

Nirav R. Shah, M.D., M.P.H.
Commissioner

NEW YORK
state department of
HEALTH

Public

Sue Kelly
Executive Deputy Commissioner

February 26, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joel E. Ablove, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

Pierre Kamguia, M.D.
Medecin Chirurgien Ophtalmologue
Yaounde
Cameroon
74426369

Pierre Kamguia, M.D.
REDACTED

RE: In the Matter of Pierre Kamguia, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 13-47) 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
Office of Professional Medical Conduct
Riverview Center
150 Broadway - Suite 355
Albany, New York 12204

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.

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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., Chief Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

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

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH:cah
Enclosure

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

COPY

-----X
IN THE MATTER : DETERMINATION
OF : AND
PIERRE KAMGUA, M.D. :
CO-12-03-1227-A : ORDER
-----X

BPMC#13-47

A Notice of Referral Proceeding and Statement of Charges, both dated December 14, 2012, were served upon the Respondent, Pierre Kamguia, M.D. **GREGORY FRIED, M.D. (Chair), JAMES G. EGNATCHIK, M.D., and JANET M. MILLER, R.N.,** 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 Joel E. Ablove, Esq., Associate Counsel. The Respondent failed to appear in person and was not represented by Counsel. A hearing was held on February 21, 2013. 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)(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 addition, Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(d), by having action taken against his license by the duly authorized professional disciplinary agency of another state, for conduct

which would, if committed in New York State, constitute professional misconduct. A copy of the 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. Pierre Kamguia, M.D., (hereinafter "Respondent") was authorized to practice medicine in New York State on June 6, 2002 by the issuance of license number 225005 by the New York State Education Department. (Exhibit #4).

2. On or about October 25, 2011, the State of Virginia, Board of Medicine (hereinafter "Virginia Board"), in an Order, placed Respondent on indefinite probation, requiring Respondent to complete continuing medical education in the subjects of professionalism in the practice of medicine and cataract surgery. The Order further mandated that prior to returning to practice, Respondent must present a practice plan to the Virginia Board for

approval. The Order was issued following a contested hearing, in which the Virginia Board found that Respondent had failed to meet the standard of care in his treatment of seven patients, and practiced in a manner posing a danger to their health and welfare. (Exhibit #5).

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 evidence established that Respondent was disciplined by the Virginia Board for violating professional standards of practice. The Virginia Board's findings, which are set forth in detail in Exhibit #5, involved Respondent's performance of cataract surgery on seven patients. The conduct found by the Virginia Board would constitute professional misconduct in violation of New York Education Law §6530(3) [negligence on more than one occasion]; §6530(4) [gross negligence]; §6530(5) [incompetence on more than one occasion], and/or §6530(6) [gross incompetence]. Accordingly, Respondent is guilty of professional misconduct in violation of New York Education Law §6530(9)(b) and §6530(9)(d). Therefore, the First and Second Specifications of professional misconduct set forth in the Statement of Charges are sustained.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine should be revoked. 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.

The records of the Virginia Board demonstrate significant deviations from the standard of care in the performance and management of cataract surgery. In a letter dated February 10, 2013, submitted by Respondent to the Board, he disputed all of the findings of the prior disciplinary hearing. He demonstrated no insight into his deficiencies, nor shown a willingness to take corrective action. He has relocated from the United States to Cameroon, and given no indication of any intent to return. Under the circumstances, revocation is the only appropriate sanction which will adequately protect the public.

ORDER

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

1. The First and Second Specifications of professional misconduct, as set forth in the Statement of Charges (Exhibit # 1) are SUSTAINED;

2. Respondent's license to practice medicine in New York State be and hereby is REVOKED;

3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Great Neck, New York

FEBRUARY 25 , 2013

REDACTED

~~GREGORY FRIED, M.D. (CHAIR)~~

JAMES G. EGNATCHIK, M.D.

JANET M. MILLER, R.N.

TO: Joel E. Abelove, Esq.
Associate Counsel
New York State Department of Health
Corning Tower - Room 2512
Albany, New York 12237

Pierre Kamguia, M.D.
Medecin Chirurgien Ophtalmologue
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APPENDIX I

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

PIERRE KAMGUIA, M.D.
CO-12-03-1227-A

STATEMENT

OF

CHARGES

PIERRE KAMGUIA, M.D., Respondent, was authorized to practice medicine in New York state on June 6, 2002, by the issuance of license number 225005 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 25, 2011, the State of Virginia, Board of Medicine (hereinafter "Virginia Board"), in an ORDER, placed Respondent on INDEFINITE PROBATION, requiring Respondent to complete continuing medical education in the subjects of professionalism in the practice of medicine and cataract surgery. Prior to returning to practice, Respondent must present a practice plan to the Virginia Board for approval. The Virginia Board found that Respondent had failed to meet the standard of care in his treatment of seven (7) patients and practiced in a manner posing a danger to their health and welfare.

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);
and/or
2. New York Education Law §6530(4) (gross negligence); and/or
3. New York Education Law §6530(5) (incompetence on more than one occasion);
and/or
4. New York Education Law §6530(6) (gross incompetence).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper 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 B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the 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 B.

DATED: *Dec. 14*, 2012
Albany, New York

REDACTED

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