

August 19, 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Wendell Joseph Gorum, M.D.
aka J. Gorum Wendell, M.D.

REDACTED

Re: License No. 248330

Dear Dr. Gorum:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 11-207. This order and any penalty provided therein goes into effect August 26, 2011.

Please direct any questions to: Board for Professional Medical Conduct, 433 River Street, Suite 303, Troy, NY 12180, telephone # (518)402-0863.

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Nathan L. Dembin, Esq.
Nathan L. Dembin & Associates, P.C.
1123 Broadway, Suite 1117
New York, NY 10010

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

IN THE MATTER

CONSENT

OF

ORDER

W. JOSEPH GORUM II, M.D.
aka J. GORUM WENDELL II, M.D.
aka WENDELL JAY GORUM II, M.D.
aka WENDELL JAY GORUM, M.D.
aka WENDELL JOSEPH GORUM II, M.D.
aka WENDELL JOSEPH GORUM, M.D.
aka JOSEPH GORUM, M.D.

BPMC No. 11-207

Upon the application of W. JOSEPH GORUM II, M.D. aka J. GORUM WENDELL II, M.D. aka WENDELL JAY GORUM II, M.D. aka WENDELL JAY GORUM, M.D. aka WENDELL JOSEPH GORUM II, M.D. aka WENDELL JOSEPH GORUM, M.D. aka JOSEPH GORUM, M.D., (Respondent), in the attached Consent Agreement, that is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, or upon facsimile or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 8/18/11

REDACTED

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER

CONSENT

OF

AGREEMENT

W. JOSEPH GORUM II, M.D.
aka J. GORUM WENDELL II, M.D.
aka WENDELL JAY GORUM II, M.D.
aka WENDELL JAY GORUM, M.D.
aka WENDELL JOSEPH GORUM II, M.D.
aka WENDELL JOSEPH GORUM, M.D.
aka JOSEPH GORUM, M.D.
CO-09-09-8133-A

W. JOSEPH GORUM II, M.D. aka J. GORUM WENDELL II, M.D. aka WENDELL JAY GORUM II, M.D. aka WENDELL JAY GORUM, M.D. aka WENDELL JOSEPH GORUM II, M.D. aka WENDELL JOSEPH GORUM, M.D. aka JOSEPH GORUM, M.D., representing that all of the following statements are true, deposes and says:

That on or about April 18, 2008, I was licensed to practice medicine in the State of New York, and issued license number 248330 by the New York State Education Department.

My current address is REDACTED and I will advise the Director (Director) of the Office of Professional Medical Conduct (OPMC) of any change of address thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with four (4) Specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit A, is attached to and part of this Consent Agreement.

I do not contest the Second Specification, in full satisfaction of the charges against me, and agree to the following penalty:

Censure and Reprimand; and

Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for a period of two (2) years, subject to the terms set forth in attached Exhibit B, and any extension

and/or modifications, thereto, and provided that, after 6 months of the probation period, I may petition the Director of OPMC for early termination of the monitoring specified in paragraph 11 of Exhibit B, and, after 12 months of the probation period, I may petition the Director of OPMC for early termination of the probation in its entirety;

I agree, further, that the Consent Order shall impose the following conditions:

That I shall remain in continuous compliance with all requirements of New York Education Law § 6502 including, but not limited to, the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. I shall not exercise the option provided in New York Education Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 30 days after the effective date of the Consent Order and will continue so long as I remain a licensee in New York State; and

That I shall cooperate fully with the OPMC in its administration and enforcement of the Consent Order and in its investigations of matters concerning me. I shall respond in a timely manner to all OPMC requests for written periodic verification of my compliance with this Consent Agreement. I shall meet with a person designated by the Director, OPMC, as directed. I shall respond promptly and provide all documents and information within my control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as I remain licensed in New York State.

I stipulate that my failure to comply with any conditions of the Consent Order shall constitute misconduct as defined by New York Education Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and the Consent Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and

the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to New York Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that the Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, or upon facsimile or email transmission to me or my attorney, whichever is first. The Consent Order, this Consent Agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department of Health website.

I stipulate that the proposed sanction and Consent Order are authorized by New York Public Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, administratively and/or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director, OPMC, and the Chair of the Board each retain complete discretion either to enter into the proposed Consent Agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

AFFIRMED:

DATE: 7/15/11

REDACTED

W. JOSEPH GORUM II, M.D.
Respondent

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 7/15/11

REDACTED

NATHAN L. DEMBIN
Attorney for Respondent

DATE: 8/9/11

REDACTED

RICHARD J. ZAHNLEUTER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 8/18/11

REDACTED

KEITH SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

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

IN THE MATTER
OF

W. JOSEPH GORUM II, M.D.
aka J. GORUM WENDELL II, M.D.
aka WENDELL JAY GORUM II, M.D.
aka WENDELL JAY GORUM, M.D.
aka WENDELL JOSEPH GORUM II, M.D.
aka WENDELL JOSEPH GORUM, M.D.
aka JOSEPH GORUM, M.D.
CO-09-09-8133-A

STATEMENT
OF
CHARGES

W. JOSEPH GORUM II, M.D. aka J. GORUM WENDELL II, M.D. aka WENDELL JAY GORUM II, M.D. aka WENDELL JAY GORUM, M.D. aka WENDELL JOSEPH GORUM II, M.D. aka WENDELL JOSEPH GORUM, M.D. aka JOSEPH GORUM, M.D., Respondent, was authorized to practice medicine in New York State on April 18, 2008, by the issuance of license number 248330 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 5, 2009, the Medical Board of California (hereinafter "California Board"), by a "Decision" adopting a "Stipulated Settlement and Disciplinary Order" (hereinafter "California Order"), revoked Respondent's medical license, stayed the revocation, and placed Respondent on 5 years probation with multiple terms that included 65 hours annual continuing medical education (no less than 40 Category I hours), a certain clinical training program, and annual probation costs of \$3,173.

B. The California Order was based on Respondent having engaged in gross negligent care and treatment of Patient KA in that Respondent performed knee surgery on or about February 9, 2004 to correct a ligament tear and possible meniscus tear under circumstances where "the total time for the surgery was just under seven hours," total time under anesthesia was "just under eight hours," and total time in a tourniquet was "approximately five hours," followed by complications consisting of a thigh fasciotomy, pulmonary embolism, cardiac arrest, rhabdomyolysis, kidney failure, dialysis, irrigation and debridement and skin grafts surgery, peroneal nerve dysfunction, and a foot drop, due to Respondent having

- (1) failed "to limit the time spent searching for a lost bioabsorbable screw";
- (2) failed "to write post-operative orders to monitor KA's neurovascular functions"; and/or
- (3) failed "to immediately insure that KA was evaluated upon being informed that KA had a neurological deficit."

C. The California Order was based on Respondent having also committed repeated negligent acts in the care and treatment of Patient KA due to Respondent having failed in the 3 ways set forth in paragraphs B(1), (2), and/or (3) above and Respondent also having:

- (1) failed "to note in his post-operative report that there were intraoperative complications with KA's anterior ligament reconstruction surgery."

D. The California Order was based on Respondent having engaged in gross negligent care and treatment of Patient JD in that Respondent performed shoulder surgery on or about October 27, 2003 to correct a rotator tear under circumstances where it was determined, after attempted arthroscopic rotator cuff surgery and open rotator cuff surgery, that Patient JD had suffered a myocardial infarction, due to Respondent having:

- (1) injected Patient JD "with a epinephrine solution with a concentration of 1:1,000."

E. The California Order was based on Respondent having engaged in gross negligent care and treatment of Patient LJ in that Respondent performed total hip replacement surgery on or about October 29, 2003 under circumstances where drainage from Patient LJ's hip subsequently occurred, followed by complications consisting of irrigation and debridement surgery, Staph infection, continued drainage, another irrigation and debridement surgery, and prosthesis removal surgery, due to Respondent having:

- (1) failed "to treat LJ's infected total hip arthroplasty with appropriate ongoing intravenous antibiotics following the [first] irrigation and debridement surgery."

F. The California Order was based on Respondent having also committed repeated negligent acts in the care and treatment of Patient LJ due to Respondent having failed in the way set forth in paragraph E(1) above and Respondent also having:

- (1) failed "to perform and/or document LJ's history and physical before the [first] irrigation and debridement surgery"; and/or
- (2) failed "to obtain and/or document LJ's consent for the [first] irrigation and debridement surgery."

G. The conduct resulting in the California Order would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. concerning paragraphs B, B(1), B(2), B(3), D, D(1), E and/or E(1) above, New York Education Law §6530(4) (gross negligence);
2. concerning paragraphs B, B(1), B(2), B(3), C, C(1), D, D(1), E, E(1), F, F(1), and/or F(2) above, New York Education Law §6530(3) (negligence on more than one occasion);
3. concerning paragraphs C, and/or C(1) above, New York Education Law §6530(2) (practicing fraudulently); and/or
4. concerning paragraphs B, B(2), C, C(1), F, F(1), and/or F(2) above, New York Education Law §6530(32) (failing to maintain a record that accurately reflects the evaluation and treatment of a patient).

H. On or about June 22, 2010, the Pennsylvania State Board of Medicine (hereinafter "Pennsylvania Board"), by a "Consent Agreement and Order" (hereinafter "Pennsylvania Order"), suspended Respondent's license for 5 years, stayed the suspension, and placed Respondent on 5 years probation, based on Respondent having been disciplined by a licensing authority of another state.

I. The conduct resulting in the Pennsylvania Order 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(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 of New York State); and/or
2. New York Education Law §6530(9)(d) (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).

SPECIFICATIONS OF MISCONDUCT

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, B, B(1), B(2), B(3), C, C(1), D, D(1), E, E(1), F, F(1), F(2), G, G(1), G(2), G(3), and/or G(4).

SECOND SPECIFICATION

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

2. The facts in Paragraphs A, B, B(1), B(2), B(3), C, C(1), D, D(1), E, E(1), F, F(1), F(2), G, G(1), G(2), G(3), and/or G(4).

THIRD 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:

3. The facts in Paragraphs A, B, B(1), B(2), B(3), C, C(1), D, D(1), E, E(1), F, F(1), F(2), G, G(1), G(2), G(3), and/or G(4), H, I, I(1), and/or I(2).

FOURTH SPECIFICATION

Respondent violated New York Education Law §8530(9)(d) by having his license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension and/or other disciplinary action would, if committed in New York State, constitute professional misconduct under the laws New York State, in that Petitioner charges:

4. The facts in Paragraphs A, B, B(1), B(2), B(3), C, C(1), D, D(1), E, E(1), F, F(1), F(2), G, G(1), G(2), G(3), and/or G(4), H, I, I(1), and/or I(2).

DATED: *February 24*, 2011
Albany, New York

REDACTED

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

EXHIBIT B
Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; all current and past affiliations and/or privileges, with hospitals, institutions, facilities, medical practices, managed care organizations, and/or applications for such affiliations and/or privileges; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education,

training and oversight of all office personnel involved in medical care, with respect to these practices.

9. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
10. Respondent shall enroll in and successfully complete 40 hours of Category 1 continuing medical education, annually, in the area of orthopedic surgery, subject to the Director of OPMC's prior written approval.

PRACTICE MONITOR

11. Within thirty days of the Consent Order's effective date, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.
 - A. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - B. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - C. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - D. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
12. Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.