

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5902
Kambhatla Ramachandar, Physician
703 East Maple Avenue
Newark, N.Y. 14513

October 31, 1990

791 East 163rd Street
Bronx, N.Y. 10456

Re: License No. 114444

Dear Dr. Ramachandar:

Enclosed please find Commissioner's Order No. 11068. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order in your case is a revocation or a surrender of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. Your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

You may, pursuant to Rule 24.7 (b) of the Rules of the Board of Regents, a copy of which is attached, apply for restoration of your license after one year has elapsed from the effective date of the Order and the penalty; but said application is not granted automatically.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations
By:

GUSTAVE MARTINE
Supervisor

DJK/GM/er
Enclosures

CERTIFIED MAIL- RRR

cc: Steven Brock, Esq.
Rivkin, Radler, Bayl, Hart & Kremer
EAB Plaza
Uniondale, N.Y. 11556

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OCT 31 1990
Office of Professional
Medical Conduct

**REPORT OF THE
REGENTS REVIEW COMMITTEE**

KAMBHATLA RAMACHANDAR

CALENDAR NOS. 11068/6478



The University of the State of New York

IN THE MATTER
of the
Disciplinary Proceeding
against

KAMBHATLA RAMACHANDAR

Nos. 11068/6478

who is currently licensed to practice
as a physician in the State of New York.

REPORT OF THE REGENTS REVIEW COMMITTEE

KAMBHATLA RAMACHANDAR, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

The instant disciplinary proceeding was properly commenced. A copy of that statement of charges and the amended statement of charges are annexed hereto, made a part hereof, and marked as Exhibit "A".

On February 11, 1986 and March 19, 1986, a hearing was held before a hearing committee of the State Board of Professional Medical Conduct. On March 19, 1986, the last day of that hearing, respondent's original attorney indicated that he would cease to represent respondent upon the close of petitioner's case. Respondent's attorney requested that respondent be given an

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opportunity to obtain new counsel. The Chairperson of the hearing committee ruled that respondent would proceed with his case that day. Respondent testified on March 19, 1986, but did not call any other witnesses to testify.

"During the later stages" of the hearing, the hearing committee believed that respondent's mental condition rendered him unfit to practice medicine at that time. Because it concluded that respondent's condition would constitute an imminent danger to the health of the people of the State of New York, the hearing committee recommended that the Commissioner of Health order respondent to discontinue the practice of medicine for a period of ninety (90) days. On March 26, 1986, the Commissioner of Health issued a summary suspension order and directed a hearing on the question of "imminent danger". At the April 14, 1986 hearing regarding that question, Dr. Zitrin was substituted for Dr. Carone.

On May 15, 1986, the hearing committee unanimously found and concluded that respondent was guilty of the first through third specifications as well as "paragraph 6(B) of the fourth and fifth specifications" and was not guilty of "paragraph 6(A) of the fourth and fifth specifications" as well as the sixth specification, and recommended that respondent's license to practice as a physician in the State of New York be revoked. The original hearing committee report shows it was rendered by the five member hearing committee, including Dr. Carone and not Dr. Zitrin. A copy of that

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report in regard to the charges is annexed hereto, made a part hereof, and marked as Exhibit "B".

On May 28, 1986, the hearing committee unanimously recommended that the summary suspension order of the Commissioner of Health should continue in full force and effect until such time as a final decision be rendered by the Board of Regents. That report in regard to imminent danger was rendered by the five member committee which included Dr. Zitrin and not Dr. Carone. A copy of that report as to the summary suspension is annexed hereto, made a part hereof, and marked as Exhibit "C".

On July 3, 1986, the Commissioner of Health, in one recommendation, recommended both that his March 26, 1986 summary suspension order shall continue in full force and effect until such time as a final decision be rendered by the Board of Regents and that the findings, conclusions, and recommendation of the hearing committee in regard to the charges be accepted in full. A copy of that recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "D".

After hearing oral argument in this matter, the Regents Review Committee issued a report, dated March 12, 1987, recommending a remand to the hearing committee for the purpose of giving respondent an opportunity to present his defense from the time petitioner rested its direct case. During respondent's defense in 1986, he was unrepresented by counsel. His former attorney

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requested that respondent be permitted to obtain new counsel. Although the hearing committee found respondent to be actively psychotic, disoriented, confused, and not able to understand many of the questions asked of him by the hearing committee, the Chairperson of the hearing committee declared that the hearing would proceed. The Regents Review Committee recommended that, in his state of mind, respondent should have been afforded an opportunity to obtain counsel. A copy of the March 12, 1987 report of the Regents Review Committee is annexed hereto, made a part hereof, and marked as Exhibit "E".

The Board of Regents voted on March 20, 1987 to accept the recommendations of the Regents Review Committee. The remand voted by the Board of Regents was, as set forth on page six of the report of the Regents Review Committee, to be a continuation of the hearing before the hearing committee which need not be a different one. The record upon that remand consisted solely of the evidence and documents in the then existing record through petitioner's case.

The Commissioner of Education issued his March 27, 1987 Order, under Calendar No. 6478, remanding the matter to the hearing committee as set forth on page six of the report of the Regents Review Committee. The Board of Regents and Commissioner of Education each indicated that the vote of the Board of Regents

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constituted a nonfinal intermediate determination and not a final determination in regard to the status of the summary suspension order. Copies of the original Vote of the Board of Regents and the Order of the Commissioner of Education are attached hereto, made a part hereof, and marked as Exhibit "F".

Upon remand, the hearing continued on three sessions between October 20, 1989 and December 22, 1989. At that time, two of the original hearing committee members, Dr. Carone and Mr. Rosenfield, were replaced and two new members, Dr. Zitrin and Mr. Kleinman, were substituted for them. Both Dr. Zitrin and Mr. Kleinman stated on the record that they had an opportunity to review all records that pertain to the hearing. The Chairperson of the hearing committee stated that the substitutions were made "due to the length of the hearing." Respondent was represented by new counsel upon remand and called additional witnesses to testify on his behalf.

On April 13, 1990, the hearing committee issued a supplemental report. That report on remand shows that Dr. Zitrin and Mr. Kleinman each read the record of the original hearings. The supplemental hearing committee report included three new findings of fact covering the period from March 1986 to December 22, 1989 and unanimously affirmed the findings of fact set forth in the original hearing committee report. The hearing committee on remand, concluding that nothing was offered in evidence to alter

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the original hearing committee conclusion that respondent is mentally impaired so as to make him unsuitable for the practice of medicine, therefore, unanimously again concluded that respondent was guilty of the first through third specifications as well as "paragraph 6(B) of the fourth and fifth specifications" and was not guilty of "paragraph 6(A) of the fourth and fifth specifications" as well the sixth specification. Accordingly, the hearing committee on remand recommended that respondent's license to practice medicine in the State of New York be revoked. A copy of the supplemental hearing committee report is annexed hereto, made a part hereof, and marked as Exhibit "G".

The Commissioner of Health on remand recommended that the findings, conclusions, and recommendation of the hearing committee be accepted in full. A copy of the recommendation of the Commissioner of Health on remand is annexed hereto, made a part hereof, and marked as Exhibit "H".

On July 10, 1990, respondent was not present, but was represented by Steven Brock, Esq. Marcia Kaplan, Esq., presented oral argument on behalf of the Department of Health.

Petitioner's recommendation as to the measure of discipline to be imposed, should respondent be found guilty, which is the same as to the recommendation of the Commissioner of Health, was that respondent's license to practice as a physician in the State of New York be revoked.

Respondent's recommendation as to the measure of discipline to be imposed, should respondent be found guilty, was that respondent's license to practice as a physician in the State of New York be suspended for five years, said suspension be stayed, and respondent be placed on probation allowing the practice of medicine under appropriate monitoring, treatment, and supervision.

We have considered the record in this matter as transferred by the Commissioner of Health before the prior determination by the Board of Regents and on all occasions after the proceedings on remand from the Board of Regents. We have also considered petitioner's memorandum to us and respondent's memorandum "in opposition to the recommendation of the Commissioner of Health".

SUBSTITUTION OF HEARING COMMITTEE MEMBERS

Preliminary, we must address the issues raised by respondent in regard to the substitution of two members of the original hearing committee. Respondent maintains that substitution is only permissible, pursuant to Public Health Law §230(10)(f), for "one member" and only if it is due to death or incapacity of that member to serve. In view of the substitution of two hearing committee members in this matter due to the "length of the hearing", respondent contends that he is entitled to a new hearing before a properly constituted hearing committee. We disagree.

Contrary to respondent's assertions, Public Health Law §230(10)(f) does not prevent the exercise of discretion in

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continuing with a hearing whenever more than one substitution occurs or is not grounded upon death or incapacity. That statute requires the continuation of the hearing where its provisions are met. It is applicable in "the event of a member's death or incapacity to serve on the committee." Where, as here, those provisions are not applicable, Public Health Law §230(10)(f) should not be read as requiring the discontinuation of the hearing.

The Appellate Division, Third Department, agreed, in Laverne v. Sobol, 149 A.D.2d 758 (1989), with our interpretation that the relevant statute* only limits the hearing committee's ability to discontinue a hearing, not its ability to limit it. The purpose of the 1980 statutory amendments adding the above relevant statute was to reform the disciplinary process and improve its efficiency and effectiveness. Respondent's interpretation, however, has the opposite effect of limiting the hearing committee's ability to continue the hearing. The results sought by respondent, that, instead of replacing the two members, the hearing would have to be discontinued and a new panel appointed to hear the matter de novo,

* Laverne interpreted Education Law §6510(3)(c). However, that section and Public Health Law §230(10)(f) contain identical language which were both added as part of the same 1980 statutory amendment. See 1989 N.Y. Laws Chapter 866. Moreover, the respondent in Laverne was a physician whose license was revoked in a professional misconduct proceeding determined by the Board of Regents and upheld by the Court.

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were "certainly not intended by the Legislature" and would be "contrary to the purposes for which the legislation was enacted".

Laverne, supra.

The decision to continue the hearing is a matter of discretion. That discretion is not limited by Public Health Law §230(10)(f). Laverne, supra.** In the course of a hearing held over a period of time, circumstances may arise which cause the necessity to replace either hearing committee members or the Administrative Officer. The practicalities of those circumstances may be considered in arriving at a just, proper, and efficient decision whether to continue the hearing. Thus, respondent is not entitled, by virtue of Public Health Law §230(10)(f), to a new hearing.

Respondent does not have the right to have the same Administrative Officer for the duration of the hearing. Flores v. New York State Education Department, 146 A.D.2d 881 (3rd Dept. 1989); Wesser v. State Department of Health, 94 A.D.2d 681 (3rd Dept. 1983), aff'd 60 N.Y.2d 785 (1983). Both prior and subsequent to the amendment of Public Health Law §230(10)(f), there was no requirement that the hearing committee commence a de novo proceeding upon the death, resignation, or retirement of a member of the hearing committee. Ackerman v. State Board of Professional

** See footnote *

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Medical Conduct. N.Y.L.J. page 7, Column 1 (Sup. Ct. N.Y. County 1986). A new hearing is not required to be commenced whenever there is a change in the hearing committee. Ackerman v. State Board of Professional Medical Conduct, 83 CIV 7871 (U.S. District Court, S.D.N.Y. 1984). There is no requirement that evidence must be taken throughout an administrative hearing before the same officer who makes the determination. Rothkoff v. Ratner, 104 Misc.2d 204 (Sup. Ct. N.Y. County 1980).

The hearing committee was not limited to substituting only one member. In Laverne, supra, the continuation of the hearing with two substitute members was proper.

Under the State Administrative Procedure Act §303, whenever a presiding officer

is disqualified or it becomes impractical for him to continue the hearing another presiding officer may be assigned to continue with the case unless it is shown that substantial prejudice to the party will result therefrom.

This statute is applicable to professional misconduct proceedings. Wesser v. State Department of Health, 60 N.Y.2d 785 (1983). Due to the length of the hearing, it apparently became impractical for two hearing committee members to remain serving on the committee. The substitution of a hearing officer in Manhattan Industries Inc. v. Tully, 88 A.D.2d 737 (3rd Dept. 1982), was not improper due to a long delay in the process. Similarly, the hearing in the instant matter was not required to be discontinued after a three and a half

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year lapse between the remand and the continuation of the proceeding. The hearing committee was within its discretion in substituting two members and continuing the hearing in which petitioner previously completed its case and the record was previously closed before the remand.

As the United States District Court in Ackerman, supra, indicated, the hearing committee "is just the first step in the administrative review process." This matter has now been transmitted to us for recommendation to the Board of Regents which renders the final determination. At this point, the Board of Regents has a strong interest in resolving these professional misconduct charges, while providing respondent sufficient due process protections, on this record without the delay of a de novo hearing. Ackerman, id.

Respondent neither contested the impracticality of continuing the hearing with the two original members nor sought clarification of the Chairperson's explanation of the stated ground for the substitution. He did not claim that any abuse of discretion occurred. Instead, respondent maintained that the hearing must have been discontinued. On this record, we unanimously find the length of the hearing to be a reasonable ground, in accordance with State Administrative Procedure Act §303, for continuing the hearing with the two substitute members. We do not resolve this issue, as petitioner suggests, by construing the term "incapacitated" in

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Public Health Law §230(10)(f) to mean any reason whatsoever for the committee member's being unable to be present at the hearing session.

Respondent failed to show, nor can we discern, any substantial prejudice resulted to him from the substitutions herein. Moreover, in view of the continuing summary suspension of respondent's license, any decision to commence a de novo hearing might have prolonged the length of that suspension on respondent.

The two substitute hearing committee members reviewed the entire transcript of the hearing. In Taub v. Pirnie, 3 N.Y.2d 188 (1957), the New York Court of Appeals held that a fact finder need not actually be present at the hearing as long as he had access to and actual knowledge of the facts and issues in the matter. The mere fact that the officer who makes the decision did not himself observe the demeanor of the witnesses is not grounds for setting aside the decision as long as that officer had the opportunity to review all of the evidence. Rothkoff, supra. In our unanimous opinion, the hearing committee which issued its supplemental report made an "informed decision" for our consideration.

Moreover, the Board of Regents accepted the recommendation of the Regents Review Committee stating that the hearing committee on remand "need not be a different one." The Board of Regents understood that the hearing committee may be composed on remand of one or more different members, but did not require a new committee.

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The hearing as to respondent's case was to continue before a hearing committee that could still be assembled to render an "informed decision."

Furthermore, respondent's attorney did not object to the substitution and continuation until after the record was closed and the hearing committee deliberated and reached its decision regarding the charges. Respondent's later objection, raised when he was aware of the adverse decision, was not made in a timely manner. Therefore, we consider such objection to be waived. Having elected to submit this matter to the hearing committee without objection, respondent may not now fairly object to the composition of the hearing committee which issued the supplemental report and invalidate the process for completing the hearing. Cf. Washington County Cease Inc. v. Persico, 99 A.D.2d 321 (3rd Dept. 1984), aff'd another grounds, 64 N.Y.2d 923 (1985).

COMMISSIONER OF HEALTH RECOMMENDATION

The recommendation of the Commissioner of Health on remand is based on his reading of the post-remand transcripts, but not of the pre-remand transcripts. Since petitioner rested its case before the remand, it is necessary to read, as we have, the portion of the transcripts showing the proof adduced by petitioner pre-remand. The prior decision by the Board of Regents in this matter required the Commissioner of Health to review the complete record, including the testimony and documents in the pre-remand record through

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petitioner's case. Although petitioner urged the Commissioner of Health to correct his proposed recommendation to recite all the dates of hearing held and not merely the dates held after the remand order, the Commissioner of Health, in his pro forma recommendation, only mentioned the dates of hearing held after remand. While we concur in the result of the penalty recommended by the Commissioner of Health, we recommend that the Health Commissioner's recommendation not be given weight, under the circumstances, for acceptance or otherwise.

PRACTICING WHILE IMPAIRED

The most serious charges of professional misconduct against respondent are the fourth and fifth specifications relating to respondent's practicing the profession while his ability to practice was impaired by mental disability. The hearing committee concluded that respondent was not guilty, under Education Law §6509(3), in regard to the period of April 1, 1983 to on or about April 7, 1983. However, they concluded that respondent was guilty, under Education Law §6509(3) for his conduct during June 1985. We agree with these recommendations and note that we do not follow the references of the hearing committee and Commissioner of Health to the fourth and fifth specifications each corresponding to paragraphs 6(A) and (B). Inasmuch as the fourth specification relates to paragraph 6(A) and the fifth specification relates to paragraph 6(B), each of these separate specifications involving

separate paragraphs should have been, in the hearing committee report, and will hereafter be, in our report, separately identified. Accordingly, respondent's guilt in this matter is based upon the fifth specification (paragraph 6(B) of the statement of charges).

The hearing committee, upon remand, affirmed the finding that early in June 1985 respondent could not function, his voice slurred, and answers were not appropriate to questions. He was employed at the Newark Developmental Center until he left on June 19, 1985. Respondent's mental illness progressed from the period of January 2, 1985, when he appeared to be extremely confused, insecure and not functioning up to his capacity; to April 10, 1985 until April 30, 1985, when he was having a problem and agreed to see the consultant psychiatrist; and to May 1985, when he became worse, mumbled in response to a question, and gave information that was completely devoid of the question.

The record also shows that respondent's physician supervisor observed respondent's work performance to be starting to deteriorate before the first part of May 1985. At a meeting at that time, respondent would have a tendency to talk in short bursts, and then go off on a tangent completely on some other subject. The supervisor felt respondent was getting irritable over an extended period of time and was losing his confidence. By May 1985, respondent was not functioning the way he should have been. Nevertheless, he refused to be hospitalized.

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By the first week of June 1985, respondent could not function, see transcript page 49, and at that time, denied that he had a problem. In June 1985, respondent felt he did not need the psychiatric care which he was recommended to receive. During the first week of June 1985, respondent was still seeing patients, see transcript page 48. At that time, while respondent was practicing, respondent was mumbling, repetitive, withdrawn, and seemingly fearful. In late May and early June 1985, respondent's prior personal hygiene problem recurred and his patient records showed his own insecurity or were sometimes not understandable. In June 1985, respondent's supervisor observed that respondent was "incapable", due to slurring, hesitancy with answers, and not appropriate responses which were not even remotely connected to the discussion.

We reject respondent's contention that there is no sufficient proof that respondent actually practiced medicine while impaired. Respondent is guilty not merely because he has a serious mental illness. Based on all of petitioner's proof, we find that respondent was, as charged in the fifth specification, practicing medicine during June 1985. Accordingly, we conclude, by a preponderance of the evidence, that respondent is guilty of the fifth specification in light of his conduct of practicing the profession as a staff physician employed by the Newark Developmental Center while his ability to practice was impaired by

mental disability.

We accept the conclusion of the hearing committee that respondent is not guilty of the charge in paragraph 6(A) and referred to herein as the fourth specification as well as the sixth specification. However, we cannot accept the conclusions of the hearing committee as to the first through third specifications.

OTHER CHARGES

The second and third specifications, served in October 1985, refer to respondent having been the subject of disciplinary proceedings in other states five to seven years earlier in July 1978 and February 1980. The applicable definition of professional misconduct, Education Law §6509(5)(b), became effective July 1, 1980. Thus, without consideration of the fact that the underlying conduct occurred in 1977, the disciplinary actions in other states clearly occurred either almost two years or almost five months, respectively, before the effective date of the definition of professional misconduct charged by petitioner.

It is elementary that charges of professional misconduct cannot be sustained when such charges did not constitute professional misconduct at the time the conduct was performed. Gould v. Board of Regents, 103 A.D.2d 897 (3rd Dept. 1984). This principle has been violated by the Health Department in charges brought and recommendations made in various physician matters over time. E.g., Weiss, Calendar No. 3615; Halyalkar, Calendar No.

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4143; Faville, Calendar No. 4147; Boettjer, Calendar No. 4505; Nadell, Calendar No. 6761; Fuchs, Calendar Nos. 10191/8666; Farrell, Calendar No. 10710, Manoussakis, Calendar No. 10549; and Varga, Calendar No. 10973. Accordingly, in our opinion, respondent may not be found guilty of the second and third specifications.

Another example of a charge that should be dismissed because of the failure to comply with legal requirements is the first specification. That specification, brought pursuant to Education Law §6509(5)(a)(iii), does not allege any analogue New York State criminal law under which respondent's acts would have constituted a crime if committed within this state. Neither the proof nor the findings relied on by the hearing committee and Commissioner of Health established all the elements of the first specification.

Respondent's guilt of the fifth specification is, as previously shown, overwhelming. In arriving at this conclusion, we have not relied on respondent's testimony in 1986 before the remand. That testimony, taken when respondent was not represented by counsel, is not in the record upon which the Board of Regents remanded this matter. Of course, respondent's 1989 testimony after the remand is part of the record and has been considered by us.

In order to adequately protect the public, respondent's license to practice as a physician in the State of New York should be revoked. We have considered all the alleged mitigating and aggravating circumstances and find, in agreement with the hearing

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committee, that revocation is appropriate. See Salva v. Board of Regents, 92 A.D.2d 953 (3rd Dept. 1983); Meshel v. Board of Regents, 110 A.D.2d 976 (3rd Dept. 1983); and Kirsch v. Board of Regents, 79 A.D.2d 823 (3rd Dept. 1980). We note that respondent's contention that his license cannot be revoked under the Federal Rehabilitation Act and the State Human Rights Law is without merit. The Board of Regents has discretion to impose an appropriate measure of discipline. Under these circumstances, the Board of Regents is not required by law to allow respondent to practice under monitoring and supervision.

We unanimously recommend the following to the Board of Regents:

1. The findings of fact of the hearing committee in the April 13, 1990 supplemental report both affirming the findings set forth in the original hearing committee report in regard to the charges and making new findings be accepted, except findings of fact three, four, and five affirmed from the original hearing committee report not be accepted;
2. The conclusions of the hearing committee be modified;
3. The recommendation of the hearing committee as to the measure of discipline be accepted;
4. The recommendation of the Commissioner of Health as to the findings of fact, conclusions, and recommendation of

KAMBHATLA RAMACHANDAR (11068/6478)

- the hearing committee not be given weight for acceptance or otherwise in light of said recommendation not being based, in spite of counsel for petitioner's request, on the entire record or on any portion of petitioner's case;
5. Respondent is guilty, by a preponderance of the evidence, of the fifth specification and not guilty of the remaining specifications; and
 6. Respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which we recommend respondent be found guilty, as aforesaid.

Respectfully submitted,

J. EDWARD MEYER

MELINDA AIKINS BASS

SIMON J. LIEBOWITZ


Chairperson

Dated: Oct. 10, 1990

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

IN THE MATTER :
OF : STATEMENT
KAMBHATLA RAMACHANDAR, M.D. : OF
: CHARGES

The Office of Professional Medical Conduct charges as follows:

1. Kambhatla Ramachandar, M.D., Respondent, was authorized to engage in the practice of medicine in the State of New York in the year 1972 by the issuance of license number 114444 by the State Education Department.
2. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1983 through December 31, 1985 from 703 East Maple Avenue, Newark, New York 14513.
3. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §§6509 and/or 6509-a (McKinney 1985) as set forth in the Specifications attached.

EXHIBIT "A"

EXHIBIT "A"

FIRST SPECIFICATION

4. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(5)(a) (iii) (McKinney 1985) in that he has been convicted of committing an act constituting a crime under the laws of another jurisdiction and which, if committed within this State, would have constituted a crime under New York State Law, specifically:

On or about December 22, 1977, after a plea of nolo contendere in the Superior Court of the State of California, County of Sacramento, the Respondent was found guilty of the crime of forgery of a prescription in that on or about April 6, 1977, the Respondent willfully, unlawfully and feloniously falsely made a prescription and aided and abetted one _____ to forge said prescription for the drug Ritalin, and was sentenced to five years probation with the condition that he serve 150 days in the County Jail with credit for 150 days served with the additional condition that he seek and obtain professional counseling and/or treatment.

SECOND THROUGH THIRD SPECIFICATION

5. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(5)(b) (McKinney 1985) in that he has been found guilty of improper professional practice by a duly authorized professional disciplinary agency of another state for conduct which constitutes professional misconduct in New York State, specifically:

(A) On or about July 11, 1978, the Board of Medical Quality Assurance of the Department of Consumer Affairs of the State of California found the Respondent guilty of unprofessional conduct based upon the conviction alleged in paragraph 4 above. Respondent's license to practice medicine in California was revoked, the revocation was stayed and the Respondent was placed on five years probation with the following conditions: that he comply with a prescribed course of psychiatric treatment and evaluation including twice-monthly therapy during the first year; and that he not engage in the solo practice of medicine, but rather limit his practice to a structured environment under the supervision of a physician board-certified in his specialty.

(B) On or about February 20, 1980, the Department of Registration and Education of the State of Illinois, based upon the revocation of the Respondent's license in California alleged in paragraph 5(A) above, found the Respondent guilty of engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public and of having had his medical license revoked in a sister state. Respondent's license to practice medicine in Illinois was indefinitely suspended.

FOURTH THROUGH FIFTH SPECIFICATION

6. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(3) (McKinney 1985) in that he practiced the profession while his ability to practice was impaired by mental disability, specifically:

(A) From on or about April 1, 1983 to on or about April 7, 1983 the Respondent practiced medicine as a staff physician employed by the City Hospital Center at Elmhurst while his ability to practice was impaired by mental illness.

(B) During June, 1985, the Respondent practiced medicine as a staff physician employed by the

Newark Developmental Disabilities Service Office
and Developmental Center while his ability to
practice was impaired by mental illness.

Dated: Albany, New York

August 2, 1985



Kathleen M. Tanner
Director
Office of Professional
Medical Conduct

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

-----X
IN THE MATTER OF
KAMBHATLA RAMACHANDAR, M.D.
-----X

:
: AMENDED
: STATEMENT
: OF CHARGES
:
:
: X

Petitioner herein further charges as follows and files this amended Statement of Charges:

I. Paragraphs 1 through 6 of the original Statement of Charges served in the above-captioned matter (the Statement of Charges), are incorporated by reference as though fully set forth herein.

II. The Statement of Charges is hereby amended to add Paragraph 7 as follows:

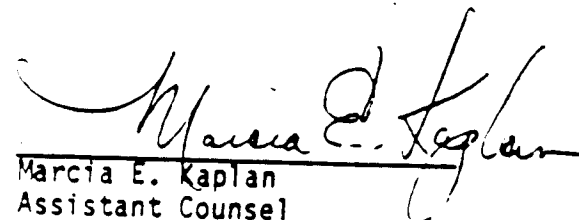
SIXTH SPECIFICATION

7. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9)(McKinney 1985) in that he engaged in unprofessional conduct within the meaning of 8 N.Y.C.R.R. 29.2(a)(1)(1981) by abandoning patients under and in need of immediate professional care without making reasonable arrangements for the continuation of such care, specifically:

EXHIBIT "A" *Petitioner's & P*
2/10/11 W B

- (1) On or about February 18, 1986, and continuing thereafter, without any notice, the Respondent ceased working at the Forest Health Center, 791 East 163rd Street, Bronx, New York, where he was the sole physician providing medical care from Tuesdays through Saturdays of each week, without obtaining physician coverage for the period of his absence, thereby rendering medical care unavailable for patients seeking medical attention at the facility.
- (2) On or about February 24, 1986 and continuing thereafter, without any notice, the Respondent ceased working at the Central Medico Medical Center, 1575 Grand Concourse Bronx, N.Y., where he was the sole physician providing medical care on Monday afternoons of each week, without obtaining physician coverage for the period of his absence, thereby rendering medical care unavailable for patients seeking medical attention at the facility.

Dated: New York, New York
March 17, 1986


Marcia E. Kaplan
Assistant Counsel
Office of Professional
Medical Conduct

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

IN THE MATTER : HEARING
OF : COMMITTEE
KAMBHATLA RAMACHANDAR, M.D. : REPORT

TO: The Honorable David Axelrod, M.D.
Commissioner of Health, State of New York

The undersigned Hearing Committee consisting of Albert Bartoletti, M.D., Chairman, Donna O'Hare, M.D., Martin Cherkasky M.D., Pasquale Carone, M.D. and Mr. Ullman Rosenfield, was duly designated, constituted and appointed by the State Board for Professional Medical Conduct.

Pursuant to the Notice of Hearing and Statement of Charge dated August 2, 1985, and served on the 2nd Day of October, 1985 Respondent Kambhatla Ramachandar, M.D., the Hearing Committee conducted a hearing pursuant to New York Public Health Law Section 230 and New York State Administrative Procedure Act Section 301 through 307 with regard to charges of professional misconduct against the Respondent as set forth in Statement of Charges.

Harry Shechtman, Esq., served as Administrative Officer for the Hearing Committee during the hearing and through the date of this Report, except for a first session when Michael McDermott, Esq., served in that capacity.

STATEMENT OF CASE

The Respondent was charged with the following acts of professional misconduct as more fully set forth in Exhibit 1, attached hereto, in that:

1. He was convicted of a crime in California which if committed in New York State would have constituted a crime in New York;
2. He was found guilty of improper professional practice by the Board of Medical Quality Assurance of California based upon the conviction herein above referred to;
3. He was found guilty of engaging in dishonorable, unethical, or unprofessional conduct by the Department of Registration and Education of Illinois based on the California revocation;
4. He practiced medicine as a staff physician of the Cit Hospital Center at Elmhurst, and the Newark Development Disabilities service office and Developmental Center while his ability to practice was impaired.

At the hearing, an amended statement of charges was served (Ex. 8 attached hereto) wherein the Respondent was charged with abandoning patients.

PROCEDURAL HISTORY

| | |
|---|--|
| Notice of Hearing and Statement of Charges: | August 2, 1985 |
| Date of Amended Statement of Charges: | March 17, 1985 |
| Dates of Hearing: | February 11, March 19, 1986 |
| Place of Hearing: | 8 East 40th Street New York, New York 10016 |

The Office for
Professional Medical Conduct
appeared by:

Shelly Sherman, Esq.
Deputy Counsel, and
Marcia Kaplan, Esq.
Assistant Counsel

The Respondent appeared until
noon-time on March 19, 1986
and thereafter pro-se:

Lippman & Krosnow, Esqs.
by Michael S. Kelton, Esc
of Counsel
475 Fifth Avenue
New York, New York

Respondent's most recent Address:

224 East 47th Street
New York, New York

The Respondent's Answer (Response)
was served on the Board:

January 8, 1986

I. The following witnesses were called by the Petitioner.

- 1) John Venoski, M.D.
- 2) Kathleen Poolicelli, R.N.
- 3) Margaret Koslyn, R.N.
- 4) Gyan Jain

II. The sole witness on behalf on the Respondent was
Dr. Ramachandar himself.

| | |
|---------------------------|----------------|
| Date Hearing Concluded: | March 19, 1986 |
| Date Record Closed: | March 19, 1986 |
| Date Transcript Received: | March 25, 1986 |
| Date of Deliberation: | March 25, 1986 |
| Date Report Submitted: | |

III. It appears that prior to the service of the notice of
hearing, Respondent was represented by Counsel other than one
appearing herein (T. 171-172).

STATEMENT OF ISSUES

The first, second and third specification raised no
factual issues by virtue of their nature namely the acts of the
California and Illinois Authorities. The fourth and fifth

specification raised issues as to whether the Respondent was impaired by virtue of mental disability. The amended charges were limited to the issue of whether the Respondent abandoned patients.

Factual Discussion

Dr. Venoski testified as to the Respondent's practice and behavior at the Newark Developmental Disabilities Service Office and Developmental Center; the two R.N.'s testified with regard to the Respondent's behavior at the Elmhurst General Hospital and Dr. Ramachandar testified with regard to his experiences in the medical profession.

FINDINGS OF FACT

1. Kambhatla Ramachandar, M.D., Respondent, was authorized to engage in the practice of medicine in the State of New York in the year 1972 by the issuance of license number 114444 by the State Education Department (Ex. 3).
2. Respondent was registered with the New York State Education Department to practice medicine for the period January 1983 through December 31, 1985 from 703 East Maple Avenue, Newark, New York 14513 (Ex. 3).
3. On or about December 22, 1977, after a plea of nolo contendere in the Superior Court of the State of California, County of Sacramento, the Respondent was found guilty of the crime of forgery of a prescription in that on or about April 6, 1977,

the Respondent willfully, unlawfully and feloniously falsely made a prescription and aided and abetted one _____ to forge said prescription for the drug Ritalin, and was sentenced to five years probation with the condition that he serve 150 days in the County Jail with credit for 150 days served with the additional condition that he seek and obtain professional counseling and/or treatment (Ex. 6).

4. On or about July 11, 1978, the Board of Medical Qualification Assurance of the Department of Consumer Affairs of the State of California found the Respondent guilty of unprofessional conduct based upon the conviction alleged in paragraph 4 above. Respondent's license to practice medicine in California was revoked, the revocation was stayed and the Respondent was placed on five years probation with the following conditions: that he comply with a prescribed course of psychiatric treatment and evaluation including twice-monthly therapy during the first year; and that he not engage in the solo practice of medicine, but rather limit his practice to a structured environment under the supervision of a physician board-certified in his specialty (Ex. 7).

5. On or about February 20, 1980, the Department of Registration and Education of the State of Illinois, based upon the revocation of the Respondent's license in California alleged in paragraph 5(A) above, found the Respondent guilty of engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public and of having

had his medical license revoked in a sister state. Respondent's license to practice medicine in Illinois was indefinitely suspended (Ex. 9).

6. While employed at the Newark Developmental Center during the period January 2, 1985 to April 3, 1985, the Respondent appeared to be extremely confused, insecure and not functioning up to his capacity (T. 28-29).

7. Respondent at the Newark Developmental Center was writing part orders, wrote some more orders on the same patient that are running through the whole list of orders that he usually did and made four or five notations on the patient's progress note, all within a matter of an hour (T. 29-30).

8. The Respondent was having a problem and agreed to see the consultant psychiatrist, Dr. Prasad at the Newark Developmental Center (T. 38).

9. The Respondent agreed to continue to see Dr. Prasad and was taking Lithium carbonate as well as Thorazine, but stopped seeing the psychiatrist (T. 40-41).

10. In May of 1985, the Respondent became worse, mumbled in response to a question and gave information that was completely devoid of the question (T. 42).

11. Early in June 1985, the Respondent could not function, his voice slurred, answers were not appropriate to questions. The Respondent left the facility on June 19 (T. 49-53).

12. The medical record of the Respondent, who was at Metropolitan Hospital from July 19, 1983 to August 23, 1983, indicates the admitting diagnosis as Schizophrenia Paranoid type;

primary diagnosis, schizophrenia undifferentiated type, in remission. The history of present illness is noted as follows in the Discharge Summary:

"Patient has a six year history of several psychiatric admissions for the past two or three years. Patient claims to have been trying to meet Olivia Newton John and stated that there are times that he believes he is Olivia Newton John. "She is part of my mind, something I cannot cope with". Patient claims to have heard voices which are both male and female and they tell him to find Olivia Newton John and they talk about him also. Patient also believed that computer is hooked up to his head which sometimes disagreed to what he was doing. The patient complained of headaches which were frontal in location and appeared very frequently in the past few months. Patient has been working as a part-time emergency room physician in Elmhurst Hospital until about three or four months ago when he lost his job because of his deteriorating function and subsequent absenteeism. He subsequently was unable to pay his rent and had been living on the streets for three months prior to admission. Patient denies any drug abuse, but claims to be a moderate alcohol user." (Ex. 10).

13. Other hospitalizations as evidenced by Exhibits 11 through 18(a) and (b) indicate various admissions to hospitals all diagnosing some form of schizophrenia.

CONCLUSIONS OF LAW

1. The Committee voted 5 to 0 to sustain the first specification in that the Respondent had been convicted of committing an act constituting a crime under the laws of another jurisdiction and which if committed within New York State would have constituted a crime under New York Law, pursuant to New York Education Law Section 6509(5)(a)iii, as appears from Exhibit 6.

2. The Committee voted 5 to 0 to sustain the second through third specification in that the Respondent had been found guilty of improper professional practice by duly authorized professional disciplinary agencies of two other states for conduct which constitutes professional misconduct in New York State, pursuant to New York Education Law Section 6509(5)(b), as appears from Exhibits 7 and 9.

3. The Committee voted 5 to 0 not to sustain paragraph 6 of the fourth through fifth specification in that it is of the opinion that the testimony of the two nurses, Poolicelli and Koslyn, are insufficient to support the allegation that the Respondent was impaired by mental illness.

4. The Committee voted 5 to 0 to sustain paragraph 6(B) of the fourth through fifth specification based on the testimony of Dr. Venoski, the Respondent's supervisor at the Newark Developmental Center, the various hospitalizations of the Respondent as evidenced by Exhibits 10 through 18(b) and lastly by the demeanor of the Respondent during his testimony and his rambling recitation throughout thereof.

5. The Committee voted 5 to 0 not to sustain the charges set forth in the amended statement of charges. The evidence adduced at the hearing did not in any way support a charge of abandonments of patients. The Committee felt that under the circumstances, it was inappropriate to allege the amended charges.

RECOMMENDATION

The Committee is of the opinion that the Respondent's ability to practice medicine is impaired by mental disability in view of the history of hospitalizations and therefore, by a vote of 5 to 0, recommends that his license to practice medicine be revoked.

DATED: *May 15*, 1986

Respectfully submitted,

Albert Bartoletti, M.D.
Albert Bartoletti, M.D.
Chairman of the Committee

Donna O'Hare, M.D.
Martin Cherkosky, M.D.
Pasquale Carone, M.D.
Ullman Rosenfield

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

IN THE MATTER
of
RAMACHANDAR KAMBHATLA, M.D.

REPORT OF THE
HEARING COMMITTEE
WITH REGARD TO
IMMINENT DANGER

TO: The Honorable David Axelrod, M.D.
Commissioner of Health, State of New York

The undersigned Hearing Committee consisting of Albert Bartoletti, M.D., Chairman, Ullman Rosenfield, Martin Cherkasky, M.D., Donna O'Hare, M.D. and Arthur Zitrin, M.D., has been duly designated, constituted and appointed by the State Board for Professional Medical Conduct.

In accordance with your Orders and Notice of Hearing dated August 2, 1985, hearings were held pursuant to New York Public Health Law Section 230, particularly Section 230(12), and New York State Administrative Procedure Act Sections 301 through 307 with regard to charges of professional misconduct against the Respondent as set forth in the Statement of Charges against the Respondent.

These hearings were concluded on March 19, 1986. Deliberations were held on March 25, 1986 and a report has been submitted by the Hearing Committee. A copy of said report is attached hereto.

During the later stages of these hearings the Panel became aware that the Respondent's mental condition rendered him unfit to practice medicine at this time and that this condition would constitute an imminent danger to the health of the people of the State of New York. The Panel therefore recommended that the Commissioner order the Respondent to discontinue the practice of medicine for a period of 90 days. The Commissioner by Order dated March 26, 1986, issued such an Order which was duly served on the Respondent.

According to Section 230 of the Public Health Law, said Commissioner directed that a hearing be held on April 7, 1986 to afford the Respondent an opportunity to be heard and present proof on the question of "imminent danger". The matter was adjourned to April 14, 1986 at the request of the Respondent. The hearing was held on April 14, 1986.

Pursuant to New York Public Health Law Section 230(12), the Petitioner and the Respondent completed their cases with respect to the issue of imminent danger to the health of the people of this State. The Hearing Committee makes this Report of its Findings of Fact, Conclusions and Recommendation with regard to the issue of imminent danger to the health of the people of this State.

The following witnesses were called by Petitioner:

John Venoski (called as a witness on March 19, 1986)
Kathleen Paolicelli (called as a witness on March 19, 1986)
Margaret Kaslyn (called as a witness on March 19, 1986)

The following witnesses were called by Respondent:

Gyan Jain (called as a witness on March 19, 1986)
Ramachandar Kambhatla

The following Exhibits were received into evidence on behalf of the Petitioner:

1. Notice of hearing, statement of charges and affidavit of service
2. Personnel file of Dr. Kambhatla from Newark Developmental Center
3. Certified copies of Dr. Kambhatla's license and registration
4. Personnel records for Dr. Kambhatla from the City Hospital Center at Elmhurst
5. Waiver with report of Dr. John McIntyre
6. Records from State of California Superior Court for Dr. Kambhatla
7. Disciplinary action records from the California Board of Medical Quality Assurance
8. Amended charges
9. Illinois disciplinary record
10. Dr. Kambhatla's hospital record from Metropolitan Hospital
11. Dr. Kambhatla's hospital record from Mount Sinai Hospital
12. Dr. Kambhatla's hospital record from Bellevue Hospital
13. Dr. Kambhatla's hospital record from Bellevue Hospital
14. Dr. Kambhatla's hospital record from Elmhurst Hospital
15. Dr. Kambhatla's hospital record from Sutter Memorial Hospital

16. Dr. Kambhatla's hospital record from Napa State Hospital
17. Dr. Kambhatla's hospital record from Lennox Hills Hospital
- 18A Documents
- 18B Documents
20. Order & Notice of Hearing & Affidavit of Service
- 21A Transcripts
- 21B Transcripts
22. Bellevue Record 3/27/86 - 4/1/86

The following Exhibits were received into evidence on behalf of Petitioner:

- A. Petitioner's answer
- B. Note on form headed "Laksham Prasad, M.D." dated 2/14/85
- C. Report for State of New York dated 5/9/85 signed by Dr. Venoski
- D. Memorandum to Dr. Venoski from Dr. Kambhatla dated 6/5/85
- E. Note from Dr. Aresenau dated 6/7/85

RECORD OF PROCEEDINGS

Date of Commissioner's Order and Notice of Hearing

March 26, 1986

Date of service of Commissioner's Order on Respondent

March 1, 1986

Place of hearing:

8 East 40th Street
New York, New York

The State Board for Professional
Medical Conduct appeared by:

Marcia Kaplan
Deputy Counsel
Office of
Professional
Medical Conduct

The Respondent Ramachandar
Kambhatla, M.D. appeared:

Personally

FINDINGS OF FACT

1. This Committee adopts the Findings of Fact in its Hearing Committee Report Numbers 1 through 13, (copy attached hereto and made a part hereof).
2. The Respondent testified on his own behalf on March 25, 1986 and again on April 14, 1986.
3. The Respondent was disoriented and confused and did not understand many of the questions asked of him by the Panel.
4. That the Respondent was actively psychotic during his appearance as a witness at this proceeding.

CONCLUSIONS OF LAW

On the basis of the foregoing, and on the entire record of this proceeding, the Hearing Committee concluded, unanimously, that the practice of medicine by the Respondent would constitute an imminent danger to the health of the people of the State of New York.

RECOMMENDATION

The Hearing Committee recommends unanimously that the Order of the Commissioner of Health of the State of New York dated March 26, 1986 directing the Respondent not to practice medicine in the State of New York for a period of ninety days should continue in full force and effect until such time as a

final decision be rendered by the New York State Board of Regen
pursuant to New York Public Health Law Section 230(12).

Dated: Albany, New York

May 28, 1986

Respectfully Submitted,

Albert Bartoletti, M.D.

Albert Bartoletti, M.D., Chairman

Ullman Rosenfield

Martin Cherkasky, M.D.

Donna O'Hare, M.D.

Arthur Zitrin, M.D.

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

IN THE MATTER

OF

RAMACHANDAR KAMBHATLA, M.D.

COMMISSIONER'S
RECOMMENDATION

TO: Board of Regents
New York State Education Department
State Education Building
Albany, New York

A hearing in the above-entitled proceeding was held on April 14, 1986 and the Respondent, Ramachandar Kambhatla, M.D. appeared pro se, and the evidence in support of the charges against the Respondent was presented by Peter J. Millock, General Counsel, Marcia E. Kaplan, Esq., of Counsel.

NOW, on reading and filing the transcript of the said hearing, the exhibits and other evidence, and the findings, conclusions and recommendations of the Committee,

I hereby make the following recommendation to the Board of Regents.

A. The Order of the Commissioner of Health of the State of New York dated March 26, 1986 directing that the Respondent not practice medicine in the State of New York for a period of 90 days shall continue in full force and effect until such time as a final decision be rendered by the New York State Board of Regents pursuant to New York Public Health Law Section 230(12).


EXHIBIT "D"

B. The Findings of Fact, Conclusions and Recommendations of the Committee should be accepted in full; and

C. The Board of Regents should issue an order adopting and incorporating the Findings of Fact, Conclusions and Recommendations of the Committee.

The entire record of the within proceeding is herewith transmitted.

DATED: Albany, New York
July 3 1986


DAVID AXELROD, M.D.
Commissioner of Health
State of New York



The University of the State of New York

IN THE MATTER
of the
Disciplinary Proceeding
against

KAMBHATLA RAMACHANDAR, M.D.

No. 6478

who is currently licensed to practice as
a physician in the State of New York.

Report of the Regents Review Committee

KAMBHATLA RAMACHANDAR, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

The instant disciplinary proceeding was duly commenced.

A copy of the statement of charges and the amended statement of charges are annexed hereto, made a part hereof, and marked as Exhibit "A".

On February 11, 1986 and March 19, 1986, a hearing was held before a hearing committee of the State Board for Professional Medical Conduct in regard to the charges herein. Based on an awareness of respondent's mental condition during the later stages of that hearing held on

KAMBHATLA RAMACHANDAR (6478)

February 11, 1986 and March 19, 1986, the hearing committee recommended, prior to its report in regard to the charges, that the Commissioner of Health order the respondent to discontinue the practice of medicine for a period of 90 days.

On March 26, 1986, the Commissioner of Health issued a summary suspension order recommended by the hearing committee and directed a hearing on the question of "imminent danger" (whether the practice of medicine by respondent would constitute an imminent danger to the health of the people of the State of New York) to be held on April 7, 1986 which was adjourned, at respondent's request, to April 14, 1986.

On April 14, 1986, a hearing was held on the question of "imminent danger".

On May 15, 1986, the hearing committee, in its report in regard to the charges herein, found and concluded that respondent was guilty of the first, second (paragraph 5(A)), third (paragraph 5(B)), and fifth (paragraph 6(B)) specifications of the charges and not guilty of the fourth (paragraph 6(A)) and sixth (paragraph 7) specifications of the charges and recommended that respondent's license to practice as a physician in the State of New York be revoked.

On May 28, 1986, the hearing committee unanimously concluded, in regard to the question of "imminent danger",

KAMBEATLA RAMACHANDAR (6478)

that the practice of medicine by the respondent would constitute an imminent danger to the health of the people of the State of New York and unanimously recommended that the March 26, 1986 summary suspension order of the Commissioner of Health should continue in full force and effect until such time as a final decision be rendered by the Board of Regents. A copy of the report of the hearing committee with regard to the question of "imminent danger" is annexed hereto, made a part hereof, and marked as Exhibit "B", which report includes a copy of the May 15, 1986 report of the hearing committee in regard to the charges herein.

On July 3, 1986, the Commissioner of Health recommended to the Board of Regents that his summary suspension order, dated March 26, 1986, shall continue in full force and effect until such time as a final decision be rendered by the Board of Regents and also that the findings, conclusions, and recommendation of the hearing committee be accepted in full. A copy of the recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "C".

On October 29, 1986, respondent appeared before us and was represented by his attorney, Steven Brock, Esq., who presented oral argument on behalf of respondent. Marcia Kaplan, Esq., presented oral argument on behalf of the Department of Health.

KAMBHATLA RAMACHANDAR (6478)

We have considered the entire record in this matter. We have also considered the documents submitted to us by petitioner and respondent.

A question has arisen, which we feel is significant, in regard to whether respondent should have been granted an opportunity to obtain counsel when respondent's attorney indicated that he would cease to represent respondent after the morning session of March 19, 1986 upon the close of petitioner's case. At that point, respondent's attorney requested that respondent be given an opportunity to obtain counsel to represent him.

It is our unanimous opinion that, with respect to the hearing upon the charges herein, respondent should have been given an opportunity, under all of the circumstances, after the morning session of the March 19, 1986 hearing, to obtain new counsel to represent him. His attorney had requested that this be done but there was no ruling thereon by the administrative officer. Instead, the Chairman of the hearing committee indicated that there would be an executive session and, after that session, indicated that there would be a recess for lunch at which time "we are going to ask that Dr. Ramachandar proceed with his case." At that point, respondent's attorney indicated that he would not be there and that "we are not prepared to proceed, Dr. Ramachandar is not prepared to proceed, and we have

KAMBHATLA RAMACHANDAR (6478)

indicated that before." There was a recess and, upon its termination, the Chairman indicated that "we are prepared to go back on the record and proceed with the hearing" and asked respondent whether his attorney was going to be present. Respondent indicated that he did not believe his attorney would be there and, when asked if he was prepared to proceed, indicated he could do so for an hour or two and see how he could continue based on the questions. At that point, the Chairman indicated that respondent proceed.

It is our unanimous opinion that, under all of the circumstances herein, respondent should have been granted an opportunity to obtain new counsel to represent him.

It is our unanimous opinion that a ruling should have been made by the administrative officer upon the request of respondent's attorney for an opportunity for respondent to obtain new counsel to represent him. It was clear that respondent's attorney was not going to be at the session after the recess. Nevertheless, no ruling was made by the administrative officer prior to the recess. After the recess, although the Chairman asked respondent if he was prepared to proceed, the respondent did not have the benefit of the presence of his attorney in regard to a ruling that should have been made by the administrative officer before the recess with the attorney still present and able to argue on behalf of respondent. At that point, respondent was

KAMBHATLA RAMACHANDAR (6478)

alone and without an attorney. It is our unanimous opinion that, in that state of mind, after the exchange between his attorney and the Chairman prior to the recess and in view of the subsequent evaluation by the hearing committee as to respondent's mental condition during the later stages of the hearings of February 11, 1986 and March 19, 1986, respondent should have been afforded an opportunity to obtain counsel.

Accordingly, we unanimously recommend that the Board of Regents remand this matter to the hearing committee for the purpose of giving respondent an opportunity to present his defense from the time petitioner rested its direct case and that the record, as of the continuation of the hearing upon remand, consist solely of the evidence and documents in the present record through petitioner's case. The hearing committee need not be a different one and petitioner may still be represented by the same prosecutor. After the hearing committee has submitted its findings, conclusions, and recommendation to the Commissioner of Health, he will forward the complete record and his recommendation for review by the Regents Review Committee, not necessarily consisting of the same members herein, and final determination by the Board of Regents.

With respect to the summary suspension proceeding, it is our unanimous opinion that respondent was afforded ample opportunity to obtain counsel to represent him at that

KAMBHATLA RAMACHANDAR (6478)

proceeding and, in regard to the status of the summary suspension order, we unanimously recommend that the Board of Regents determine to remand this matter, as aforesaid, as an intermediate determination and not as a final determination herein.

Respectfully submitted,

J. EDWARD MEYER

ADELAIDE L. SANFORD

MELINDA AIKINS BASS


Chairperson

Dated: March 12, 1987

Approved March 20, 1987

No. 6478

Upon the report of the Regents Review Committee, under Calendar No. 6478, the record herein, and in accordance with the provisions of Title VIII of the Education Law, it was

Voted: That, in the matter of KAMBHATLA RAMACHANDAR, respondent, the recommendations of the Regents Review Committee be accepted; that this matter be remanded as set forth on page six of the report of the Regents Review Committee; that, in accordance with the recommendation of the Regents Review Committee, this vote constitute a nonfinal intermediate determination and not a final determination in regard to the status of the summary suspension order; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote.



The University of the State of New York

IN THE MATTER

OF

KAMBHATLA RAMACHANDAR
(Physician)

DUPLICATE
ORIGINAL ORDER
NO. 6478

Upon the report of the Regents Review Committee, under Calendar No. 6478, the record herein, the vote of the Board of Regents on March 20, 1987, and in accordance with the provisions of Title VIII of the Education Law, which report and vote are incorporated herein and made a part hereof, it is

ORDERED that, in the matter of KAMBHATLA RAMACHANDAR, respondent, the recommendations of the Regents Review Committee be accepted; that this matter be remanded as set forth on page six of the report of the Regents Review Committee; and that, in accordance with the recommendation of the Regents Review Committee, this vote constitute a nonfinal intermediate determination and not a final determination in regard to the status of the summary suspension order.

IN WITNESS WHEREOF, I, Gordon M. Ambach,
Commissioner of Education of the State
of New York, for and on behalf of the
State Education Department and the
Board of Regents, do hereunto set my
hand and affix the seal of the State
Education Department, at the City of
Albany, this 21st day of March, 1987.



Gordon M. Ambach
Commissioner of Education

EXHIBIT "F"

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

IN THE MATTER :

OF :

KAMBHATLA RAMACHANDAR, M.D. :

SUPPLEMENTAL

HEARING

COMMITTEE

REPORT

TO: The Honorable David Axelrod, M.D.
Commissioner of Health, State of New York

The undersigned Hearing Committee consisting of Albert Bartoletti, M.D., Chairman, Donna O'Hare, M.D., Martin Cherkasky, M.D., Arthur Zitrin, M.D. and Mr. Morton Kleinman, was duly designated, constituted and appointed by the State Board for Professional Medical Conduct. Harry Shechtman, Esq., Administrative Law Judge, served as Administrative Officer for the Hearing Committee during the hearing and through the date of this Report.

Procedural History

The proceedings herein were originally commenced by Notice of Hearing dated August 2, 1985 and served upon the Respondent October 2, 1985.

On February 11, 1986 and March 19, 1986, hearings were held before the original Hearing Committee of the State Board for Professional Medical Conduct in regard to the charges herein. Based on an awareness of respondent's mental condition during the later stages of those hearings, the Hearing Committee recommended,

EXHIBIT "G"

prior to its report in regard to the charges, that the Commissioner of Health order the respondent to discontinue the practice of medicine for a period of 90 days.

On March 26, 1986, the Commissioner of Health issued a summary suspension order recommended by the hearing committee and directed a hearing on the question of "imminent danger" (whether the practice of medicine by respondent would constitute an imminent danger to the health of the people of the State of New York) to be held on April 7, 1986 which was adjourned, at respondent's request, to April 14, 1986.

On April 14, 1986, a hearing was held on the question of "imminent danger".

On May 15, 1986, the hearing committee, in its report in regard to the charges herein, found and concluded that respondent was guilty of the first, second (paragraph 5(A)), third (paragraph 5(B)), and fifth (paragraph 6(B)) specifications of the charges and not guilty of the fourth (paragraph 6(A)) and sixth (paragraph 7) specifications of the charges and recommended that respondent's license to practice as a physician in the State of New York be revoked.

On May 28, 1986, the hearing committee unanimously concluded, in regard to the question of "imminent danger", that the practice of medicine by the respondent would constitute an imminent danger to the health of the people of the State of New York and unanimously recommended that the March 26, 1986 summary suspension order of the Commissioner of Health should continue in

full force and effect until such time as a final decision be rendered by the Board of Regents.

On July 3, 1986, the Commissioner of Health recommended to the Board of Regents that his summary suspension order, dated March 26, 1986, shall continue in full force and effect until such time as a final decision be rendered by the Board of Regents and also that the findings, conclusions, and recommendation of the hearing committee be accepted in full.

On October 29, 1986, respondent appeared before the Regents Review Committee and was represented by his attorney, Steven Brock, Esq., who presented oral argument on behalf of respondent. Marcia Kaplan, Esq., presented oral argument on behalf of the Department of Health.

The Regents Review Committee made its Report dated March 12, 1987, pursuant to which the Board of Regents made its order dated March 27, 1987 remanding the matter in accord with page six of the aforesaid Report of the Regents Review Committee which states:

Accordingly, we unanimously recommend that the Board of Regents remand this matter to the hearing committee for the purpose of giving respondent an opportunity to present his defense from the time petitioner rested its direct case and that the record, as of the continuation of the hearing upon remand, consist solely of the evidence and documents in the present record through petitioner's case. The hearing committee need not be a different one and petitioner may still be represented by the same prosecutor. After the hearing committee has submitted its findings, conclusions, and recommendation to the Commissioner of Health, he will forward the complete record and his recommendation for review

by the Regents Review Committee, not necessarily consisting of the same members herein, and final determination by the Board of Regents.

Two of the original members of the Hearing Committee, namely Pasquale Carone, M.D. and Mr. Ullman Rosenfield have been replaced by Arthur Zitrin, M.D. and Mr. Morton M. Kleinman each of whom has read the record of the original hearings.

New hearings were held on: October 20, November 6,
and December 22, 1989

Bureau of Professional
Medical Conduct appeared
by:

Marcia Kaplan, Esq.
of Counsel

Respondent appeared by:

Rivkin, Radler, Dunne
& Bayh, Esqs.
By: Steven Brock, Esq.
of Counsel

Record closed on:

December 22, 1980

Proposed Finding of Fact

Filed by Petitioner:
Filed by Respondent

February 1, 1990
February 9, 1990

Deliberations held on:

February 9, 1990

Supplementary Report dated:

Witnesses on behalf of
Respondent only:

Gopalakrishna K. Upadhyya, M.D.,
Respondent's treating
psychiatrist

Joel S. Feiner, M.D.
expert psychiatric witness

Kambhatla Ramachandar, M.D.,
Respondent

Findings of Fact

After giving due consideration to the evidence presented on behalf of the Respondent as directed by the Order of the Board of Regents, the Committee hereby unanimously affirmed the Findings of Fact as set forth in the original Hearing Committee Report. There was no probative evidence to convince this Committee to alter or amend the Findings.

The Findings of Fact covering the period from March 1986 to December 22, 1989 are:

1. From June 5 through June 11, 1986, Respondent was hospitalized at Nassau County Medical Center. The final discharge diagnosis was Atypical Psychosis. The initial diagnosis was: "Manic episode with mood incongruent psychotic features. Plan: R/O Schizophrenia. Admit for evaluation and treatment." The discharge summary recites that "Patient with prior psych hx, brought to ER c/o visual hallucinations, with paranoid delusions . . . Prior diagnosis of affective disorder - however pt has been self medicating with abuse of Valium, Dalmane, Ativan." Respondent was discharged on Lithium 300 mg., p.o. TID, Haldol 5 mg., p.o., TID, and Cogentin 1 mg., p.o. BID. (T. 479-480; Ex. 24).

2. From June 18 through September 29, Respondent was at the Nassau County Medical Center Department of Psychiatry & Psychology Ambulatory Mental Health Services. The Respondent's Axis I diagnosis was Bipolar Disorder, Mixed, R/O Schizophrenia, Paranoid. The Axis II diagnosis was Paranoid and Schizoid Traits.

The treatment plan included continuing on Lithium Carbonate 300 mg., TID and Haldol 10 mg. H.S, until Haldol discontinued on September 29, 1986. The treatment plan also included "supportive therapy - weekly" but includes the notation "patient declines, is not interested." The 6-18-86 after-care progress notes under the subheading "mental status" recite that Respondent is "passively cooperative but primarily interested in denying his mental disorder." (T. 479-480; Ex. 24).

3. After his discharge, Respondent was treated by a psychiatrist, Dr. Kim, who diagnosed the Respondent as having a schizo-affective disorder. Respondent subsequently saw Dr. Upadhyya from April 1987 until November, 1988, at least once a month, and sometimes more often. During the period between June, 1986 and September, 1987 Respondent was on Prolixin on an intermittent basis, and Dr. Upadhyya prescribed Prolixin for Respondent on September 24, 1987. On February 7, 1988 and on March 24, 1988 Dr. Upadhyya prescribed Haldol for Respondent. In November, 1988, Respondent left for India, where he now resides. (Ex. 19B; T., pp. 452-455, 587-588, 590)

Conclusion

The Committee unanimously concludes that nothing has been offered in evidence to alter the earlier conclusion that Dr. Ramachandar is mentally impaired so as to make him unsuitable for the practice of medicine. Respondent testified at this hearing on November 6, 1989. His answers were rambling in places

and evidenced a lack of appreciation or insight for the seriousness of his illness. He denied that he was ever incapacitated for the practice of medicine because of mental problems. He has apparently still not accepted the fact that his very serious psychiatric disorder has resulted in his hospitalizations but rather attributes it to his lack of money during periods of unemployment. He could not explain why he was hospitalized for psychiatric care after going for cellulitis treatment. He thinks about 75-80 per cent of his hospitalizations were without psychiatric indication. He denied that his past interest in Olivia Newton John was unusual or correlated with periods of active illness. Respondent's continued difficulty in accepting the fact of his serious psychiatric episodes puts him at risk for non-compliance with his treatment and decompensation. (T., pp. 543, 545-547, 552-559)

The Committee therefore unanimously concludes that:

1. The First, Second, and Third Specifications are sustained.
2. Paragraph 6(A) of the Fourth and Fifth Specification is not sustained.
3. Paragraph 6(B) of the Fourth and Fifth Specification is sustained.
4. The Sixth Specification (amended complaint) is not sustained.

Recommendation

The Committee is of the unanimous opinion that Dr. Ramachandar's ability to practice medicine is impaired by mental disability and recommends that his license to practice medicine be revoked.

Dated: New York, New York
April 13, 1990

Respectfully submitted,

Albert Bartoletti M.D.

Albert Bartoletti, M.D., Chairman

Donna O Hare, M.D.
Martin Cherkasky, M.D.
Arthur Zitrin, M.D.
Martin M. Kleinman

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

-----X
IN THE MATTER :

OF :

KAMBHATLA RAMACHANDAR, M.D. :

COMMISSIONER'S

RECOMMENDATION
-----X

TO: Board of Regents
New York State Education Department
State Education Building
Albany, New York

A hearing in the above-entitled proceeding was held on October 20, 1989, November 6, 1989 and December 22, 1989. Respondent, Kambhatla Ramachandar, M.D., appeared by Steven Brock, Esq. The evidence in support of the charges against the Respondent was presented by Marcia Kaplan, Esq.

NOW, on reading and filing the transcript of the hearing, the exhibits and other evidence, and the findings, conclusions and recommendation of the Committee,

I hereby make the following recommendation to the Board of Regents:

- A. The Findings of Fact and Conclusions of the Committee should be accepted in full;
- B. The Recommendation of the Committee should be accepted; and
- C. The Board of Regents should issue an order adopting and incorporating the Findings of Fact and Conclusions and further adopting as its determination the Recommendation described above.

The entire record of the within proceeding is
transmitted with this Recommendation.

DATED: Albany, New York

May 18, 1990



DAVID AXELROD, M.D.
Commissioner of Health
State of New York

**ORDER OF THE COMMISSIONER OF
EDUCATION OF THE STATE OF NEW YORK**

KAMBHATLA RAMACHANDAR

CALENDAR NOS. 11068/6478



The University of the State of New York

IN THE MATTER

OF

KAMBHATLA RAMACHANDAR
(Physician)

**DUPLICATE
ORIGINAL
VOTE AND ORDER
NOS. 11068/6478**

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar Nos. 11068/6478, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (October 19, 1990): That, in the matter of KAMBHATLA RAMACHANDAR, respondent, the recommendation of the Regents Review Committee be accepted as follows:

1. The findings of fact of the hearing committee in the April 13, 1990 supplemental report both affirming the findings set forth in the original hearing committee report in regard to the charges and making new findings be accepted, except findings of fact three, four, and five affirmed from the original hearing committee report not be accepted;
2. The conclusions of the hearing committee be modified;
3. The recommendation of the hearing committee as to the measure of discipline be accepted;
4. The recommendation of the Commissioner of Health as to the findings of fact, conclusions, and recommendation of the hearing committee not being given weight for acceptance or otherwise in light of said recommendation not being based, in spite of counsel for petitioner's

request, on the entire record or on any portion of petitioner's case;

5. Respondent is guilty, by a preponderance of the evidence, of the fifth specification and not guilty of the remaining specifications; and
6. Respondent's license to practice as a physician in the State of New York be revoked upon the fifth specification of the charges of which respondent was found guilty, as aforesaid;

and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Thomas Sobol,
Commissioner of Education of the State of
New York, for and on behalf of the State
Education Department and the Board of
Regents, do hereunto set my hand and affix
the seal of the State Education Department,
at the City of Albany, this 26th day of
October 1990.
Thomas Sobol
Commissioner of Education

24.7 Review in other cases. The Committee on the Professions shall review and submit its recommendation to the Board of Regents for final determinations in the following cases:

(b) petitions for restoration of a professional license which has been revoked or surrendered pursuant to Education Law, section 6510 or 6510-a. At least one year shall have elapsed from the date of service of the order of revocation, acceptance of surrender, or denial of a prior application for restoration or reinstatement by vote of the Board of Regents, for the acceptance by the department of a petition to the Board of Regents for restoration of a license or certificate, except that a period of time during which the license was suspended during the pendency of the discipline proceeding may reduce the one-year waiting period. This section shall not apply to restoration of licenses which have been temporarily surrendered pursuant to Education Law, section 6510-b, or Public Health Law, section 230(13).

(1) Materials submitted in response to the Committee on the Professions' recommendation to the Board of Regents shall be filed no later than 15 days following the postmarked date of the written notification of the decision or recommendation of the Committee on the Professions.

(2) If an applicant has failed to remain current with developments in the profession, and a substantial question is presented as to the applicant's current fitness to enter into the active practice of the profession, the Board of Regents may require that the applicant take and obtain satisfactory grades on a proficiency examination satisfactory to the department prior to the issuance of a license or limited permit.