



**Department  
of Health**

**KATHY HOCHUL**  
Governor

**MARY T. BASSETT, M.D., M.P.H.**  
Commissioner

**KRISTIN M. PROUD**  
Acting Executive Deputy Commissioner

February 2, 2022

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Ian H. Silverman, Esq.  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower Building, Room 2512  
Empire State Plaza  
Albany, New York 12237

Jen-Kway Shen, M.D.  
[REDACTED]

Jen-Kway Shen, M.D.  
[REDACTED]

**RE: In the Matter of Jen-Kway Shen, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 22-015) 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  
Office of Professional Medical Conduct  
Riverview Center  
150 Broadway - Suite 355  
Albany, New York 12204

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. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "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:

Jean T. Carney, Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Riverview Center  
150 Broadway – Suite 510  
Albany, New York 12204

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 Ms. Carney 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,

A solid black rectangular box redacting the signature of Dawn MacKillop-Soller.

Dawn MacKillop-Soller  
Acting Chief Administrative Law Judge  
Bureau of Adjudication

DXM: cmg  
Enclosure

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

COPY

-----X		
IN THE MATTER	:	DETERMINATION
	:	
OF	:	AND
	:	
JEN-KWAY SHEN, M.D.	:	ORDER
	:	BPMC-22-015
-----X		

A hearing was held on January 12, 2022, remotely by videoconference. Pursuant to Public Health Law (PHL) § 230(10)(e), Gail Homick Herrling, Chairperson, Elaine L. Wilk, D.O., and Mehdi Khan, D.O., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Tina M. Champion, Administrative Law Judge (ALJ), served as the Administrative Officer.

The Department appeared by Ian H. Silverman, Associate Counsel. A Notice of Referral Proceeding and Statement of Charges, both dated November 22, 2021, were duly served upon Jen-Kway Shen, M.D. (Respondent), who did not appear at the hearing.

The Hearing Committee received and examined documents from the Department. (Dept. Exs. 1-6.) A stenographic reporter prepared a transcript of the proceeding.

**BACKGROUND**

The Department brought this case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Educ. Law § 6530(9). The Respondent is charged with one specification of professional misconduct pursuant to Educ. Law § 6530(9)(d) for "[h]aving his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a

duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state." Pursuant to PHL § 230(10), the Department has the burden of proving its case by a preponderance of the evidence. Any licensee found guilty of professional misconduct under the procedures prescribed in PHL § 230 "shall be subject to penalties as prescribed in [PHL § 230-a] except that the charges may be dismissed in the interest of justice."

#### **FINDINGS OF FACT**

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. The Respondent was licensed to practice medicine in New York State on August 10, 1987 by issuance of license number 171720. (Dept. Ex. 6.)
2. On February 1, 2021, the Medical Board of California (California Board) issued a public reprimand and ordered the Respondent to complete twenty hours of continuing medical education related to the Respondents gross negligence and record keeping associated with his treatment of a single patient in 2013. (Dept. Ex. 5.)
3. The specific actions upon which the discipline was based were the Respondent's failure to recognize and properly treat a patient's severe blood loss following delivery and failure to document a discussion of the risks and benefits of an elective Pitocin induction. (Dept. Ex. 5.)

#### **VOTE OF THE HEARING COMMITTEE**

The Hearing Committee, by a vote of 3-0, sustains the charge that the Respondent committed professional misconduct as defined in Educ. Law § 6530(9)(d).

**HEARING COMMITTEE DETERMINATIONS**

The Hearing Committee has thoroughly considered the evidence in this matter. It concludes that the conduct resulting in the disciplinary action in California, if committed in New York State, would constitute professional misconduct under the laws of New York State as defined in:

Educ. Law § 6530(4) – practicing the profession with gross negligence on a particular occasion; and or

Educ. Law § 6530(32) – failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

The Hearing Committee notes the seriousness of the Respondent's failures in his treatment and record keeping of the patient in this matter, who died shortly after giving birth. In considering the totality of evidence before them and the Respondent's failure to appear in this matter to respond to the charge of misconduct, the Hearing Committee finds that the only appropriate penalty is revocation of the Respondent's license to practice medicine in the State of New York.

**ORDER**

Now, after reviewing the evidence from the hearing, it is hereby ordered that:

1. The specification of professional misconduct as set forth in the Statement of Charges is sustained;
2. The Respondent's license to practice medicine in the State of New York is revoked; and
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

Dated: Albany, New York  
January 27, 2022



Gail Homick Herring, Chairperson  
Elaine L. Wilk, D.O.  
Mehdi Khan, D.O.

Ian H. Silverman  
Associate Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
Albany, NY 12237

Jen-Kway Shen, M.D.

Jen-Kway Shen, M.D.

IN THE MATTER  
OF  
JEN-KWAY SHEN, M.D.

STATEMENT  
OF  
CHARGES

JEN-KWAY SHEN, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 10, 1987 by the issuance of license number 171720 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about February 1, 2021 the Medical Board of California (hereinafter "California Board") issued a Public Reprimand and ordered Respondent to complete twenty hours of Continuing Medical Education, related to Respondent's gross negligence and record keeping associated with his treatment of a single patient in 2013. Specifically, Respondent failed to recognize and properly treat a patient's severe blood loss following delivery and failed to document a discussion of the risks and benefits of an elective Pitocin induction.
- B. Respondent's conduct as described above, upon which the disciplinary action in California was based would, if committed in New York State, constitute professional misconduct under the laws of the State of New York as follows:
1. New York Education Law §6530(4) (practicing the profession with gross negligence on a particular occasion); and/or
  2. New York Education Law §6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

**SPECIFICATION OF CHARGES**


**FIRST SPECIFICATION**

**HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530 (4), and/or (32) as alleged in the facts of the following:

1. The facts in paragraph A and B.

DATE: November 22, 2021  
Albany, New York

  
Jeffrey J. Conklin, Esq.  
Acting Deputy Counsel  
Bureau of Professional Medical Conduct