

Public

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

In the Matter of

Chiman Patel, M.D. (Respondent)

A proceeding to review a Determination by a
Committee (Committee) from the Board for
Professional Medical Conduct (BPMC)

Administrative Review Board (ARB)

Determination and Remand Order No. 07-162

COPY

Before ARB Members Grossman, Lynch, Pellman, Wagle and Wilson
Administrative Law Judge James F. Horan drafted the Determination

For the Department of Health (Petitioner):
For the Respondent:

Robert Bogan, Esq.
P. Baird Joslin, Esq.

Following a hearing below, a BPMC Committee found that the Respondent engaged in conduct in another state that would amount to misconduct under New York Law. The Committee voted to place a permanent restriction on the Respondent's License to practice medicine in New York State (License). Now, following a joint motion from the counsel for both parties, and in accordance with our authority under New York Public Health Law (PHL) § 230-c (4)(b)(McKinney Supp. 2007), the ARB remands this case to the Committee for clarification on the permanent restriction.

The Committee conducted a hearing in this matter under the expedited hearing procedures (Direct Referral Hearing) in PHL § 230(10)(p). The Petitioner charged that the Respondent violated N. Y. Education Law (EL) §§ 6530(9)(b) & 6530(9)(d) by committing professional misconduct, because the duly authorized professional disciplinary agency from another state, Connecticut,

- found the Respondent guilty for improper professional conduct [6530(9)(b)], and/or,

- took disciplinary action against the Respondent's medical license in that state [6530(9)(d)],

for conduct that would constitute professional misconduct, if the Respondent had committed such conduct in New York. The Petitioner's Statement of Charges [Petitioner Exhibit 1] alleged that the Respondent's misconduct in Connecticut would constitute misconduct if committed in New York, under the following specifications:

- practicing medicine with negligence on more than one occasion, a violation under EL § 6530(3);
- practicing medicine with gross negligence, a violation under EL § 6530(4);
- delegating professional responsibilities to a person not qualified to perform those duties, a violation under EL § 6530(25);
- and, failing to exercise appropriate supervision over a person who may practice only under supervision, a violation under EL §6530(33).

Following the Direct Referral Proceeding, the Committee rendered the Determination now on review. In the Proceeding, the statute limits the Committee to determining the nature and severity for the penalty to impose against the licensee, see In the Matter of Wolkoff v. Chassin, 89 N.Y.2d 250 (1996).

The evidence at hearing indicated that the Connecticut Department of Public Health, Healthcare Systems Branch (Connecticut Board) entered into a Consent Order with the Respondent that placed a permanent restriction on the Respondent's Connecticut License to bar the Respondent from employment in a private, free-standing facility for the treatment of substance abuse and dependent persons. The Connecticut Board also imposed a civil penalty and placed the Respondent on probation, under terms that included completing a course on prescribing practices and ethics. The Connecticut Board based its Order on findings concerning improper delegation of medical tasks to a subordinate and improper prescription of medications.

The Committee determined that the Respondent's conduct in Connecticut made the Respondent liable for disciplinary action against his License. The Committee voted to restrict the

Respondent's License to prohibit the Respondent from providing substance abuse medical services and the Committee required the Respondent to complete the ethics training under the Connecticut Order within six months. The Committee rendered their Determination on July 31, 2007.

The Respondent's counsel then requested clarification on the Committee's Determination in a letter to the Administrative Officer for the ARB, with a copy to the Petitioner's counsel. The Respondent indicated that he works currently as a consulting psychiatrist one day per week at Arms Acres, Inc., an alcohol and substance abuse center in Carmel, NY, providing psychiatric consultations, with no substance abuse services. The Respondent asked for clarification as to whether he could continue to work at Arms Acres, Inc. performing only psychiatric consultations. Following a conference call on August 20, 2007, among counsel for the parties and the Administrative Officer for the ARB, the parties made a joint request that the ARB remand this matter to the Committee for clarification.

At our Deliberations on August 24, 2007, the ARB voted unanimously to remand this matter to the Committee for the clarification the Respondent requests. The Committee shall render the clarification in a Supplemental Determination that the Committee should then serve on the parties.

ORDER

NOW, with this Determination as our basis, the ARB renders the following ORDER:

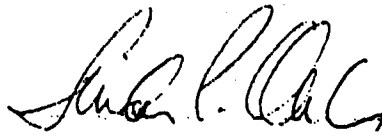
The ARB remands this matter to the Committee for clarification about the restriction on the Respondent's License.

Thea Graves Pellman
Datta G. Wagle, M.D.
Stanley L. Grossman, M.D.
Linda Prescott Wilson
Therese G. Lynch, M.D.

In the Matter of Chiman Patel, M.D.

Linda Prescott Wilson, an ARB Member concurs in the Determination and Order in the
Matter of Dr. Patel.

Dated: 30 August, 2007

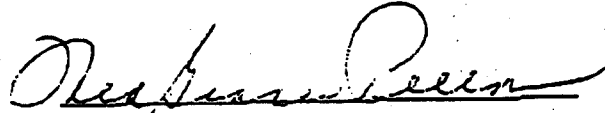


Linda Prescott Wilson

In the Matter of Chiman Patel. M.D.

Thea Graves Pellman, an ARB Member concurs in the Determination and Order in the
Matter of Dr. Patel.

Dated Aug 30, 2007

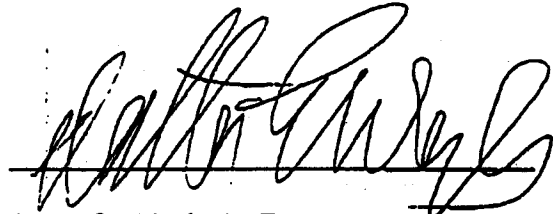


Thea Graves Pellman

In the Matter of Chiman Patel, M.D.

Datta G. Wagle, M.D., an ARB Member concurs in the Determination and Order in the Matter of Dr. Patel.

Dated: 8/29/, 2007

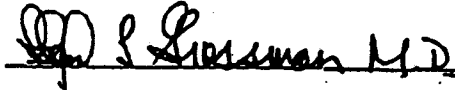


Datta G. Wagle, M.D.

In the Matter of Chiman Patel, M.D.

Stanley L. Grossman, an ARB Member concurs in the Determination and Order in the
Matter of Dr. Patel.

Dated: August 29, 2007

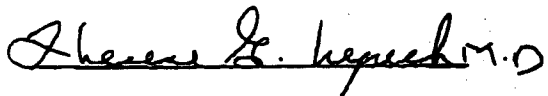
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Stanley L Grossman, M.D.

In the Matter of Chiman Patel, M.D.

Therese G. Lynch, M.D., an ARB Member concurs in the Determination and Order in the Matter of Dr. Patel.

Dated: August 28, 2007



Therese G. Lynch, M.D.