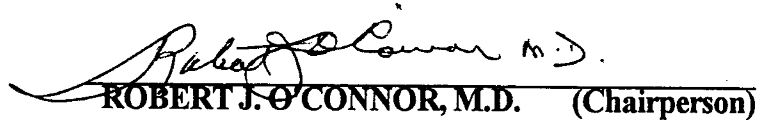
Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First, Second, Third, Fourth, Fifth, Eighth, Ninth and Tenth Specifications of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) are **SUSTAINED;**

2. The Sixth, Seventh, Eleventh and Twelfth Specifications are **NOT SUSTAINED;**

3. Respondent's license to practice medicine in New York State be and hereby is **REVOKED.**

Dated: Albany, New York
November 7 , 1994



ROBERT J. O'CONNOR, M.D. (Chairperson)

ADEL ABADIR, M.D.
MICHAEL A. GONZALEZ, R.P.A.

To: Terrence Sheehan, Esq.
Associate Counsel
New York State Department of Health
5 Penn Plaza- 6th Floor
New York, NY 10001

Anatesh Patel, M.D.
P.O. Box 2099
Southampton, NY 11969-2099

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

IN THE MATTER OF ANANTESH PATEL, M.D.	NOTICE OF HEARING

TO: ANANTESH PATEL, M.D.
265 Herrick Road
Southampton, NY 11968

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 12th day of April, 1994, at 10:00 in the forenoon of that day at 5 Penn Plaza, Sixth Floor, New York, New York 10001 and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce

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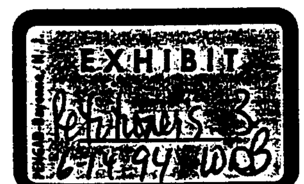


witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Administrative Law Judge's Office, Empire State Plaza, Tower Building, 25th Floor, Albany, New York 12237, (518-473-1385), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1993), you may file an answer to the Statement of Charges not less than ten days prior to the date of the hearing. If you wish to raise an affirmative defense, however, N.Y. Admin. Code tit. 10, Section 51.5(c) requires that an answer be filed, but allows the filing of such an answer until three days prior to the date of the hearing. Any answer shall be forwarded to the attorney for the Department of Health whose name appears 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.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO THE OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW SECTION 230-a (McKinney Supp. 1993). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York

March 9, 1994

CHRIS STERN HYMAN,
Counsel

Inquiries should be directed to: Terrence Sheehan
Associate Counsel
Bureau of Professional
Medical Conduct
5 Penn Plaza, 6th Floor
New York, New York 10001
Telephone No.: 212-613-2601

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

IN THE MATTER OF ANANTESH PATEL, M.D.	STATEMENT OF CHARGES

ANANTESH PATEL, M.D., the Respondent, was authorized to practice medicine in New York State in 1978 by the issuance of license number 136908 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1994 through December 31, 1995 at 265 Herrick Road, Southampton, New York 11968.

FACTUAL ALLEGATIONS

A. Patient A, a 75 year old man whose name along with other patient names is contained in the attached Appendix, was admitted on June 21, 1993, to Southampton Hospital, Southampton, New York, for a resection of a polyp of the right colon and a right inguinal hernia repair. Respondent was Patient A's anesthesiologist.

1. On or about June 22, 1993, a resection of a polyp of the right colon and a hernia repair were performed.

2. Respondent failed to perform an adequate preoperative evaluation of Patient A, including on evaluation of the patient's hydration status.

3. Respondent failed to order necessary EKG testing and complete blood profiles prior to surgery.

4. Respondent failed to order the operation postponed based on the patient's inadequate hydration status and the lack of an EKG report and complete blood profiles.

5. Respondent administered an epidural anesthetic which was not indicated.

6. Respondent administered Deprivan in an amount and method of administration, i.e., a 200 mg. bolus, which was not indicated.

7. Respondent failed to order the administration of a vasopressor prior to the administration of Deprivan.

8. Respondent ordered fluids for Patient A during the operation. Respondent failed to insert a central venous pressure line to monitor the fluid level.

9. Respondent failed to order a foley catheter.

10. Respondent improperly deactivated the alarm system on the patient's cardiac and other monitors.

11. Respondent's actions caused Patient A to become hypotensive.

12. Respondent failed to order an arterial blood gas test.

13. After the colon resection procedure, the surgeon performed a hernia repair. Respondent failed to order the hernia repair postponed due to the patient's hypotensive condition.

14. After Patient A was transferred to the post anesthetic care unit (PACU), the patient went into congestive heart failure. This condition was caused by Respondent's improper management of the patient's anesthetic treatment and hydration status.

15. Respondent failed to maintain a medical record for Patient A which accurately reflects the patient's preoperative evaluation, the patients status while under anesthesia, the position of the endotracheal tube, the use of medications and times when medications were administered, ventilator settings, the times when the ventilator was turned on and off, the condition of patient at the end of surgery and the method by which the patient was transferred to the PACU.

B. Patient B, an 85 year old woman, was admitted to Southampton Hospital on July 5, 1993 for repair of a fractured right hip. Respondent was Patient B's anesthesiologist.

1. On or about July 6, 1993 a surgical repair of Patient B fractured hip was performed.

2. Respondent failed to perform a preoperative evaluation of Patient B in a timely manner.

3. Respondent administered succinylcholine in an improper amount.

4. Respondent administered Deprivan in an amount and method of administration, i.e., a 200 m.g. bolus, which was not indicated.

5. Patient B developed hypotension due to the administration of Deprivan.

6. Respondent failed to administer a vasopressor to correct the hypotension.

7. Respondent improperly deactivated the alarm system on the patient's two blood pressure monitors.

8. After the operation, Patient B was transferred to the PACU. After the patient had been in the unit for approximately one hour, it was noted that she was still incapable of verbal communication. When a nurse inquired of Respondent as to the patient's mental status prior to surgery, Respondent knowingly falsely stated that the patient was not oriented and had Alzheimer disease. In fact, the patient was alert and oriented prior to surgery and had no history of Alzheimer's disease.

9. Patient B suffered a hemorrhagic cerebral vascular accident and subsequently died.

10. Respondent failed to maintain a medical record for Patient B which accurately reflects the patient's preoperative evaluation, the patient's status while under anesthesia, the position of the endotracheal tube, the use of medications and the times when medications were administered, ventilator settings, the times when the ventilator was turned on and off, the condition of patient at the end of surgery and the method by which the patient was transferred to the PACU.

C. Patient C, a 10 year old female, was admitted to Southampton Hospital on March 30, 1993 for a tonsillectomy. Respondent was Patient C's anesthesiologist.

1. On or about March 30, 1993, a tonsillectomy was performed.

2. Respondent administered Deprivan in an amount and method of administration, i.e., a 200 m.g. bolus, which was not indicated. In addition, Deprivan is not indicated in the treatment of children.

3. Patient C developed hypotension due to the administration of Deprivan. Respondent failed to timely manage this condition. It was only after

the surgeon insisted, that Respondent treated this condition.

4. Respondent knowingly falsely stated in the medical record that Patient C experienced bradycardia.

5. Respondent failed to maintain a medical record for Patient C which accurately reflects the patient's preoperative evaluation, the patient's status while under anesthesia, the position of the endotracheal tube, the use of medications and the times when medication were administered, ventilator settings, the times when the ventilator was turned on and off, the condition of patient at the end of surgery and the method by which patient was transferred to the PACU.

D. Patient D, an 85 year old male, was admitted to Southampton Hospital on January 1, 1993 for a cystoscopy and transurethral resection (TUR) at the bladder neck. Respondent was Patient D's anesthesiologist.

1. On or about January 11, 1993 the cystoscopy and TUR were performed.

2. Respondent administered Deprivan in an amount and method of administration, i.e., a 200 m.g. bolus, which was not indicated.

3. Respondent improperly left the operating room after administering Deprivan.

4. Patient D developed hypotension due to the administration of Deprivan. In the absence of Respondent, a certified nurse anesthetist administered ephedrine to correct the hypotension.

5. Respondent failed to maintain a medical record for Patient D which accurately reflects the patient's status while under anesthesia, the position of the endotracheal tube, the use of medications and the times when medications were administered, ventilator settings, and the times when the ventilator was turned on and off.

SPECIFICATION OF CHARGES

FIRST THROUGH FOURTH SPECIFICATIONS

PRACTICING WITH GROSS NEGLIGENCE

Respondent is charged with practicing the profession with gross negligence under N.Y. Educ. Law Section 6530(4)(McKinney Supp. 1994), in that Petitioner charges:

1. The facts in paragraph A and A.1 through A.15.

2. The facts in paragraph B and B.1 through B.10.

3. The facts in paragraph C and C.1 through C.5.

4. The facts in paragraph D and D.1 through D.5.

FIFTH SPECIFICATION

PRACTICING WITH NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with negligence on more than one occasion under N.Y. Educ. Law Section 6530(3)(McKinney Supp. 1994) in that Petitioner charges at least two of the following:

5. The facts in paragraphs A and A.1 through A.15, B and B.1 through B.10, C and C.1 through C.5, and/or D and D.1 through D.5.

SIXTH AND SEVENTH SPECIFICATIONS

PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with practicing the profession fraudulently under N.Y. Educ. Law Section 6530(2)(McKinney Supp. 1994), in that Petitioner charges:

6. The facts in paragraph B and B.8.

7. The facts in paragraph C and C.4.

EIGHTH THROUGH ELEVENTH SPECIFICATIONS

FAILURE TO MAINTAIN ADEQUATE RECORDS

Respondent is charged with professional misconduct under N.Y. Educ. Law Section 6530(32)(McKinney Supp. 1994), in that he failed to maintain records for patients which accurately reflect the evaluation and treatment of the patients. Petitioner charges:

8. The facts in paragraphs A and A.15.

9. The facts in paragraphs B and B.10.

10. The facts in paragraphs C and C.5.

11. The facts in paragraphs D and D.5.

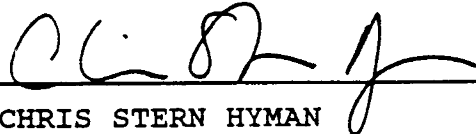
TWELFTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with practicing the profession in a manner which evidences moral unfitness to practice medicine under N.Y. Educ. Law Section 6530(20)(McKinney Supp. 1994), in that Petitioner charges:

12. The facts in paragraphs B and B.8 and C and C.4.

DATED: New York, New York
March 9, 1994



CHRIS STERN HYMAN
COUNSEL
Bureau of Professional Medical
Conduct