

**FILED**

May 16, 2005

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF MEDICAL EXAMINERS  
Docket No.

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IN THE MATTER OF THE SUSPENSION :	
OR REVOCATION OF THE LICENSE :	Administrative Action
OF :	
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:	<b>COMPLAINT</b>
SANTUSHT PERERA, M.D. :	
LICENSE NO. MA06664200 :	
:	
:	
TO PRACTICE MEDICINE AND :	
SURGERY IN THE STATE OF NEW :	
JERSEY :	
:	
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**GENERAL ALLEGATIONS**

1. Complainant, Attorney General of New Jersey, is charged with enforcing the laws of the State of New Jersey pursuant to N.J.S.A. 52:17A-4(h) and is empowered to initiate administrative disciplinary proceedings against persons licensed by the Board of Medical Examiners (the "Board") pursuant to N.J.S.A. 45:1-14, et seq.

<sup>1</sup>  
**CERTIFIED TRUE COPY**

2. The Board is charged with the duty and responsibility of regulating the practice of medicine and surgery in the State of New Jersey pursuant to N.J.S.A. 45:9-1, et seq.

3. Respondent, Santusht Perera, M.D., is licensed to practice medicine in the State of New Jersey and is the holder of License No. MA06664200. Dr. Perera's practice includes, among other things, thoracic surgery.

4. During all times relevant to this Complaint, Dr. Perera maintained offices for the practice of medicine at 50 West Lawn Drive, Teaneck, New Jersey, and 142 Palisades Avenue, Suite 202, Jersey City, New Jersey. Dr. Perera would, on occasion, see patients at the offices of Pavonia Medical Associates, P.A., located at 600 Pavonia Avenue, Jersey City, New Jersey and at 1265 Paterson Plank Road, Secaucus, New Jersey.

5. During all times relevant to this Complaint, Dr. Perera was a member of the Medical Staff of, and maintained admitting privileges at, Meadowlands Hospital Medical Center, located at 55 Meadowlands Parkway, Secaucus, New Jersey.

6. Initials are being used in this Complaint to protect the confidentiality of the patient referenced herein. The patient's identity has been made known to the Respondent and the Board of Medical Examiners.

## FIRST COUNT

1. The General Allegations are repeated and realleged as if set forth at length herein.

2. The patient R. F. was a sixty-year-old male who suffered from multiple medical problems. Among other things, R. F. had coronary artery disease, atrial fibrillation, moderately severe chronic obstructive pulmonary disease, and sleep apnea. R. F., in addition, had suffered a myocardial infarction and had undergone both coronary angioplasty and coronary artery bypass surgery.

3. R. F. had an episode of hemoptysis, which is the expectoration of blood, in November 1999, and experienced another episode of hemoptysis in April 2000. After the second episode, R. F. sought medical care from George J. Ciechanowski, M.D., a pulmonologist.

4. Dr. Ciechanowski obtained a chest x-ray of R. F. on April 12, 2000. That x-ray revealed, among other things, a retrocardiac density that measured several millimeters in size. The x-ray did not reveal any mass in the right lung.

5. Dr. Ciechanowski performed a bronchoscopy upon R. F. on April 25, 2000. During the course of the bronchoscopy, Dr. Ciechanowski obtained a tissue specimen from the lower lobe of the patient's left lung. Dr. Ciechanowski also obtained a hemorrhagic bronchial wash and brush biopsy of the left lower lobe.

6. A pathology report of the specimens that Dr. Ciechanowski obtained during the bronchoscopy indicated that a carcinoid tumor was present in the **lower lobe** of R. F.'s **left lung**.

7. Dr. Ciechanowski also obtained a CT scan of R. F.'s chest on April 27, 2000. The CT scan showed a 3-centimeter hilar mass in the **left lung**. The CT scan also revealed a 1.5 by 1.5 centimeter area of increased density in the peripheral aspect of the lateral segment of the **middle lobe** of the **right lung**.

8. No clinical evidence or diagnostic testing of any kind confirmed that the nodular density in the periphery of the right middle lobe was a carcinoid.

9. In August 2000, Dr. Ciechanowski referred R. F. to Dr. Perera for an evaluation for possible surgery.

10. R. F.'s various maladies substantially compromised the functioning of R. F.'s lungs. R. F. suffered from moderately severe chronic obstructive pulmonary disease, or emphysema. In addition, the carcinoid in R. F.'s left lung caused a substantial portion of the lower lobe of that lung to collapse. A lung function test performed on R. F. on June 20, 2000, showed that R. F.'s lung capacity was 56% of normal.

11. R. F.'s severely compromised lung function rendered R. F. a poor candidate for the removal of any portion of R. F.'s lungs.

12. On August 29, 2000, Dr. Perera examined the patient R. F. During the course of the examination, Dr. Perera prepared an office note that stated, among other things, "Patient with biopsy of the left lower lobe currently without symptoms /carcinoma? /Dr. Chiechanowski [sic]." Dr. Perera scheduled R. F. for a lobectomy, which is the removal of a portion of the patient's lung, at Meadowlands Hospital Medical Center.

13. On September 5, 2000, R. F. was admitted to Meadowlands Hospital Medical Center. Dr. Perera obtained a chest x-ray of R. F. as part of R. F.'s preadmission testing. The chest x-ray failed to indicate any mass or density in the right lung.

14. Dr. Perera failed to order a CT scan of R. F.'s chest. The last CT scan of R. F.'s lungs taken before R. F.'s admission to Meadowlands Hospital was the study that Dr. Ciechanowski obtained on April 27, 2000. That is, the most recent CT scan study available to Dr. Perera was more than four months old at the time of R. F.'s admission.

15. At the time of admission, Dr. Perera completed a "Physical Examination" sheet for R. F.

16. Dr. Perera's Physical Examination notes are remarkable in that they failed to describe any condition in R. F.'s left lung, even though several diagnostic tests, including chest x-rays, a CT scan and a bronchoscopy, supported the diagnosis of a carcinoid tumor in the lower lobe of R. F.'s left lung.

17. Dr. Perera's Physical Examination notes are further remarkable in that they describe a right **lower** lobe **carcinoid**. No diagnostic tests of any type confirmed that any carcinoid was present in R. F.'s right lung. The only indication of a mass in R. F.'s right lung was the finding of a "small nodular density" from the April 27, 2000 CT scan. In any event, that density was in the periphery of the **middle** lobe of the right lung.

18. At 8:50 a.m. on September 5, 2005, Dr. Perera commenced surgery on R. F. Dr. Perera entered R. F.'s chest and removed the lower lobe of R. F.'s **right lung**. Dr. Perera stated in his Report of Operation that "a stapler could not be adequately positioned without compromising the airway of the middle lobe." Dr. Perera further concluded, as stated in his Report of Operation, "As the middle lobe also had a [sic] abnormal consistency it was determined at this point that there may be some pathology in the middle lobe as well." Accordingly, Dr. Perera removed the middle lobe of R. F.'s right lung.

19. The surgery that Dr. Perera performed is remarkable for several reasons. Among other things, Dr. Perera began by removing the entire lower lobe of R. F.'s right lung even though no diagnostic test indicated any mass in R. F.'s right **lower** lobe. The only indication of a mass in R. F.'s right lung was the April 27, 2000 CT scan that indicated a small nodular density in the periphery of the right **middle** lobe.

20. Those portions of the right lung that Dr. Perera removed during surgery were subject to pathological examination. The pathology report demonstrated that no carcinoid was found in any of the lung tissue that Dr. Perera removed during R. F.'s surgery.

21. Dr. Perera should have removed that portion of R. F.'s lungs that contained the confirmed carcinoid. That carcinoid was located in the lower lobe of R. F.'s **left** lung.

22. Dr. Perera committed error in that he removed the lower and middle lobes of R. F.'s **right** lung.

23. Those portions of R. F.'s lungs that Dr. Perera removed did not contain any carcinoid.

24. Dr. Perera's error in removing the wrong portions of R. F.'s lungs constitutes gross negligence.

25. Dr. Perera's gross negligence in removing the wrong portions of R. F.'s lungs subjected R. F. to a substantial risk of harm and to substantial actual harm in that, among other things:

a. The removal of the wrong lung tissue substantially reduced R. F.'s lung capacity. Such a reduction had an especially adverse effect upon R. F., a patient who already suffered from a severely compromised lung function.

b. The removal of the wrong lung tissue utterly precluded any surgical excision of the confirmed carcinoid in the left lung. A substantial probability existed, moreover, that the carcinoid in the left lower lobe would have required such

treatment. The carcinoid had already caused a partial collapse of R. F.'s left lung and could be expected to produce further collapse. In addition, the carcinoid had produced hemoptysis and could be expected to bleed again. The risk of further bleeding was high because R. F. was receiving Coumadin to treat his atrial fibrillation. Coumadin is an anticoagulant and hence can facilitate bleeding. Either a further collapse of the left lung or additional bleeding would require treatment. A removal of the left lower lobe would have been the preferred treatment for the carcinoid in that lobe. Dr. Perera's erroneous removal of R. F.'s right lower and middle lobes, however, left R. F. with insufficient lung capacity to tolerate the removal of any additional lung tissue. Further excision of lung tissue would have left R. F. unable to breathe.

26. The conduct of Dr. Perera in his treatment of the patient R. F. constitutes gross malpractice in violation of N.J.S.A. 45:1-21(c).

#### **SECOND COUNT**

1. The General Allegations and the allegations of the First Count are repeated and realleged as if set forth at length herein.

2. Even if Dr. Perera had made a deliberate decision to operate on R. F.'s **right** lung, Dr. Perera nevertheless still committed gross negligence.

**A. Dr. Perera Committed Gross Malpractice By Failing to Obtain a Timely CT Scan of the Patient R. F.'s Lungs.**

3. The report of the CT scan of April 27, 2000, noted a "small nodular density" in the "lateral segment of the right middle lobe." A number of different conditions could have caused such a density. Although the density could have been a carcinoid, the finding at best merely suggests the possibility of a carcinoid.

4. No diagnostic test ever confirmed that the density in the periphery of the right middle lobe was a carcinoid. Moreover, at least two other tests contradicted the finding of a density. The chest x-ray of April 14, 2000, failed to note any density in the right lung. Similarly, the chest x-ray of September 5, 2000, the study taken upon R. F.'s admission to Meadowlands Hospital, failed to indicate any mass or density in the right lung.

5. The density, moreover, could have been a benign condition that could have resolved without the need for surgical intervention.

6. The April 27, 2000 CT scan, the only test that indicated a density in the right lung, was performed over four months before the surgery on September 5, 2000. If the density indicated by the April 27, 2000 CT scan was a condition that would resolve, sufficient time had elapsed between the scan and the surgery to allow for a resolution of the condition.

7. Under these circumstances, the standard of care required Dr. Perera, at the least, to confirm the existence of the density on September 5, 2000, by obtaining another CT scan before undertaking surgery.

8. Because the pathology study of the tissue that Dr. Perera removed failed to show any carcinoid or other mass, a CT scan before surgery would have revealed the absence of a density or mass in the right lung. That is, a CT scan before surgery would have demonstrated that the removal of any portion of R. F.'s right lung was utterly unnecessary.

9. Dr. Perera failed to obtain a CT scan before surgery.

10. Dr. Perera's failure to obtain a CT scan before surgery constitutes gross negligence. Because Dr. Perera failed to order a CT scan before surgery, he failed to obtain basic and essential information that would have demonstrated that surgery to remove any portion of R. F.'s right lung was unnecessary.

**B. Dr. Perera Committed Gross Malpractice By Unnecessarily Removing Portions of the Patient R. F.'s Right Lung.**

11. The only indication of a mass in R. F.'s right lung was the report from the April 27, 2000 CT scan. The report indicated a small nodular density in the periphery of the right middle lobe.

12. Dr. Perera removed the entire lower lobe and the entire middle lobe of R. F.'s right lung.

13. If Dr. Perera indeed wished to excise whatever the small nodular density was in the right middle lobe, he should have performed a resection of the appropriate portion of the periphery of that lobe. The removal of the entire lower lobe and the removal of the entire middle lobe were unnecessary.

14. Dr. Perera's removal of R. F.'s entire right lower lobe and entire right middle lobe constitutes gross negligence.

15. Dr. Perera's gross negligence in failing to obtain a CT scan prior to surgery, and Dr. Perera's gross negligence in removing R. F.'s entire right lower lobe and entire middle lobe in order to excise a small nodular density on the periphery of the middle lobe, subjected R. F. to a substantial risk of harm and to substantial actual harm in that, among other things:

a. The unnecessary removal of the lung tissue substantially reduced R. F.'s lung capacity. Such a reduction had an especially adverse effect upon R. F., a patient who already suffered from a severely compromised lung function.

b. The removal of the wrong lung tissue utterly precluded any surgical excision of the confirmed carcinoid in the left lung. A substantial probability existed, moreover, that the carcinoid in the left lower lobe would have required such treatment. The carcinoid had already caused a partial collapse of R. F.'s left lung and could be expected to produce further collapse. In addition, the carcinoid had produced hemoptysis and

could be expected to bleed again. The risk of further bleeding was high because R. F. was receiving Coumadin to treat his atrial fibrillation. Coumadin is an anticoagulant and hence can facilitate bleeding. Either a further collapse of the left lung or additional bleeding would require treatment. A removal of the left lower lobe would have been the preferred treatment for the carcinoid in that lobe. Dr. Perera's erroneous removal of R. F.'s right lower and middle lobes, however, left R. F. with insufficient lung capacity to tolerate the removal of any additional lung tissue. Further excision of lung tissue would have left R. F. unable to breathe.

16. The conduct of Dr. Perera in his treatment of the patient R. F. constitutes:

- a. Gross malpractice in violation of N.J.S.A. 45:1-21(c); and
- b. Repeated acts of negligence, malpractice or incompetence in violation of N.J.S.A. 45:1-21(d).

### **THIRD COUNT**

1. The General Allegations and the allegations of the First and Second Counts are repeated and realleged as if set forth at length herein.

2. At some time after the surgery, Dr. Perera altered his medical records for R. F. Dr. Perera's medical records for R. F.

originally stated, "Patient with biopsy left lower lobe currently without symptoms /carcinoma? /Dr. Chiechanowski [sic]." Dr. Perera altered the medical records such that they stated, "Patient with biopsy of left lower lobe Patient seen currently without symptoms Needs right lower lobectomy for carcinoid? /carcinoma? Discussed with patient /Dr. Chiechanowski [sic] for admission next week."

3. Dr. Perera altered his medical records in order to create the false impression that he made a deliberate decision to excise portions of R. F.'s right lung and that he specifically discussed this decision with the patient.

4. Dr. Perera nowhere indicated that he had amended his records for R. F.

5. Dr. Perera's alteration of R. F.'s medical records, among other things:

a. Constitutes dishonesty, fraud, deception, misrepresentation and false pretense, in violation of N.J.S.A. 45:1-21(b);

b. Constitutes gross negligence, in violation of N.J.S.A. 45:1-21(c);

c. Constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e);

d. Constitutes a failure to maintain medical records that accurately reflect the treatment or services rendered in

violation of N.J.A.C. 13:35-6.5(b) and thus a violation of N.J.S.A. 45:1-21(h);

e. Constitutes a misdated correction or addition to medical records in violation of N.J.A.C. 13:35-6.5(b)(2) and thus a violation of N.J.S.A. 45:1-21(h);

f. Evidences an incapacity of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare in violation of N.J.S.A. 45:1-21(i); and

g. Demonstrates a lack of the good moral character which is a continuing requirement for licensure pursuant to N.J.S.A. 45:9-6.

WHEREFORE, the Attorney General of New Jersey demands the entry of an Order against the Respondent Santusht Perera, M.D.:

1. For the suspension or revocation of Respondent's license to practice medicine, pursuant to N.J.S.A. 45:1-21;

2. Directing Respondent to cease and desist the practice of medicine in the State of New Jersey, pursuant to N.J.S.A. 45:1-22(c);

3. Imposing penalties upon the Respondent for each separate offense set forth herein, pursuant to N.J.S.A. 45:1-22(b) and N.J.S.A. 45:1-25;

4. Imposing costs upon the Respondent, including investigative costs, fees for expert witnesses, attorney's fees and

costs of hearing, such as transcript costs, pursuant to N.J.S.A.  
45:1-25(d); and

5. For such other and further relief as the Board shall deem  
just and appropriate.

PETER C. HARVEY  
ATTORNEY GENERAL OF NEW JERSEY

By: 

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Kevin R. Jespersen  
Deputy Attorney General

Date: May 2, 2005