

**NEW YORK**  
state department of  
**HEALTH**

Public

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

Sue Kelly  
Executive Deputy Commissioner

October 24, 2011

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Ven Chuan Hsu, M.D.

REDACTED

Michael G. Bass, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Ven Chuan Hsu, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 11-253) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct  
New York State Department of Health  
Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Chief Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

~~Sincerely,~~

REDACTED

James F. Horan J  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH:nm  
Enclosure

IN THE MATTER

OF

VEN CHUAN HSU, M.D.  
CO-11-01-0496-A

DETERMINATION

AND

ORDER

BPMC-11-253

A hearing was held on October 19, 2011, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and Statement of Charges dated August 23, 2011, were served upon the Respondent, **Ven Chuan Hsu, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **John B. Waldman, M.D.**, Chairperson, **Lyon M. Greenberg, M.D.**, and **Irving S. Caplan**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **William J. Lynch, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **James E. Dering, Esq.**, General Counsel, by **Michael G. Bass, Esq.**, of Counsel. The Respondent did not appear at the hearing; however, he submitted a letter dated September 6, 2011, in response to the Charges.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

## **BACKGROUND**

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and (d). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

## **WITNESSES**

For the Petitioner: None

For the Respondent: None

## **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Ven Chuan Hsu, M.D, the Respondent, was authorized to practice medicine in New York State on January 12, 1976, by the issuance of license number 126133 by the New York State Education Department. (Petitioner's Ex. 3).

2. On or about June 21, 2011, the State of Connecticut, Connecticut Medical Examining Board ("Connecticut Board"), by a Memorandum and Decision ("Connecticut Order"), inter alia, revoked Respondent's license to practice medicine in the state of Connecticut. The Connecticut Board found, among other things, that Respondent engaged in illegal, incompetent and negligent conduct by writing prescriptions in his son's name for amphetamine salts for his own personal use, prescribing medications for his wife including diazepam, hormones and/or blood pressure medications, without maintaining appropriate medical records, and self-prescribing medication including alprazolam and/or testosterone cypionate without maintaining appropriate medical records. (Petitioner's Ex. 4).

#### **HEARING COMMITTEE CONCLUSIONS**

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State, had the conduct occurred in New York State, pursuant to New York Education Law § 6530(2) - fraud in the practice of medicine; § 6530(3) - negligence on more than one occasion; § 6530(5) - incompetence on more than one occasion; and § 6530(32) - failure to maintain a record.

## VOTE OF THE HEARING COMMITTEE

### FIRST SPECIFICATION

"Respondent violated New York Education Law Section 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..."

VOTE: Sustained (3-0)

### SECOND SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having his license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

## HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing, either in person or by counsel. The Administrative Law Judge, after considering the documentary evidence concerning service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Ex. 1, 2) ruled that the Petitioner had met the requirements of law for service of the process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits despite Respondent's absence.

The Connecticut Board found, inter alia, that the Respondent engaged in illegal, incompetent and negligent conduct by writing prescriptions in his son's name for amphetamine salts for his own personal use, prescribing medications for his wife including diazepam, hormones and/or blood pressure medications without maintaining appropriate medical records, and self-prescribing medication including alprazolam and/or testosterone cypionate without maintaining appropriate medical records.

Respondent did not appear at the hearing in New York. He did, however, submit a letter to the Petitioner in response to the Charges which was admitted as one of Petitioner's exhibits. The entire record does not contain any evidence of mitigating circumstances, rehabilitation or remorse. To the contrary, the record amply demonstrates that Respondent is incapable of practicing medicine safely. The Petitioner recommended that the Respondent's license be revoked. The Hearing Committee sees no other penalty that will adequately protect the people of New York State.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Respondent's license to practice medicine in New York State is revoked.
2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Albany, New York

OCT 24, 2011, 2010

REDACTED

**John B. Waldman, M.D.**  
Chairperson

**Lyon M. Greenberg, M.D.**  
**Irving S. Caplan**

TO: Ven Chuan Hsu, M.D.

REDACTED

Michael G. Bass, Esq.  
Assistant Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, New York 12237



# **APPENDIX I**

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT



**IN THE MATTER**

**OF**

**VEN CHUAN HSU, M.D.  
CO-11-01-0496-A**

**NOTICE OF  
REFERRAL  
PROCEEDING**

**TO: VEN CHUAN HSU, M.D.**  
REDACTED

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 19<sup>th</sup> day of October, 2011, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered that would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten (10) days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health, whose name appears below. You may file a written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney, indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide, at no charge, a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence, and a description of physical and/or other evidence that cannot be photocopied.

**YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.**

Department attorney: Initial here \_\_\_\_\_

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five (5) days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

**SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.**

DATED: Albany, New York

*August 23*, 2011

REDACTED

**PETER D. VAN BUREN**  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Michael G. Bass  
Assistant Counsel  
Bureau of Professional Medical Conduct  
Corning Tower - Room 2512  
Empire State Plaza  
Albany, NY 12237  
(518) 473-4282

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

IN THE MATTER  
OF  
VEN CHUAN HSU, M.D.  
CO-11-01-0496-A

STATEMENT  
OF  
CHARGES

VEN CHUAN HSU, M.D., Respondent, was authorized to practice medicine in New York state on January 12, 1976, by the issuance of license number 126133 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 21, 2011, the State of Connecticut, Connecticut Medical Examining Board, (hereinafter "Connecticut Board"), by Memorandum of Decision, REVOKED Respondent's license to practice medicine in the state of Connecticut. The Connecticut board found, among other things, that Respondent engaged in illegal, incompetent and negligent conduct by writing prescriptions in his son's name for amphetamine salts for his own personal use, prescribing medications for his wife, including diazepam, hormones and/or blood pressure medications, without maintaining appropriate medical records, and self-prescribing medication, including alprazolam and/or testosterone cypionate without maintaining appropriate medical records.

B. The Connecticut 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 Education Law Section 6530(2) (fraud in the practice of medicine) and/or;
2. New York Education Law Section 6530(3) (negligence on more than one occasion) and/or;
3. New York Education Law Section 6530(5) (incompetence on more than one occasion) and/or;
4. New York Education Law Section 6530(32) (failure to maintain a record).

**SPECIFICATIONS**  
**FIRST SPECIFICATION**

Respondent violated New York Education Law Sec. 6530(9)(b) by having been found guilty of improper 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:

1. The facts in Paragraphs A and B.

**SECOND SPECIFICATION**

Respondent violated New York Education Law Sec. 6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and B.

DATED: *August 23*, 2011  
Albany, New York

REDACTED  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical Conduct