

**STATE OF RHODE ISLAND  
DEPARTMENT OF HEALTH**

In the Matter of  
Nomate Toate Kpea D.O.  
License Number DO 0331

C00-133, C04-55A, C04-323, C04-459, C05-565, C06-696, C07-405

**Consent Order**

Pursuant to R.I. General Laws §5-37-5.2, 1956, as amended, (2004 Reenactment) the Board of Medical Licensure and Discipline (hereinafter referred to as “Board”) has received information relating to the Respondent’s practice of Dermatology. The following constitutes the Investigating Committee’s Findings:

**FINDINGS OF FACT**

1. Nomate Toate Kpea is a 1984 graduate of the Chicago College of Osteopathic Medicine and has practiced medicine in Rhode Island since 1985. He completed Dermatology training at the Brown Residency Program in Dermatology.
2. Respondent’s Dermatology practices are organized as Skin Medicine and Cosmetic Surgery Centers, Inc. with offices at multiple offices and a primary business address of 647 Jefferson Blvd., Warwick, Rhode Island. Currently these offices include one in Warwick, one in Providence, one in North Smithfield, one in Newport and one in Narragansett.

3. Respondent sees patients and supervises advanced practice clinicians at these sites. Supervision is often off site. Advanced practice clinicians receive specific training in Dermatology from the Respondent but otherwise have no formal training in the area.
4. Respondent is a member of both the American College of Anti-aging Medicine and the American Society for Mohs Surgery.
5. Respondent has not completed a fellowship in Mohs surgery but has participated in courses and CME devoted to Mohs. Respondent performs Mohs surgery in his practice and receives referrals for Mohs surgery from providers employed by his practice.
6. Respondent is not a Dermatopathologist. He holds certification in Dermatology. Respondent often reviewed the pathology slides of skin biopsies to guide diagnosis and treatment of his patients.
7. The Board investigated a complaint regarding Patient A alleging misdiagnosis and inappropriate use of Mohs surgery. In this case the Board finds that Respondents diagnosis of Squamous Cell Carcinoma [SCC] *in situ* to be incorrect with Actinic Keratosis [AK] the correct diagnosis.
8. The Board investigated a complaint regarding Patient B alleging Respondent misidentified AK as SCC and failed to identify Basal Cell Carcinoma [BCC]. Additionally, in performing a Mohs excision Respondent performed an incomplete excision and missed obvious tumor at the lowest level excised. In this case the Board finds the allegations to be substantiated.

9. The Board investigated a complaint regarding Patient C alleging Respondent misidentified nonmalignant skin lesions as SCC. In this case the Board finds the allegations to be substantiated.
10. The Board investigated a complaint regarding Patient D alleging failure to provide appropriate supervision to an advanced practice clinician seeing patients at a Skin Medicine practice. The advanced practice clinician misidentified a skin lesion that was later determined to be malignant melanoma. In this case the Board finds the Respondent's specific dermatology training for his non-physician clinicians and their supervision to be inadequate and therefore the allegations are substantiated.
11. The Board investigated a complaint regarding Patient D alleging Respondent's advertisements and practice model had a tendency to deceive the public. In this case the Board finds the allegations to be substantiated.
12. The Board investigated a complaint regarding Patient E and F alleging inappropriate prescription of Human Growth Hormone. Although Respondent was not using this medication for its purported anti-aging effect in violation of FDA regulations, his evaluation of the patients failed to include appropriate elements of the history and physical examinations and therefore failed to meet minimum standards.
13. The Respondent has violated Rhode Island General Laws § 5-37-5.1 for failing to meet the minimal standards of practice in pathologic diagnosis of skin lesions, inappropriate performance of Mohs surgery, overuse of frozen pathology sections to support application of Mohs surgery, inadequate

supervision and training of advanced practice clinicians, advertising and a practice model with a tendency to deceive the public, and inadequate evaluation of patients for therapy with Human Growth Hormone.

**The parties agree as follows:**

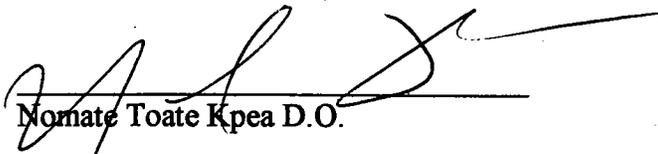
The Respondent is a physician with an active osteopathic license No.0331.  
Respondent admits to the jurisdiction of the Board.

- (1) Respondent has read this Consent Order and understands that it is effective immediately.
- (2) Respondent hereby acknowledges and waives:
  - a. The right to appear personally or by counsel or both before the Board;
  - b. The right to produce witnesses and evidence in his behalf at a hearing;
  - c. The right to cross examine witnesses;
  - d. The right to have subpoenas issued by the Board;
  - e. The right to further procedural steps except for specifically contained herein;
  - f. Any and all rights of appeal of this Consent Order;
  - g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review;
  - h. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;

- (3) Acceptance of this Consent Order constitutes an admission by the Respondent that the findings of fact were made by the Board but not an admission to the findings themselves. Neither this Consent Order nor any finding or statement herein shall be used in any future judicial proceedings to establish any of the facts, findings or conclusions contained herein.
- (4) Failure to comply with this Consent Order, when signed and accepted, shall subject the Respondent to disciplinary action.
- (5) The Respondent agrees to undergo a formal skills and competency evaluation by the Colorado Center for Personalized Education for Physicians [CPEP] specifically in the areas of Mohs surgery and the interpretation of frozen sections during Mohs procedures within 6 months of this order and to complete any reasonable training or reasonable repeat evaluation recommended by the Board as a result of this evaluation as a condition for continuing licensure.
- (6) The Respondent agrees to have all skin biopsy specimens formally read or over-read by a board certified pathologist or dermatopathologist. Respondent will only rely on frozen sections for preprocedure diagnosis when reasonably necessary and will have all such frozen sections subsequently interpreted by a board certified pathologist or dermatopathologist.

- (7) The Respondent shall voluntarily agree to discontinue performing Mohs surgery until he demonstrates competence via the CPEP evaluation reasonably acceptable to the Board.
- (8) The Respondent shall assure all advanced practice clinicians employed by his centers are supervised on site at least one half day per week by himself or an appropriately trained physician acceptable to the Board. In addition, all advanced practice clinicians will collectively meet weekly with Respondent or an appropriately trained physician acceptable to the Board to review a selection of their patient charts and discuss cases or issues attendant to patient care. All advanced practice clinicians collectively will continue to meet monthly with Respondent or an appropriately trained physician acceptable to the Board for continuing medical education lectures, dermatology slide presentations and discussion of relevant cases and issues regarding patient care. Attendance at these weekly and monthly meetings is to be recorded and kept. Lastly, Respondent or an appropriately trained physician acceptable to the Board will review 5-10 charts per week from each advanced practice clinician.
- (9) The Respondent accepts a sanction of 3 years Probation.
- (10) The Respondent's shall pay an administrative fee of \$2,500 within 60 days of this order.

Signed this 15<sup>th</sup> day of December, 2007.

  
Nomate Toate Kpea D.O.

Ratified by the Board of Medical Licensure and Discipline on this 14<sup>th</sup> day of  
November, 2007.

  
David Gifford MD, MPH  
Director of Health

12-04-2007  
Date