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

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 Basil 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 1st day of December, 2007.

Nanate Toate Kpea D.O.

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

David Gifford MD, MPH
Director of Health

12-04-2007
Date