

Public



STATE OF NEW YORK
DEPARTMENT OF HEALTH

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

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

March 25, 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John Anderson King, D.O.

Redacted Address

Robert Bogan, Esq.

NYS Department of Health

433 River Street – Suite 303

Troy, New York 12180-2299

**RE: In the Matter of John Anderson King, D.O.
a/k/a Christopher W. Martin, D.O.**

Dear Parties:

Enclosed please find the Determination and Order (No. 10-51) 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

JOHN ANDERSON KING, D.O.
a/k/a CHRISTOPHER W. MARTIN, D.O.

DETERMINATION

AND

ORDER

BPMC #10-51

COPY

A hearing was held on March 18, 2010, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated October 21, 2009, were served upon the Respondent, **John Anderson King, D.O., a/k/a Christopher W. Martin, D.O.** Pursuant to Section 230(10)(e) of the Public Health Law, **Scott B. Groudine, M.D.**, Chairperson, **Michael J. Reichgott, M.D., Ph.D.**, and **Ms. Frances E. Tarlton**, 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 appeared at the hearing and represented himself.

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 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. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. John Anderson King, D.O., a/k/a Christopher W. Martin, D.O., the Respondent, was authorized to practice medicine in New York State on October 24, 1995,

by the issuance of license number 201149 by the New York State Education Department (Petitioner's Ex. 4).

2. On September 17, 2008, the Alabama State Board of Medical Examiners, Medical Licensure Commission of Alabama ("Alabama Board"), by an Order ("Alabama Order"), revoked the Respondent's license to practice medicine, based on unprofessional conduct, practicing in such a manner as to endanger the health of his patients, committing gross or repeated malpractice or gross negligence, and being unable to practice medicine or osteopathy with reasonable skill and safety to patients by reason of a demonstrated lack of basic medical knowledge or clinical competency (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(33) - "Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee;"

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 and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license 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 Alabama Board made the following findings in the Alabama Order:

1. On or about November 1, 2006, patient R.B. presented to American Family Care for follow up treatment of multiple infected skin abscesses. In addition, she was exhibiting symptoms which included nausea. Without completing a thorough history and physical examination of R.B., Dr. King administered IVs of Rocephin, Stadol, Toradol, Valium, and Phenergan. R.B. immediately experienced burning pains in her arms and head, became hallucinatory, and in a matter of minutes was unresponsive.
2. After an unexplained delay, the patient was transferred by ambulance to another medical facility. The medical personnel at such facility had a difficult time determining the nature of R.B.'s condition because Dr. King and American Family Care did not immediately provide records and information to such facility.

3. Although Dr. King testified that he requested his medical assistants to provide him with a diluted dose of Phenergan, it appears that the patient was administered an undiluted dose....

5. Dr. King administered an extremely large, unconventional and unnecessary dose of Phenergan, thereby placing R.B. in danger. (Petitioner's Ex. 5).

The Alabama Board also found that after R.B. experienced the sudden change in her mental status, the Respondent failed to retake and document vital signs and "failed to ensure airway, oxygenation, adequate ventilatory exchange and circulatory status..." (Petitioner's Ex. 5).

The Alabama Order also held that the Respondent provided substandard care to another patient by giving her an excessive amount of sedation medications.

The Alabama Board concluded that the Respondent had practiced in a manner that endangered the health of his patients, had committed "gross or repeated malpractice or gross negligence," and was unable to practice "with reasonable skill and safety to patients by reason of a demonstrated lack of basic medical knowledge or clinical competency..."

During the present hearing, the Respondent presented no evidence other than a document concerning his name change (Respondent's Ex. D). He did not testify because of a ruling by the Administrative Law Judge. The Respondent wanted to relitigate the findings in the Alabama Order. The Administrative Law Judge ruled that Public Health Law Section 230(10)(p) prohibited consideration of whether the findings of another state's medical disciplinary board are accurate. This statute precludes such consideration and limits the scope of the hearing to a determination of the penalty to be imposed. The Respondent, in light of this ruling, chose not to testify.

There is no evidence in the hearing record of remorse, rehabilitation, mitigating circumstances or any other factor that could be helpful to the Respondent's case. To the contrary, the Respondent failed to acknowledge any responsibility for the acts that

endangered his patients. The Petitioner recommended that the Respondent's license be revoked. This Hearing Committee concludes that no lesser penalty will adequately protect the people of New York State.

ORDER

IT IS HEREBY ORDERED THAT:

1. The license of the Respondent, John Anderson King, D.O., a/k/a Christopher W. Martin, D.O., to practice medicine 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: Latham, New York

MARCH 25, 2010

Redacted Signature

Scott B. Groudine, M.D.
Chairperson

Michael J. Reichgott, M.D., Ph.D.
Frances E. Tarlton

APPENDIX I

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



IN THE MATTER

NOTICE OF

OF

REFERRAL

JOHN ANDERSON KING, D.O.
aka CHRISTOPHER W. MARTIN, D.O.
CO-08-11-6998-A

PROCEEDING

TO: JOHN ANDERSON KING, D.O.

Redacted Address

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 9th day of December, 2009, at 1:00 p.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that 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 who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/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 that 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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten (10) days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health, whose name appears below. You may file a written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) 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. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence, and a description of physical and/or other evidence that cannot be photocopied.

YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here

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 (5) 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: Albany, New York

Oct. 21, 2009

Redacted Signature

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

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
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
JOHN ANDERSON KING, D.O.
aka CHRISTOPHER W. MARTIN, D.O.
CO-08-11-6998-A

STATEMENT
OF
CHARGES

JOHN ANDERSON KING, D.O. aka CHRISTOPHER W. MARTIN, D.O., Respondent, was authorized to practice medicine in New York state on October 24, 1995, by the issuance of license number 201149 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about September 17, 2008, the Alabama State Board of Medical Examiners, Medical Licensure Commission of Alabama (hereinafter "Alabama Board"), by an Order (hereinafter "Alabama Order"), REVOKED Respondent's license to practice medicine, based on unprofessional conduct, practicing in such a manner as to endanger the health of the patients of the practitioner, committing gross or repeated malpractice or gross negligence, and being unable to practice medicine or osteopathy with reasonable skill and safety to patients by reason of a demonstrated lack of basic medical knowledge or clinical competency.

B. The conduct resulting in the Alabama 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(33) (failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §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, 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 and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license 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. 21, 2009
Albany, New York

Redacted Signature

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