

Public

NEW YORK
state department of
HEALTH

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

Sue Kelly
Executive Deputy Commissioner

May 19, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joel E. Ablove, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237-0032

Rangarao Venkat Gummadapu, M.D.

REDACTED

Dennis A. First, Esq.
O'Connor, O'Connor, Bresee & First, P.C.
20 Corporate Woods Boulevard
Albany, New York 12211

RE: In the Matter of Rangarao Venkat Gummadapu, M.D.

Dear Parties:

Enclosed please find a **corrected copy** of the Determination and Order (No. 11-110) of the Hearing Committee in the above referenced matter. The first name of the Respondent, which was misspelled, and the name of the General Counsel has been corrected. Please replace your current copy with this corrected copy.

This does not change effective dates of the original mailing.

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

Rangarao Venkat Gummadapu, M.D.
NYS license # 136931

**Determination
and Order**

BPMC #11-110

COPY

A notice of referral proceeding and statement of charges, both dated January 13, 2011, were served on Respondent **Rangarao Venkat Gummadapu, M.D.** The statement of charges alleged violation of New York State Education Law 6530. A hearing was held at offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York, on March 23, 2011.

Pursuant to Public Health Law 230(10)(e), **Michael R. Golding, M.D.**, Chairperson, **Eleanor C. Kane, M.D.**, and **Janet M. Miller, R.N.**, duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee. **John Harris Terepka**, Administrative Law Judge, served as the administrative officer.

The Department of Health (the Petitioner) was represented by **James E. Dering, Esq.**, General Counsel, and appeared by **Joel E. Ablove, Esq.** **Rangarao Venkat Gummadapu, M.D.**, (the Respondent) appeared by his attorney, **Dennis A. First, Esq.** Evidence was received and a transcript of the proceedings was made. After consideration of the entire record, the hearing committee issues this determination and order.

JURISDICTION

As is set forth in Public Health Law 230(1)&(7) and Education Law 6530, the legislature created the State Board for Professional Medical Conduct in the Department of Health (the Department), and authorized it to conduct disciplinary proceedings in matters of professional medical conduct.

Definitions of professional misconduct applicable to physicians, physician assistants and specialist assistants are set forth in Ed.L 6530 and 6531. In this case, the Respondent, a physician, has been charged with misconduct pursuant to Ed.L 6530(9)(b)&(d).

Pursuant to PHL 230(10)(p), a "direct referral procedure" is authorized when a licensee is charged solely with a violation of Ed.L 6530(9). Charges of misconduct under Ed.L 6530(9) are based upon a criminal conviction or an administrative violation, in New York State or another jurisdiction, establishing conduct that would constitute a crime or professional misconduct if committed in New York. The scope of the hearing is limited to whether there is a relevant conviction or administrative determination and if so, to a determination of the nature and severity of the penalty to be imposed. PHL 230(10)(p). Hearing procedures are set forth in Department of Health regulations at 10 NYCRR Part 51.

EVIDENCE

Witnesses for the Petitioner:	None
Petitioner exhibits:	Department Exhibits 1-5.
Witnesses for the Respondent:	None
Respondent exhibits:	Respondent Exhibits A-F.

A transcript of the hearing was made. (Transcript, pages 1-18.)

FINDINGS OF FACT

An opportunity to be heard having been afforded the parties and evidence having been considered, it is hereby found:

1. Respondent Rangarao Venkat Gummadapu, M.D. was authorized to practice medicine in New York State on December 1, 1978 under license number 136931. (Department Exhibit 4.)

2. On September 22, 2010, the Alabama State Board of Medical Examiners, after a hearing, revoked the Respondent's license to practice medicine. The Alabama Board based its determination upon the following findings of fact:

1. Between May of 2007 and December of 2008, Dr. Gummadapu performed inappropriate breast examinations on several female patients.
2. Dr. Gummadapu has performed inadequate medical examinations and has prescribed controlled substances for reasons not documented in patient charts.
3. Dr. Gummadapu has left pre-signed blank prescription forms to be used by his staff while he was out of the office, and his staff issued controlled substances prescriptions using such pre-signed blanks when Dr. Gummadapu was not in the office.
4. Based upon evaluations conducted by two separate facilities, the [Medical Licensure Commission of Alabama] finds that Dr. Gummadapu's cognitive status is substantially impaired. Such impairment makes it impossible for Dr. Gummadapu to safely practice medicine. (Department Exhibit 5.)

HEARING COMMITTEE DETERMINATION

After reviewing records obtained from the Alabama State Board of Medical Examiners (Department Exhibit 5), the hearing committee unanimously determined that, as alleged in the statement of charges, the Respondent violated Ed.L 6530(9)(b) and (d), which define professional misconduct, in pertinent part, as:

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.

(d) Having his or her license to practice medicine revoked... where the conduct resulting in the revocation... would, if committed in New York state, constitute professional misconduct under the laws of New York state.

The decision and order of the Alabama Board includes conclusions that the Respondent engaged in sexual misconduct in the practice of medicine; practiced in a manner which endangered the health of his patients; distributed controlled substances for other than legitimate medical purposes; and was unable to practice medicine with reasonable skill and safety as the result of a mental or physical condition. These were all held to constitute violations of Alabama law regarding the practice of medicine. (Department Exhibit 5.)

The Petitioner alleged that the conduct resulting in the Alabama disciplinary action establishes seven forms of misconduct under New York law:

1. Negligence on more than one occasion. Ed.L 6530(3).
2. Gross negligence. Ed.L 6530(4).
3. Incompetence on more than one occasion. Ed.L 6530(5).
4. Gross Incompetence. Ed.L 6530(6).
5. Practicing the profession while impaired by mental disability. Ed.L 6530(7).
6. Moral unfitness. Ed.L 6530(20).
7. Willfully harassing, abusing, or intimidating a patient. Ed.L 6530(31).

The committee agreed that the findings and conclusions of the Alabama Board establish negligence, gross negligence, incompetence, gross incompetence, practicing while impaired, and moral unfitness. The Petitioner failed, however, to explain at the hearing or in its charges how the Alabama findings establish willful harassment, abuse or intimidation, and such conduct is not self-evident in the Alabama orders. The Petitioner's allegations based upon Ed.L 6530(3), 6530(4), 6530(5), 6530(6), 6530(7) and 6530(20) are sustained. The Petitioner's allegation based upon Ed.L 6530(31) is not sustained.

The Petitioner recommended revocation of the Respondent's license. (Transcript, page 15.) The hearing committee agreed that the decision of the Alabama Board shows that allowing the Respondent to practice medicine in New York would present a danger. The Respondent failed to appear personally to argue for a different conclusion. His attorney offered nothing but a few letters of general support, all dated well before the Alabama decision and none of which even reflects awareness of its existence. (Respondent Exhibits A-D.) The hearing committee determined that revocation of the Respondent's license pursuant to PHL 230-a(4) is the appropriate penalty.

The hearing committee's vote sustaining the charges of misconduct pursuant to Ed.L 6530(9)(b)&(d), and revoking the Respondent's license, was unanimous (3-0).

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in New York State is **REVOKED**.

This order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required under PHL 230(10)(h).

Dated: Albany, New York

By: REDACTED
Michael R. Golding, M.D. _____
Chairperson

Eleanor C. Kane, M.D.
Janet M. Miller, R.N.

To: Joel E. Ablove, Esq., Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower, Empire State Plaza
Albany, New York 12237-0032

Rangarao Venkat Gummadapu, M.D.

REDACTED

Dennis A. First, Esq.
O'Connor, O'Connor, Bresee & First, P.C.
20 Corporate Woods Boulevard
Albany, New York 12211

APPENDIX I



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

IN THE MATTER
OF
RANGARAO VENKAT GUMMADAPU, M.D.
CO-09-07-4168-A

NOTICE OF
REFERRAL
PROCEEDING

TO: RANGARAO VENKAT GUMMADAPU, 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 23rd day of March, 2011, 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

January 13, 2011

REDACTED

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

Inquiries should be addressed to:

Joel E. Ablove
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

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

IN THE MATTER
OF
RANGARAO VENKAT GUMMADAPU, M.D.
CO-09-07-4168-A

STATEMENT
OF
CHARGES

RANGARAO VENKAT GUMMADAPU, M.D., Respondent, was authorized to practice medicine in New York state on December 1, 1978, by the issuance of license number 136931 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about September 22, 2010, 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, distributed by prescribing, dispensing, furnishing or supplying controlled substances to persons or patients for reasons other than a legitimate medical purpose, and the fact that Respondent is unable to practice medicine with reasonable skill and safety to patients as a result of a mental or physical condition.

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);
5. New York Education Law §6530(7) (practicing the profession while impaired by mental disability);

6. New York Education Law §6530(20) (moral unfitness); and/or
7. New York Education Law §6530(31) (willfully harassing, abusing, or intimidating a patient either physically or verbally).

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: *January 13*, 2011
Albany, New York

REDACTED

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