



STATE OF NEW YORK
DEPARTMENT OF HEALTH

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

Richard F. Daines, M.D.
Commissioner

Public

Wendy E. Saunders
Chief of Staff

May 12, 2009

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Lokesh Babu Vuyyuru, M.B.B.S.
a/k/a Lokesh Babu Vuyyuru, M.D.
Redacted Address

Robert Bogan, Esq.
NYS Department of Health
Hedley Park Place
433 River Street - Suite 303
Troy, New York 12180

**RE: In the Matter of Lokesh Babu Vuyyuru, M.B.B.S.
a/k/a Lokesh Babu Vuyyuru, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 09-90) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

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

Office of Professional Medical Conduct
New York State Department of Health
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

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

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

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

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

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

Sincerely,

Redacted Signature

James F. Horan, Acting Director
Bureau of Adjudication

JFH:cah

Enclosure

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

IN THE MATTER

OF

LOKESH BABU VUYYURU, M.B.B.S.
aka LOKESH BABU VUYYURU, M.D.

DETERMINATION

AND

ORDER

BPMC #09-90

COPY

A hearing was held on April 22, 2009, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Order and Notice of Referral Proceeding, dated October 13, 2006, and a Statement of Charges, dated October 12, 2006, were served upon the Respondent, **Lokesh Babu Vuyyuru, M.B.B.S.** Pursuant to Section 230(10)(e) of the Public Health Law, **Irving S. Caplan**, Chairperson, **Eleanor C. Kane, M.D.**, and **Fred S. Levinson, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Thomas Conway, Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent did not appear at the hearing either in person or by counsel.

Evidence was received and transcripts of these proceedings were made.

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

BACKGROUND

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

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and (d). Copies of the Commissioner's Order and Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None

For the Respondent: None

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. All Hearing Committee findings were unanimous.

1. Lokesh Babu Vuyyuru, M.B.B.S., the Respondent, was authorized to practice medicine in New York State on July 2, 1990, by the issuance of license number 182889 by the New York State Education Department (Petitioner's Ex. 4).

2. On May 19, 2006, the Virginia Board of Medicine ("Virginia Board"), by an Order ("Virginia Order"), revoked the Respondent's license to practice medicine, based on intentional or negligent conduct that causes or is likely to cause injury to patients and conducting his practice in such a manner as to be a danger to the health and welfare of his patients or the public. (Petitioner's Ex. 5).

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State, had the conduct occurred in New York State, pursuant to:

- New York Education Law Section 6530(3) - "Practicing the profession with negligence on more than one occasion;"
- New York Education Law Section 6530(4) - "Practicing the profession with gross negligence on a particular occasion;"
- New York Education Law Section 6530(5) - "Practicing the profession with incompetence on more than one occasion;"
- New York Education Law Section 6530(6) - "Practicing the profession with gross incompetence;" and
- New York Education Law Section 6530(32) - "Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient..."

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state, where the conduct upon

which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

SECOND SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having his license to practice medicine revoked or having other discipline (sic) action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing either in person or by counsel. The Administrative Law Judge ruled that the Petitioner had met the requirements of law for service of the Commissioner's Order and Notice of Referral Proceeding and for service of the Statement of Charges and that, therefore, the hearing could proceed on the merits despite the absence of the Respondent.

In the Virginia Order, the Virginia Board found the Respondent guilty of several serious failures to provide medical services competently. An example from the Virginia Order illustrates the problem:

On or about June 15, 2001, Patient D, a one hundred four (104) year old female, presented to JRMC [a hospital] with non-specific complaints and sore legs. Dr. Vuyyuru evaluated the patient in consultation on or about June 15, 2001, noting that the patient had elevated lipase and alkaline phosphatase levels, and diagnosed acute pancreatitis. Although Dr. Vuyyuru noted an abdominal mass on his initial examination, he performed an ERCP [endoscopic retrograde cholangiopancreatography] on or about June 16, 2001 to rule out bile duct stones, ignoring alternative diagnoses to explain the patient's signs, symptoms and abnormal laboratory values. Dr. Vuyyuru performed this risky diagnostic procedure, ignoring relative contraindications such as renal failure, atrial fibrillation, right heart failure,

and advanced malignancy. He further did not consider the patient's age. The patient suffered cardiopulmonary arrest immediately following the procedure and died approximately one week later. Dr. Vuyyuru's treatment of Patient D was contrary to sound medical judgment and a violation of the applicable standard of care. (Petitioner's Ex. 5).

The Virginia Order also held the Respondent responsible for the death of another patient and causing a vegetative state in a third patient.

Since the Respondent did not appear at the hearing, there is no evidence in the hearing record of remorse, rehabilitation, mitigating circumstances or any other factor in the Respondent's favor. The only conclusion that can be drawn from this hearing record is that the Respondent is a dangerous physician whose license to practice medicine must be revoked.

ORDER

IT IS HEREBY ORDERED THAT:

1. The license to practice medicine of the Respondent, Lokesh Babu Vuyyuru, M.B.B.S., is revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Malone, New York
5-7-09, 2009

Redacted Signature

Irving S. Caplan
Chairperson

Eleanor C. Kane, M.D.
Fred S. Levinson, M.D.

APPENDIX I



IN THE MATTER

OF

LOKESH BABU VUYYURU, M.B.B.S.
aka LOKESH BABU VUYYURU, M.D.
CO-05-08-4208-A

**COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING**

TO: LOKESH BABU VUYYURU, M.B.B.S.,
aka LOKESH BABU VUYYURU, M.D.

Redacted Address

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr.P.H., Commissioner of Health, after an investigation, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that **LOKESH BABU VUYYURU, M.B.B.S., aka LOKESH BABU VUYYURU, M.D.,** Respondent, licensed to practice medicine in the State of New York as a physician on July 2, 1990, by license number 182889, has been disciplined by the Virginia Board of Medicine, the duly authorized professional disciplinary agency of the Commonwealth of Virginia, for acts which if committed in this state would have constituted the basis for summary action.

It is therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately **LOKESH BABU VUYYURU, M.B.B.S., aka LOKESH BABU VUYYURU, M.D.,** Respondent, shall not practice medicine as a physician in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine as a physician. This Order shall remain in effect unless

modified or vacated by the Commissioner of Health pursuant to New York Public Health Law §230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 16th day of November, 2006, at 10:00 a.m., at Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180, at the offices of the New York State Health Department, and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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 hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O' BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

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

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

DATED: Albany, New York

October 13, 2006

Redacted Signature

ANTONIA C. NOVELLO, M.D. M.P.H, Dr. P.H.,
Commissioner

Inquires should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

LOKESH BABU VUYYURU, M.B.B.S.
aka LOKESH BABU VUYYURU, M.D.
CO-05-08-4208-A

STATEMENT

OF

CHARGES

LOKESH BABU VUYYURU, M.B.B.S., LOKESH BABU VUYYURU, M.D., Respondent, was authorized to practice medicine in New York state on July 2, 1990, by the issuance of license number 182889 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 19, 2006, the State of Virginia, Board of Medicine (hereinafter "Virginia Board"), by an Order (hereinafter "Virginia Order"), REVOKED Respondent's license to practice medicine, based on intentional or negligent conduct that causes or is likely to cause injury to a patient or patients and conducting his practice in such a manner as to be a danger to the health and welfare of his patients or the public.

B. The conduct resulting in the Virginia Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence on more than one occasion);
4. New York Education Law §6530(6) (gross incompetence); and/or
5. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York State Education Law §6530(9)(b) having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state, where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

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

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having his license to practice medicine revoked or having other discipline action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

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

DATED: *Oct. 12*, 2006
Albany, New York

Redacted Signature

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