



STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

June 17, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Cain Ranjan, M.D.
970 North Broadway – Suite 310
Yonkers, New York 10701

Francis Ruddy, Esq.
NYS Department of Health
90 Church Street – 4th Floor
New York, New York 10007

William L. Wood, Jr., Esq.
Wood & Scher
222 Bloomingdale Road
White Plains, New York 10605

RE: In the Matter of Cain Ranjan, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 08-31) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

Redacted Signature

James F. Horan, Acting Director
Bureau of Adjudication

JFH:cah

Enclosure

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

In the Matter of

Cain Ranjan, M.D. (Respondent)

A proceeding to review a Determination by a
Committee (Committee) from the Board for
Professional Medical Conduct (BPMC)

Administrative Review Board (ARB)

Determination and Order No. 08-31

COPY

Before ARB Members Grossman, Lynch, Pellman, Wagle and Wilson
Administrative Law Judge James F. Horan drafted the Determination

For the Department of Health (Petitioner): Francis Ruddy, Esq.
For the Respondent: William L. Wood, Esq.

Following a hearing below, a BPMC Committee determined that the Respondent engaged in professional misconduct by revealing personally identifiable patient information without prior patient consent. The Committee voted to censure and reprimand the Respondent, to place the Respondent on probation for one year and to order the Respondent to enroll in a continuing medical education course (CME) on patient confidentiality. In this proceeding pursuant to New York Public Health Law (PHL) § 230-c (4)(a)(McKinney 2008), the Respondent asks the ARB to nullify that Determination. The Petitioner asks that the ARB add a fine to the penalty the Committee imposed. After considering the hearing record and the parties' review submissions, the ARB affirms the Committee's Determination that the Respondent committed professional misconduct. The ARB also affirms the censure and reprimand and the Committee's Order that the Respondent enroll in and complete successfully the CME Course. The ARB overturns the Committee's Determination to place the Respondent on probation.

Committee Determination on the Charges

The Committee conducted the hearing into factual allegations that the Respondent violated New York Education Law (EL) §§ 6530(23) (McKinney 2008) and committed professional misconduct by revealing personally identifiable facts, data or information obtained in a professional capacity, without the prior consent of the patient and without authorization by law. The Respondent denied releasing personally identifiable information. Following the hearing, the Committee rendered the Determination now on review.

The Committee found that the Respondent practiced formerly with Nazar Jamil Sayegh, M.D. as Yonkers Medical Associates (YMA). In 2005, Dr. Sayegh wrote the Respondent to advise him that Dr. Sayegh was dissolving YMA. The Respondent lost access to YMA, his patient files and certain property. Litigation followed. Subsequent to the YMA Dissolution, the Respondent encountered two former patients from YMA, "J.N." and "J.E.". During the separate encounters with Patient J.N. and Patient J.E., the Respondent showed the Patients pages from other persons' medical records. The records contained personally identifying information such as patient name, date of birth, social security number and telephone number. The Respondent apparently showed these records to Patients J.N. and J.E. to discredit Dr. Sayegh and his new medical partner and to encourage Patients J.N. and J.E. to return to the Respondent's care.

The Committee found that the credible evidence at hearing proved the charges against the Respondent. In making their findings, the Committee relied on testimony from Patients J.N. and J.E. The Committee rejected testimony by the Respondent that admitted to showing records to Patients J.N. and J.E., but claimed that the Respondent had redacted personally identifiable information from the records before Patients J.N. and J.E. saw the records. The Committee voted to censure and reprimand the Respondent for his conduct, to place the Respondent on probation for one year and to require that the Respondent complete the CME Course in the area of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), that includes patient confidentiality and human subjects protection. The Committee required that the Director of the

Office for Professional Medical Conduct (OPMC) provide prior written approval for the CME Course and that the Respondent complete the Course within the one-year probation period.

Review History and Issues

The Committee rendered their Determination on February 26, 2008. This proceeding commenced on March 6, 2008, when the ARB received the Respondent's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record, the Respondent's brief and the Petitioner's brief and response brief. The record closed when the ARB received the Petitioner's brief on March 31, 2008.

The Respondent argues that the Petitioner failed to prove all the elements in the charge. The Respondent contends that the Petitioner failed to prove that there was no patient consent to releasing the records at issue. The Petitioner also alleges that the Petitioner failed to prove that the Respondent released personally identifiable information, because Patients J.N. and J.E. could not remember the names of the patients on the records at issue, when Patients J.N. and J.E. testified at the hearing. The Respondent argued further that, because the Respondent released no personally identifiable information, OPMC should have treated this case as a minor violation. The Respondent requests that the case be dismissed for failure of proof, or that the case be dismissed in the interests of justice, or that the case be referred back to a violations committee or that the case be referred for an administrative warning.

The Petitioner asks that the ARB increase the penalty in this case by adding a \$2,500.00 fine.

ARB Authority

Under PHL §§ 230(10)(i), 230-c(1) and 230-c(4)(b), the ARB may review Determinations by Hearing Committees to determine whether the Determination and Penalty are consistent with the Committee's findings of fact and conclusions of law and whether the Penalty is appropriate and within the scope of penalties which PHL §230-a permits. The ARB may substitute our judgment for that of the Committee, in deciding upon a penalty Matter of Bogdan v. Med. Conduct Bd. 195 A.D.2d 86, 606 N.Y.S.2d 381 (3rd Dept. 1993); in determining guilt on the charges, Matter of Spartalis v. State Bd. for Prof. Med. Conduct 205 A.D.2d 940, 613 NYS 2d 759 (3rd Dept. 1994); and in determining credibility, Matter of Minielly v. Comm. of Health, 222 A.D.2d 750, 634 N.Y.S.2d 856 (3rd Dept. 1995). The ARB may choose to substitute our judgment and impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate, Matter of Kabnick v. Chassin, 89 N.Y.2d 828 (1996). In determining the appropriate penalty in a case, the ARB may consider both aggravating and mitigating circumstances, as well as considering the protection of society, rehabilitation and deterrence, Matter of Brigham v. DeBuono, 228 A.D.2d 870, 644 N.Y.S.2d 413 (1996).

The statute provides no rules as to the form for briefs, but the statute limits the review to only the record below and the briefs [PHL § 230-c(4)(a)], so the ARB will consider no evidence from outside the hearing record, Matter of Ramos v. DeBuono, 243 A.D.2d 847, 663 N.Y.S.2d 361 (3rd Dept. 1997).

A party aggrieved by an administrative decision holds no inherent right to an administrative appeal from that decision, and that party may seek administrative review only

pursuant to statute or agency rules, Rooney v. New York State Department of Civil Service, 124 Misc. 2d 866, 477 N.Y.S.2d 939 (Westchester Co. Sup. Ct. 1984). The provisions in PHL §230-c provide the only rules on ARB reviews.

Determination

The ARB has considered the record and the parties' briefs. The ARB affirms the Committee's Determination that the Respondent committed professional misconduct and we affirm the Determination to censure and reprimand the Respondent and to order the Respondent to complete the CME Course. We overturn the Committee's Determination to place the Respondent on probation.

The ARB holds that the evidence the Committee found credible provided a preponderance of the evidence that the Respondent released identifiable patient information concerning other patients to Patients J.N. and J.E. Patients J.N. and J.E. testified that the Respondent showed them medical records that contained other patients' names and social security numbers. The Respondent claimed that he redacted identifying information from the records before showing the records to Patients J.N. and J.E. The Committee rejected the Respondent's claim. The ARB defers to the Committee, as the finder of fact, in their judgment on witness credibility. The record provided no consent form for the release of that information and the Respondent failed to identify any section in law that would have allowed the Respondent to release the patient medical records at issue. We reject the Respondent's argument that the Petitioner must prove that no patient consent occurred. The Respondent should never have shown the records at issue to any other patients unless there was a consent already signed and unless he was quite sure of the existence of such consent. The Respondent's defense in this case

amounted to claiming that identifiable information had been deleted. As the ARB noted, the Committee found no credibility in that claim.

The ARB affirms the Committee's Determination to censure and reprimand the Respondent and to order the Respondent to complete the CME Course. The ARB rejects the Respondent's request to dismiss this case in the interests of justice. The ARB disagrees with the Respondent's assertion that OPMC allowed itself to be manipulated into intervening in a private dispute. The Respondent interjected his patients into a private dispute by providing confidential information about some patients to other patients. The ARB also rejects the Respondent's request that we refer this matter for an administrative warning or for treatment as a minor violation. The Respondent's conduct constitutes professional misconduct, rather than a minor violation. We also find an administrative warning as an inappropriate remedy to deal with the Respondent's conduct. The Respondent's conduct demonstrates that he needs to take the CME Course that the Committee ordered and that the conduct warrants a censure and reprimand.

The ARB overturns the Committee's Determination to place the Respondent on probation. The ARB concludes that the CME Course will address the Respondent's conduct. We also reject the Petitioner's request to increase the penalty by adding a fine. The ARB directs that the Respondent complete the CME Course within one year.

ORDER

NOW, with this Determination as our basis, the ARB renders the following ORDER:

1. The ARB affirms the Committee's Determination that the Respondent committed professional misconduct.
2. The ARB affirms the Committee's Determination to order that the Respondent complete a CME Course on patient confidentiality and the ARB affirms the Committee's Determination to censure and reprimand the Respondent.
3. The ARB overturns the Committee's Determination to place the Respondent on probation.

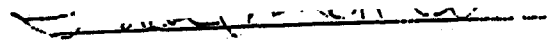
Thea Graves Pellman
Datta G. Wagle, M.D.
Stanley L. Grossman, M.D.
Linda Prescott Wilson
Therese G. Lynch, M.D.

In the Matter of Cain Ranjan, M.D.

Linda Prescott Wilson, an ARB Member concurs in the Determination and Order in the
Matter of Dr. Ranjan.

Dated: 14 June, 2008

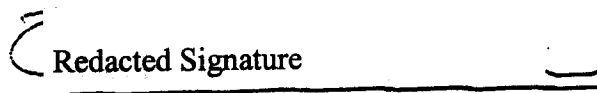

Redacted Signature


Linda Prescott Wilson

In the Matter of Cain Ranjan. M.D.

Thea Graves Pellman, an ARB Member concurs in the Determination and Order in the
Matter of Dr. Ranjan.

Dated: 6/18, 2008

 Redacted Signature

Thea Graves Pellman

In the Matter of Cain Ranjan, M.D.

Datta G. Wagle, M.D., an ARB Member concurs in the Determination and Order in the

Matter of Dr. Ranjan.

Dated: 6/14, 2008

~~Redacted Signature~~
Datta G. Wagle, M.D.

In the Matter of Cain Ranjan, M.D.

Stanley L. Grossman, an ARB Member concurs in the Determination and Order in the
Matter of Dr. Ranjan.

Dated: June 14, 2008

§ Redacted Signature _____

Stanley L Grossman, M.D.

In the Matter of Cain Ranjan, M.D.

Therese G. Lynch, M.D., an ARB Member concurs in the Determination and Order in the

Matter of Dr. Ranjan

Dated: June 13 2008

Redacted Signature

Therese G. Lynch, M.D.

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