



Department
of Health

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HOWARD A. ZUCKER, M.D., J.D.
Acting Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

March 4, 2015

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Gerard A. Cabrera, Esq.
NYS Department of Health
90 Church Street – 4th Floor
New York, New York 10007

Anthony Z. Scher, Esq.
Wood & Scher
222 Bloomingdale Road – Suite 311
White Plains, New York 10605

Glenn Reginald Jeffery, M.D.
c/o Wood & Scher
222 Bloomingdale Road – Suite 311
White Plains, New York 10605

RE: In the Matter of Glenn Reginald Jeffery, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 15-052) 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. 2013) and §230-c subdivisions 1 through 5, (McKinney Supp. 2013), "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., 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,


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**

CCPY

**IN THE MATTER
OF
GLENN REGINALD JEFFERY, M.D.**

**DETERMINATION
AND
ORDER**

BPMC #15-052

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("the Department"). A Notice of Hearing ("NOH") and Statement of Charges ("SOC") both dated September 19, 2014 were served on Glenn Reginald Jeffery, M.D. ("Respondent"), and a hearing was held pursuant to N.Y. Public Health Law ("PHL") §230 and New York State Admin. Proc. Act §§301-307 and 401 on October 31, 2014 at the Department's offices at 90 Church Street, New York, New York. A copy of the NOH and SOC is attached to this Determination and Order as Appendix 1. Airlie A.C. Cameron, M.D., M.P.H., Chair, Cassandra E. Henderson, M.D., and Constance Garrow Diamond, D.A., duly designated members of the State Board for Professional Medical Conduct ("Board"), served as the Hearing Committee ("Hearing Committee" "Committee" or "Panel") in this matter. Ann H. Gayle, Administrative Law Judge ("ALJ"), served as the Administrative Officer. The Department appeared by James E. Dering, Esq., General Counsel, by Gerard A. Cabrera, Associate Counsel. The Respondent appeared by Anthony Z. Scher, Esq., of Wood & Scher. Evidence was received, including witnesses who were sworn or affirmed, and a transcript of this proceeding was made.

All Hearing Committee findings, conclusions, and determinations in this Determination and Order are unanimous. The citations in brackets refer to transcript page numbers ["T"] and

exhibits ["Ex"] that were accepted into evidence. Any testimony or exhibit not cited was considered and rejected by the Committee in favor of what was cited.

PROCEDURAL HISTORY

Date of Service of NOH and SOC:	October 6, 2014
Answer Filed:	October 22, 2014
Pre-Hearing Conference:	October 31, 2014
Hearing Date:	October 31, 2014
Witness for Petitioner:	Demetrios Georgakopoulos
Witness for Respondent:	Respondent
Deliberations Date:	January 23, 2015

STATEMENT OF THE CASE

The Department charged the Respondent with one specification of professional misconduct under N.Y. Educ. Law §6530(23) for revealing personally identifiable information about a patient without the prior consent of the patient. Respondent admitted the allegations set forth in Paragraph A of the Factual Allegations except that he stated affirmatively that he revealed such information for ethical reasons and to aid in the protection of the patient and her child. Respondent denied that there was a violation of Educ. Law §6530(23) claiming that such section is pre-empted by the Federal HIPAA, and he specifically stated that the disclosure was authorized by 45 CFR §164.512(j) which authorizes disclosure when it is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.

FINDINGS OF FACT

1. Respondent was authorized to practice medicine in New York State on November 19, 1991, by the issuance of license number 187649 by the New York State Education Department. [Ex 1; Ex 2]
2. Respondent treated Patient A in December 2011 in his capacity as a locum tenens psychiatrist at Lincoln Medical and Mental Health Center ("Lincoln") in Bronx, New York. [Ex 3; T 30, 32-33]
3. Patient A reported to Lincoln that she had been raped by her father and a person in the community whom Patient A called "the chicken place guy." She also reported that she was sexually molested by her uncle. [Ex 3; T 36-37].
4. A rape kit must be done within 96 hours of an alleged rape. The alleged rape(s), which were reported to the Bronx District Attorney's office and police precinct, occurred more than 96 hours prior to her reporting them to Lincoln. [Ex 3, p 168; T 20, 40-41, 68-69, 96-98]
5. When Respondent learned of the alleged rapes, he reported his concerns (that proper procedures for addressing reports of rapes might not have been followed) to his Department Chair, Risk Management, and Lincoln's/HHC's legal counsel. [T 42-43, 45-47]
6. In December 2011 Respondent was terminated from Lincoln, and in January 2012 he was brought to Bellevue Hospital for a psychiatric evaluation, then hospitalized for one week for his psychiatric issues at Long Island Jewish Hospital. [T 48-49, 54-56]
7. In January 2012, Respondent sent email and letters which included Patient A's personally identifiable information to approximately 40 people including not only his Department Chair, Risk Management, and Lincoln's and HHC's legal counsel and CEO but also the New York Times, a New York Times reporter, the Bronx District Attorney's office, a clergyman,

elected officials, personal contacts and others without obtaining Patient A's prior consent.

[Ex 4; T 50-52, 58, 62, 63, 74-75, 80-82]

8. Respondent knew that revealing personally identifiable information about a patient without the patient's prior consent is against the law but he did so as a matter of conscience, for vindication, out of self-righteousness and outrage, and while he was experiencing a hypomanic episode of his illness. [T 22-24, 52-54, 63-65, 73, 93-96]
9. 45 CFR §164.512(j) authorizes disclosure of patient information when it is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; revealing Patient A's personally identifiable information in January 2012 was not necessary to prevent harm as there was no imminent threat to Patient A, her child, or the public in January 2012. [Ex 3, p 168; Ex A; T 68-71]

CONCLUSIONS OF LAW

The one Specification of Charges of professional misconduct under Educ. Law §6530(23) with which Respondent is charged is sustained. Respondent revealed personally identifiable information about Patient A that he obtained in his professional capacity as a locum tenens psychiatrist at Lincoln to numerous individuals and entities without Patient A's prior consent. There was no imminent threat to Patient A, her child, or the public when Respondent revealed the personally identifiable information in January 2012, therefore any authorization under 45 CFR §164.512(j) for disclosure of patient information did not apply to this situation.

DISCUSSION

Respondent testified in his own behalf, and the Department presented one witness, Demetrios Georgakopoulos, now Supervising Medical Conduct Investigator with the Office of Professional Medical Conduct ("OPMC"), Senior Medical Conduct Investigator when OPMC

investigated this matter (T 14-15). The Committee found Mr. Georgakopoulos to be credible, and while the Committee found that Respondent did not always answer the questions he was asked or answer questions directly, and that he offered unnecessary information (T 37-38, 56-58), the Committee did find him to be credible.

The Panel agrees with Respondent—who sees himself as “a chicken at heart, kind of cowardly ...” someone who tries to keep his life “within the bounds” (T 95)— that the circumstances at the time, particularly his being fired from Lincoln and his then grandiosity and hypomania, led him to the actions he took (T 63-65, 93-96). The Committee believes that Respondent’s actions arose from his concern for the patient but finds there was no imminent threat in January 2012, and as such his actions were not necessary to prevent harm. In his interview with OPMC, Respondent said under the same circumstances he would do it again and under the same circumstances he would not do it again (T 23-24, 26-27), but at the hearing Respondent testified that while he sees injustice on a daily basis, “one cannot go off on every tangent” (T 95), he is “not unhappy” to be before this tribunal, and he “trust[s] the counsel of ... this panel and their decisions” (T 96). The decision of this Panel is to discipline Respondent for his misconduct.

HEARING COMMITTEE DETERMINATION AS TO PENALTY

Respondent’s attorney argued that the Panel could dismiss this case in the interest of justice even if the Panel finds there was a strict violation of the statute in the technical sense. He also argued that the Panel has the power to find that the statute was violated, the conduct was committed, but no penalty is required, and urged the Panel to do so. The Department argued that Respondent violated the law that was meant to protect Patient A, and the penalty should be commensurate with what the Committee believes is appropriate for that kind of violation.


The Committee, having considered the full range of penalties available pursuant to PHL §230-a as well as no penalty, determined that a penalty is warranted for Respondent's misconduct. The law requires, and patients expect, personally identifiable information which licensed physicians receive in their professional capacity to be kept confidential. Respondent breached that trust and violated Educ. Law §6530(23). Because this serious breach was tempered by Respondent's sincerity in trying to help Patient A and because the overzealous way he acted was due in part to his own acknowledged mental issues which are being addressed (T 61-62, 89-93), the Committee finds the appropriate penalty to be a censure and reprimand.

ORDER

IT IS HEREBY ORDERED THAT:

1. The misconduct charge under Educ. Law §6530(23) of revealing personally identifiable information obtained in a professional capacity without a patient's prior consent is sustained.
2. Pursuant to PHL §230-a.1, Respondent is censured and reprimanded.
3. This order shall be effective upon service on the Respondent by personal service or by certified mail as required under PHL §230.10(h).

DATED: New York, New York
March 2, 2015


AIRLIE A.C. CAMERON, M.D., M.P.H., Chair
CASSANDRA E. HENDERSON, M.D.
CONSTANCE GARROW DIAMOND, D.A.

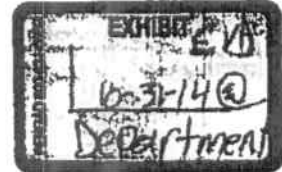
APPENDIX 1

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

IN THE MATTER
OF
GLENN REGINALD JEFFERY, M.D.

NOTICE
OF
HEARING

TO: Glenn Reginald Jeffery, M.D.
c/o Anthony Z. Scher, Esq.
Wood & Scher, Attorneys at Law
222 Bloomingdale Road, Suite 311
White Plains, New York 10605



PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on October 31, 2014, at 10:00 a.m., at the Offices of the New York State Department of Health, 90 Church Street, Fourth Floor, New York, N.Y. 10007, and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel who shall be an attorney admitted to practice in New York state. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses

DEPT EXHIBIT 1

and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here 

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone 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 HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten 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. 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

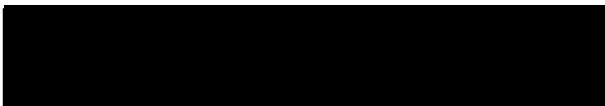
deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PERFORM MEDICAL SERVICES IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATE 9/17/14

New York, NY


Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be directed to:
Gerard A. Cabrera, Associate Counsel
Bureau of Professional Medical Conduct

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

IN THE MATTER
OF
GLENN REGINALD JEFFERY, M.D.

STATEMENT
OF
CHARGES

GLENN REGINALD JEFFERY, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 19, 1991, by the issuance of license number 187649 by the New York State Education Department.

FACTUAL ALLEGATIONS

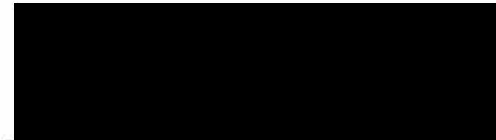
A. In or about January 2012, Respondent, while practicing as a locum tenens psychiatrist at Lincoln Medical and Mental Health Center, revealed Patient A's name and other personally identifiable information obtained in his professional capacity without the prior consent of Patient A; such disclosure to recipients, including but not limited to a reporter, an elected official, and personal contacts, was not authorized or required by law.

SPECIFICATION OF CHARGES**FIRST SPECIFICATION****REVEALING PERSONALLY IDENTIFIABLE INFORMATION****WITHOUT THE PRIOR CONSENT OF THE PATIENT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(23) by revealing of personally identifiable facts, data, or information obtained in a professional capacity without the prior consent of the patient, except as authorized or required by law, as alleged in the facts of:

1. Paragraph A.

DATE: September /9, 2014
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct

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Bureau of Professional Medical Conduct
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