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COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2008-004

In the Matter of

Rapin Osathanondh, M.D.

Rescinded 3/5/08

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine ("Board") has reason to believe that in Docket No. 07-658, Rapin Osathanondh, M.D. ("Respondent") has violated G.L. c. 112, § 5(c) and 243 CMR 1.03(5)(a)3 in that he engaged in conduct that calls into question his competence to practice medicine; violated 243 CMR 1.03(5)(a)18 in that he engaged in misconduct in the practice of medicine; violated 243 CMR 1.03 (5)(a)10 by engaging in conduct that has the capacity to deceive or defraud; violated G.L. c. 112, § 5(a) and 243 CMR 1.03(5)(a)1 in that he fraudulently obtained renewal of his medical license by providing false information on his Physician Registration Renewal Applications; and he engaged in conduct that undermines the public confidence in the integrity of the medical profession in violation of the standards set forth in Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979) and Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982).

Biographical Information

1. The Respondent was born on January 20, 1943. He is certified by the American Board of Obstetrics and Gynecology. He graduated from the Faculty of Medicine, Mahidol University, Thailand in 1967. He has been licensed to practice medicine in Massachusetts under

certificate number 36797 since 1974. He is a solo practitioner at Women's Health Center (WHC) in Hyannis, Massachusetts. He does not have any hospital privileges.

Factual Allegations

Patient A

2. On September 13, 2007, Patient A, a healthy 22 year-old female, had an appointment for a surgical procedure at WHC.
3. Prior to performing the procedure, the Respondent administered fentanyl, midazolam, and propofol to Patient A to induce sedation.
4. After administering the sedation, the Respondent performed a surgical procedure on Patient A.
5. The Respondent administered the sedation and performed the procedure on Patient A in Room 1.
6. During the procedure, Patient A's eyes were closed and she did not speak.
7. During Patient A's procedure, Room 1 did not have any means of cardiac monitoring.
8. During Patient A's procedure, Room 1 did not have a functioning blood pressure cuff.
9. During Patient A's procedure, KN, an office worker, was the only other staff member with the Respondent in Room 1.
10. At the time of Patient A's procedure, KN had no CPR training nor did she have any training in resuscitative measures.
11. After the procedure, the Respondent attempted to awaken Patient A by calling her name but Patient A did not respond.

12. The Respondent attempted to administer basic cardiac life support measures to Patient A.
13. The Respondent left Room 1 to get epinephrine.
14. The Respondent administered intra-cardiac epinephrine to Patient A.
15. The Respondent failed to adhere to the Massachusetts Medical Society Office-Based Surgery Guidelines as endorsed by the Board.
16. The Respondent failed to have present a qualified individual, who was not performing the procedure, who had documented competence to administer sedation and monitor Patient A.
17. The Respondent failed to have present a qualified individual with the ability to assist in any support or resuscitative measures as required.
18. The Respondent failed to monitor Patient A with a pulse oximeter during the procedure.
19. The Respondent failed to monitor Patient A with a cardiac monitor during the procedure.
20. The Respondent failed to have oxygen available in Room 1 to administer to Patient A.
21. The Respondent failed to timely initiate a call to 911.
22. The Respondent failed to maintain an adequate airway for Patient A.
23. The Respondent failed to adhere to basic cardiac life support protocol.
24. Following the procedure, Patient A was transported to the hospital where she was pronounced dead.
25. The Respondent's care of Patient A was substandard.

Conduct that Has the Capacity to Deceive or Defraud

26. The Respondent told Board staff that he administered oxygen to Patient A during her procedure when he did not.

27. The Respondent told Board staff that Patient A was monitored via a pulse oximeter during her procedure when she was not.

28. Initially, the Respondent told Board staff that KN was ACLS certified when she was not.

29. Initially, the Respondent told Board staff that he was ACLS certified when he was not.

30. The Respondent told Board staff that he did not leave Room 1 from the time he began CPR until the ambulance arrived when this was not true.

31. After Patient A's death and before Board staff's visit to WHC, the Respondent made structural changes to WHC resulting in the expansion of Room 2.

32. The Respondent failed to inform Board staff that structural changes had been made to WHC after Patient A's death.

33. When Board staff visited the Respondent's office, he brought Board staff to the enlarged Room 2.

34. The Respondent represented to Board staff that he had performed Patient A's procedure in the enlarged Room 2, which is not true.

35. There was an oxygen tank, resuscitative equipment, blood pressure device, and medications in the enlarged Room 2.

36. The Respondent represented to Board staff that the equipment present in Room 2 during Board staff's visit was present in Room 2 during Patient A's procedure.

37. The Respondent represented to Board staff that currently, all surgical procedures are performed in the enlarged Room 2, which is not true.

38. The Respondent told Board staff that he had privileges at MetroWest Medical Center.

39. The Respondent indicated that he had privileges at MetroWest Medical Center on his Physician Renewal Application, which he signed on December 20, 2004.

40. The Respondent indicated that he had privileges at MetroWest Medical Center on his Physician Renewal Application, which he signed on December 20, 2006.

41. The Respondent had privileges at MetroWest Medical Center from November 2002 until November 2004.

Legal Basis for Proposed Relief

Pursuant to G.L. c. 112, §5(c) and 243 C.M.R. 1.03(5)(a)3, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician engaged in conduct which calls into question his competence to practice medicine, including but not limited to gross misconduct in the practice of medicine, or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions.

Pursuant to 243 CMR 1.03 (5)(a)10, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has engaged in conduct that has the capacity to deceive or defraud.

Pursuant to 243 CMR 1.03(5)(a)18, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has committed misconduct in the practice of medicine.

Pursuant to G.L. c. 112, § 5(a), and 243 CMR 1.03(5)(a)1, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician fraudulently obtained renewal of his medical license by providing false information on his Physician Registration Renewal Application.

Pursuant to Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979) and Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982), the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician lacks good moral character and has engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01, *et seq.*

Nature Of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

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Order

Wherefore, it is hereby **ORDERED** that the Respondent show cause why he should not be disciplined for the conduct described herein.

By the Board of
Registration in Medicine,



Martin Crane, M.D.
Chair

Dated: February 20, 2008

Rescinded 3/5/08