

NEW YORK
state department of
HEALTH

Public

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

January 30, 2014

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Robert Chou, M.D.

REDACTED

Re: License No. 191684

Dear Dr. Chou:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 14-25. This order and any penalty provided therein goes into effect February 6, 2014.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to: c/o Physician Monitoring Unit, NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719.

If your license is framed, please remove it from the frame and only send the parchment paper on which your name is printed. Our office is unable to store framed licenses.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Sarah Marquardt, Esq.
Seven Saint Paul Street
Baltimore, MD 21202-1636

**IN THE MATTER
OF
ROBERT CHOU, M.D.**

**SURRENDER
ORDER**

Upon the application of ROBERT CHOU, M.D. to Surrender his or her license as a physician in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further

ORDERED, that Respondent's name be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender of License application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

Whichever is first.

SO ORDERED.

DATE: 1/29/2014

REDACTED

ARTHUR S. HENGERER, M.D.

Chair

State Board for Professional Medical Conduct

**IN THE MATTER
OF
ROBERT CHOU, M.D.**

**SURRENDER
OF
LICENSE
AND
ORDER**

ROBERT CHOU, M.D., represents that all of the following statements are true:

That on or about March 16, 1993, I was licensed to practice as a physician in the State of New York, and issued License No. 191684 by the New York State Education Department.

My current address is REDACTED and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", which is attached to and part of this Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I agree not to contest the allegations in full satisfaction of the charges against me.

I ask the Board to accept my Surrender of License, and I agree to be bound by all of the terms set forth in attached Exhibit "B".

I understand that, if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged; this application shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts my Surrender of License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender Order, this agreement, and all attached exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website(s). OPMC shall report this action to the National Practitioner Data Bank, the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 1/15/2014

REDACTED

ROBERT CHOU, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and Order and to its proposed penalty, terms and conditions.

DATE: 1/15/14

REDACTED

SARAH MARQUARDT, ESQ.
Attorney for Respondent

DATE: 1/22/14

REDACTED

JUDE B. MULVEY, ESQ.
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 1/28/14

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

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

IN THE MATTER
OF
ROBERT CHOU, M.D.
CO-12-12-5991-A

STATEMENT
OF
CHARGES

ROBERT CHOU, M.D., Respondent, was authorized to practice medicine in New York state on March 16, 1993, by the issuance of license number 191684 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 11, 2012, the Maryland State Board of Physicians (hereinafter the "Maryland Board") summarily suspended Respondent's license to practice medicine concluding that "the public health, safety or welfare imperatively requires emergency action." The summary suspension was based, among others, upon allegations of Respondent's alcohol abuse, incompetence, willfully making a false report in the practice of medicine and/or fraud or false representations when making application for licensure or other applications relating to medicine.

B. The Maryland Board, by Consent Order dated February 13, 2013 (hereinafter "Maryland Board Order"), terminated the summary suspension, suspended Respondent's license to practice medicine for one (1) year, and, among others, ordered Respondent to enter into a Board-monitored rehabilitation agreement with the Maryland Rehabilitation Program ("MPRP") for a minimum of five years during which time Respondent would be required to comply with all recommendations and requirements of MPRP including, among others, any recommended extensions of the five year minimum participation Order, ordered Respondent to abstain from the ingestion of alcohol, unprescribed controlled dangerous substances ("CDS"), narcotics, illegal drugs and other mind-altering substances for the one (1) year period of suspension, and complete a Continuing Medical Education course in medical ethics within nine months of the execution of the Maryland Board Order. The Maryland Board also ordered that in the event Respondent's one (1) year period of suspension is terminated, Respondent will be placed on probation for a period of five years, with conditions including, but not limited to,

satisfactory cooperation with all MPRP recommendations and requirements, random monitored toxicology screens, complete abstinence from ingestion of alcohol, unprescribed CDS, narcotics, illegal and other mood-altering substances, a limitation from prescribing, administering or dispensing any CDS to patients during his probationary period, and Respondent must identify all physicians with whom he is professionally affiliated to the Maryland Board, and provide a copy of the Maryland Board Order to all such physicians. Respondent's conduct upon which the Maryland Board Order was based includes, among others, fraudulently or deceptively obtaining or attempting to obtain a license for the applicant or licensee, immoral conduct in the practice of medicine, unprofessional conduct in the practice of medicine, was professionally, physically or mentally incompetent, habitual intoxication, willfully filing a false report or record in the practice of medicine and/or willfully making a false representation when seeking or making application for licensure or any other application related to the practice of medicine.

C. The conduct resulting in the Maryland Board disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following sections of New York State law:

1. New York State Education Law § 6530 (1) (obtaining the license fraudulently);
2. New York State Education Law § 6530 (5) (incompetence);
3. New York State Education Law § 6530 (8) (habitual abuser of alcohol);
4. New York State Education Law § 6530 (20) (moral unfitness); and/or
5. New York State Education Law § 6530 (21) (willfully making or filing a false report)

D. On or about March 16, 2012, Respondent was convicted in Maryland District Court, Garrett County of driving a vehicle while impaired by drugs or alcohol in violation of Maryland Transportation Article 21902 ("TA 21902"), a misdemeanor. Respondent was sentenced, among others, to two years probation, fines and costs of \$775.00, his driving license was suspended for six months, ordered to attend a drinking driver program and attend counseling.

E. On or about April 13, 2012, Respondent convicted in Maryland District Court, Allegheny County of driving a vehicle while impaired by alcohol or drugs in violation of TA

21902, a misdemeanor. Respondent was sentenced, among others, to one and a half years probation, fines of approximately \$565.00 and sixty (60) days license suspension.

F. On or about February 15, 2013, Respondent was convicted in Maryland District Court, Montgomery County, of, among others, driving a motor vehicle on a highway on a suspended license in violation of Maryland Vehicle Law §16-303 (h), a misdemeanor, and failure of a vehicle driver to stop after an unattended property damage accident in violation of Maryland Vehicle Law §20-105, a misdemeanor. Respondent was sentenced, among others, to thirty (30) days incarceration, and placed on three years supervised probation, to run concurrently with his already-sentenced probation.

G. On or about February 28, 2013, respondent was convicted in Maryland District Court, Allegheny County, of driving a vehicle while impaired by alcohol or drugs in violation of TA 21902, a misdemeanor, and violation of probation. Respondent was sentenced to, among others, ten (10) days incarceration.

SPECIFICATIONS

FIRST THROUGH FOURTH SPECIFICATIONS

Respondent violated New York State Education Law §6530 (9)(a)(ii) by having been convicted of an act constituting a crime under the law of another jurisdiction and which, if committed within this state would have constituted a crime under New York State law, in that Petitioner charges:

1. The facts in Paragraph D;
2. The facts in Paragraph E;
3. The facts in Paragraph F; and/or
4. The facts in Paragraph G.

FIFTH SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was

based would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

5. The facts in Paragraphs A, B and/or C.

SIXTH SPECIFICATION

Respondent violated New York Education Law §6530 (9)(d) by having his license to practice medicine suspended or having other disciplinary action taken after a disciplinary proceeding was instituted by a duly authorized professional disciplinary agency of another state where the conduct resulting in the suspension would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

6. The facts in Paragraph A, B and/or C.

DATED: *Nov. 18*, 2013
Albany, New York

REDACTED

MICHAEL A. FISER
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Requirements for Closing a Medical Practice Following a Revocation, Surrender, Limitation or Suspension of a Medical License

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact person who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.

5. In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within 15 days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender Licensee's DEA controlled substance privileges for New York State to the DEA. Licensee shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.
6. Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.
7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.
8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.
10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment for up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges

of which the Licensee is found guilty, and may include revocation of a suspended license.