



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

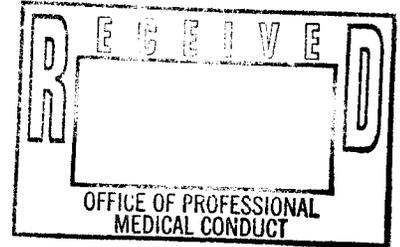
Karen Schimke
Executive Deputy Commissioner

December 27, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul Stein, Esq.
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, New York 10001

Padma Ram, M.D.
204 Sherman Street
Watertown, New York 13601



Amy T. Kulb, Esq.
Jacobson & Goldberg
585 Stewart Avenue-Suite 720
Garden City, New York 11530

RE: In the Matter of Padma Ram, M.D.

Dear Mr. Stein, Dr. Ram and Ms. Kulb:

Enclosed please find the Determination and Order (No. 95-309) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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

Office of Professional Medical Conduct
New York State Department of Health
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays all action until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

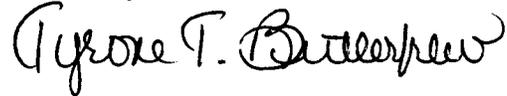
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

-----X
IN THE MATTER : DETERMINATION
OF : AND
PADMA RAM, M.D. : ORDER
-----X

BPMC-95-309

A Notice of Referral Proceeding and Statement of Charges, both dated July 25, 1995, were served upon the Respondent, Padma Ram, M.D. **BERNARD P. LEONARD, M.D. (Chair), HOWARD SIMON, M.D., and REV. EDWARD J. HAYES**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. The Department of Health appeared by Paul Stein, Esq., Associate Counsel. The Respondent appeared by Jacobson & Goldberg, Amy T. Kulb, Esq., of Counsel. A hearing was held on September 12, 1995. 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

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law §6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(c) [found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, when the violation would constitute professional misconduct]. A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

1. Padma Ram, M.D. (hereinafter, "Respondent"), was authorized to practice medicine in New York State on October 7, 1985 by the issuance of license number 164385 by the New York State Education Department. (Pet. Ex. #2).

2. The Board of Health of the County of Nassau, State of New York issued a Decision and Order dated March 17, 1993 (modified as to penalty by memorandum decision of Supreme Court, Nassau County, Hon. Harry H. Kutner, dated September 21, 1993). The Decision and Order were based upon Findings of Fact and Recommendations dated March 15, 1993 which were issued following a hearing held on January 5 and January 15, 1993 before a Nassau County Board of Health hearing officer. Respondent was found guilty of:

- a. 113 violations of 10 NYCRR §16.10(a), for failing to perform required quality assurance testing of mammography equipment;
- b. two violations of 10 NYCRR §16.5, for failing to comply with required radiation safety guidelines; and
- c. 225 violations of Public Health Law §3502, for directing the performance of mammography procedures by an unlicensed technician. (Pet. Ex. #3).

3. Pursuant to the terms of the Decision and Order, as modified by the memorandum decision of the Supreme Court, Nassau County, Respondent was fined \$170,000. (Pet. Ex. #3 and #4).

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 Department has sustained its burden of proof with regard to the charges. The preponderance of the evidence demonstrates that Respondent was found guilty, following an adjudicatory proceeding, of several hundred violations of the Department's regulations pertaining to the use and maintenance of mammography equipment. Respondent failed to ensure that required quality assurance testing occurred; failed to comply with radiation safety guidelines, and directed an unlicensed technician to perform hundreds of mammography procedures.

The Committee further concluded that Respondent's conduct constituted a willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations governing the practice of medicine, in violation of Education Law §6530(16). In addition, the Committee determined that Respondent permitted or abetted an unlicensed person in performing activities requiring a license, in violation of Education Law §6530(11). As a result, the Hearing Committee voted to sustain the specification of professional misconduct set forth in the Statement of Charges.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent should receive a censure and reprimand in satisfaction of the charges brought against her. 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 clearly neglected her responsibilities concerning the operation of the mammography equipment, placing hundreds of women at risk. The Hearing Committee cannot condone such conduct. However, the Committee heard Respondent's testimony and believes that she is sincerely remorseful and that she is unlikely to place herself into such a position in the future. The Committee also takes note of the fact that Respondent has closed her private practice and has returned to emergency medicine at hospitals in Oswego and Carthage, New York. Respondent's Exhibit A contains a number of letters of support from the administration and medical staffs of both hospitals. They present strong support for Respondent, citing her as a skilled and caring emergency room physician.

The Hearing Committee believes that Respondent's continued practice of medicine does not pose an unacceptable risk to the people of this state. Hence, the Committee determined that revocation or a period of suspension was not warranted.

Moreover, the Committee considered and rejected mandating a period of probation and monitoring. Respondent is now practicing emergency medicine full-time. None of the allegations brought against Respondent involved her emergency room practice. Thus, probation and monitoring would be superfluous. The committee also considered and rejected the imposition of monetary fines. Respondent has been fined \$170,000 by the Nassau County Health Department for the violations. The imposition of further fines would be inappropriate.

ORDER

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

1. The Specification of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) is SUSTAINED;

2. Respondent be and hereby is CENSURED AND REPRIMANDED in satisfaction of the charges brought against her.

DATED: Albany, New York

December 26, 1995


BERNARD P. LEONARD, M.D. (CHAIR)

HOWARD SIMON, M.D.
REV. EDWARD J. HAYES

TO: Paul Stein, Esq.
Associate Counsel
New York State Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Padma Ram, M.D.
204 Sherman Street
Watertown, New York 13601

Amy T. Kulb, Esq.
Jacobson & Goldberg
585 Stewart Avenue - Suite 720
Garden City, New York 11530

APPENDIX I

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

IN THE MATTER
OF
PADMA RAM, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: PADMA RAM, M.D.
204 Sherman Street
Watertown, NY 13601

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1995) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1995). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on August 24, 1995, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The

Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

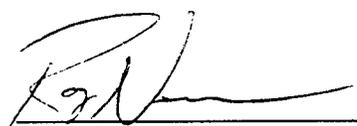
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date

of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
July 25, 1995



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Paul Stein
Associate Counsel
NYS Department of Health
Division of Legal Affairs
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 613-2605

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

-----X
IN THE MATTER : STATEMENT
OF : OF
PADMA RAM, M.D. : CHARGES
-----X

PADMA RAM, M.D., the Respondent, was authorized to practice medicine in New York State on October 7, 1985 by the issuance of license number 164385 by the New York State Education Department.

FIRST SPECIFICATION

I. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Sec. 6530 (9) (c) (McKinney Supp.1994), in that she has been found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct pursuant to this section, specifically:

A. The Board of Health of the County of Nassau, State of New York issued a Decision and Order dated March 17, 1993 (modified only as to penalty by memorandum decision of Supreme Court, Nassau County, Hon. Harry H. Kutner, dated September 21, 1993), based on Findings of Fact and Recommendations dated March 15, 1993 following a hearing held on January 5 and January 15, 1993 before a Nassau County Board of Health hearing officer. Respondent was found guilty of:

1. 113 violations of New York Sanitary Code sec. 16.10 (a), for failing to perform required quality assurance testing of mammography equipment;
2. 2 violations of New York Sanitary Code sec. 16.5, for failing to comply with required radiation safety guidelines; and
3. 225 violations of New York State Public Health Law sec. 3502, for directing the performance of mammography procedures by an unlicensed technician.

B. Pursuant to the terms of the above-mentioned Decision and Order, as modified by the memorandum decision of the

Supreme Court, Nassau County, Respondent was fined \$170,000.

C. These acts would constitute professional misconduct pursuant to Educ. Law sec. 6530 as follows:

1. A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations governing the practice of medicine (Educ. Law sec. 6530 (16), (McKinney Supp. 1994)); and/or
2. Permitting or abetting an unlicensed person to perform activities requiring a license (Educ. Law sec. 6530 (11), (McKinney Supp. 1994)).

Dated: New York, New York
March 2, 1994



 CHRIS STERN HYMAN
 Counsel
 Bureau of Professional Medical
 Conduct

Dated: New York, New York
July 25, 1995



 ROY NEMERSON
 Deputy Counsel
 Bureau of Professional Medical
 Conduct