

DOH 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

Public

August 13, 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Bhagwan J. Sadarangani, M.D.
REDACTED

Robert Bogan, Esq.
NYS Department of Health
ESP - Corning Tower - Room 2512
Troy, New York 12237-0032

Michael S. Kelton, Esq.
Abrams, Fensterman, Fensterman,
Eisman, Greenberg, Formato &
Einiger, LLP
630 3rd Avenue - 5th Floor
New York, New York 10017

RE: In the Matter of Bhagwan J. Sadarangani, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 10-148) 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.

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 Respondent or the Department may seek a review of a committee determination.

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

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
BHAGWAN J. SADARANGANI, M.D.

DETERMINATION
AND
ORDER

BPMC #10-148
COPY

A hearing was held on June 24, 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 February 19, 2010, were served upon the Respondent, **BHAGWAN J. SADARANGANI, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Gail S. Homick**, Chair, **Trevor E. Litchmore, M.D.**, and, **Ralph W. Liebling, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, 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, **Bhagwan J. Sadarangani, M.D.**, appeared with counsel, **Michael Kelton, Esq.** Evidence was received 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 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 §6530(9)(i). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 2.

WITNESSES

For the Petitioner:	None
For the Respondent:	Dr. Mannuccio Mannucci (by phone) Bhagwan J. Sadarangani, M.D. Balvinder Sadarangani, M.D.

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. **Bhagwan J. Sadarangani, M.D.**, the Respondent, did appear at the hearing, with counsel, and was duly served with process on February 24, 2010. (T. of pre-hearing, at p. 3.)

2. **Bhagwan J. Sadarangani, M.D.**, the Respondent, was authorized to practice medicine in New York State on July 22, 1977, by the issuance of license number 131620 by the New York State Education Department (Petitioner's Ex. 4).
3. On June 9, 2009, in the Criminal Court of the City of New York, County of New York, the Respondent was found guilty, based on a plea of guilty, to the charge of Sexual Abuse in the third degree, in violation of New York Penal Law § 130.55, a class B misdemeanor. (Petitioner's Ex. 4).

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

Respondent violated New York Education Law Section 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York State law, namely of Sexual Abuse in the third degree, in violation of New York Penal Law §130.55, a class B misdemeanor.

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, with counsel. There was no dispute about jurisdiction. The record in this case indicates that Respondent had been convicted in Criminal Court in New York City of committing an act, which constituted a crime under

New York law, namely Sexual Abuse in the third degree, in violation of New York Penal Law § 130.55, a class B misdemeanor. (Petitioner's Ex. 4).

It appears that the Respondent is remorseful for his actions, which he does not deny. There was no dispute about the basic fact in this case; namely, that the Respondent pled guilty to a misdemeanor of sexual abuse in criminal court in New York County. Accordingly, as stated above, the scope of this expedited hearing was limited to a determination of the nature and severity of the penalty to be imposed upon the Respondent. The record and testimony in this case show that the Respondent has retired from his own practice of medicine and is now working in his wife's practice, which is primarily gynecology. It appears that the Respondent assists in his wife's practice in various ways, including administrative and clerical work, billing, blood drawing and other tasks that could be performed by nurses, secretaries or medical assistants. The Respondent's wife testified that hers is a small, part time practice and she could not afford to hire the staff to perform the tasks the Respondent does for her. (T. 81)

It appears that on the day of the incident that brought about this case, the Respondent's wife was not in the office and that the Respondent was left alone and was performing an electrocardiogram on a patient. At the end of this exam, according to the record at T. 81, the Respondent suggested a breast examination, which the patient consented to. At the conclusion of this exam, the Respondent kissed the breast of the patient. The patient left the office, apparently without a word, and a month later there was a criminal complaint and an arrest and a subsequent prosecution, which terminated with the Respondent pleading guilty to the crime of sexual abuse in the third degree.

The record shows that the Respondent was given a conditional discharge in this matter and was required to be treated by a psychiatrist.

The psychiatrist, Dr. Mannucci, testified for the Respondent and told the panel that the Respondent's treatment is progressing and that his depression is being treated with Lexapro, 10 mg. and other medications.

In determining an appropriate penalty, the panel took into account the fact that the Respondent has been practicing medicine in New York for over thirty years and has no history of misconduct, sexual or otherwise. It appears that the crime charged is a singular incident of momentary impulsive conduct. Nevertheless, the Respondent did commit a crime of sexual misconduct. At the hearing, the Respondent took full responsibility for his actions (T. 54), and the panel believed him when he testified that he did so in moment of impulse. (T. 44) The panel deemed the Respondent's remorse and contrition to be genuine. The panel considered the full range of penalties from revocation to censure and determined that the appropriate punishment would be a restriction on his license such that a similar act would not occur in the future. The panel based its reasoning on the following factors:

First: If revoked, the Respondent would not be able to assist in his wife's practice and without this assistance his wife's practice would be uneconomical.

Second: By restricting the Respondent's practice to require the presence of a monitor, the possibility of the recurrence of this behavior would be eliminated.

Third: This was an isolated incident in a long and apparently blameless career.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specified charges against the Respondent are **SUSTAINED**; and

2. The license of the Respondent to practice medicine in New York State is restricted for a period of three years subject to the terms and conditions of restriction attached hereto as Appendix # 1.
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Auburn, New York
July ____, 2010
Aug 12, 2010

REDACTED

Gail S. Homick, Chair

Trevor A. Ltchmore, M.D.,
Ralph W. Liebling, M.D.,

To:
Bhagwan J. Sadarangani, M.D., Respondent
REDACTED

Michael S. Kelton, Esq., Attorney for Respondent
Abrams, Fensterman, Fensterman, Eisman, Greenberg, Formato & Einiger, LLP
630 3rd Ave. – 5th Floor
New York, NY 10017

Robert Bogan, Esq., Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
433 River Street, Suite 303
Troy, New York 12180-2299

APPENDIX 1

Terms of Restricted Practice

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. For a period of three years, Respondent shall practice medicine only when a practice monitor shall be present in his office. The practice monitor shall be on-site during office hours, unless determined otherwise by the Director of OPMC. The practice monitor shall be proposed by the Respondent and subject to the written approval of the Director of OPMC. The practice monitor shall not be a family member or personal friend, or be in a professional relationship, which could pose a conflict with supervision responsibilities.
5. Respondent shall ensure that the practice monitor is familiar with the Order and terms of restriction, and be willing to report to OPMC. Respondent shall ensure that the practice monitor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice monitor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC
6. Respondent shall authorize the practice monitor to have access to patient records and to submit quarterly written reports to the Director of OPMC, regarding Respondent's practice, including, but not limited to procedures for obtaining written consent to procedures and appropriate chaperoning of patients, These narrative

reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, general demeanor, and other such on-duty conduct as the practice monitor deems appropriate to report

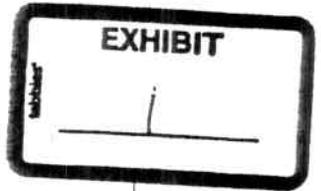
7. The period of restriction shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State, Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more, Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.

8. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices,

9. Respondent shall maintain legible and complete medical records, which accurately reflect the evaluation and treatment of patients.

APPENDIX 2

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



IN THE MATTER

NOTICE OF

OF

REFERRAL

BHAGWAN J. SADARANGANI, M.D.
CO-09-06-4116-A

PROCEEDING

TO: BHAGWAN J. SADARANGANI, M.D.

REDACTED

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 22nd day of April, 2010, at 10:00 a.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

February 19, 2010

REDACTED

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
BHAGWAN J. SADARANGANI, M.D.
CO-09-06-4116-A

STATEMENT
OF
CHARGES

BHAGWAN J. SADARANGANI, M.D., Respondent, was authorized to practice medicine in New York state on July 22, 1977, by the issuance of license number 131620 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 9, 2009, in the Criminal Court of the City of New York, County of Queens, Part C, New York, Respondent was found guilty, based on a plea of guilty, of Sexual abuse in the third degree, in violation of New York Penal Law §130.55, a class B misdemeanor.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(i) by being convicted of committing an act constituting a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *February 19, 2010*
Albany, New York

REDACTED

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