



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

PUBLIC

Dennis P. Whalen
Executive Deputy Commissioner

January 14, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Chaggrit Sawangkao, M.D.
802 Seneca Avenue
Ridgewood, New York 11227

David W. Smith, Esq.
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza, 6th Floor
New York, New York 10001

RE: In the Matter of Chaggrit Sawangkao, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 03-14) 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), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "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., 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,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:djh
Enclosure

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

COPY

IN THE MATTER
OF
CHAGGRIT SAWANGKAO, M.D.

DECISION
AND
ORDER
OF THE
HEARING COMMITTEE

ORDER NO.
BPMC 03-14

The undersigned Hearing Committee consisting of **EDWARD C. SINNOTT, M.D.,**
CHAIRPERSON, ARTHUR J. WISE, M.D., and **LINDA PRESCOTT WILSON** was duly
designated and appointed by the State Board for Professional Medical Conduct.

The hearing was conducted pursuant to the provisions of Section 230(10) of the
New York State Public Health Law and Sections 301-307 and 401 of the New York State
Administrative Procedure Act to receive evidence concerning alleged violations of provisions of
Section 6530 of the New York Education Law by **CHAGGRIT SAWANGKAO, M.D.** (hereinafter
referred to as "Respondent").

RECORD OF PROCEEDING

Notice of Hearing and Statement of Charges dated / served:	May 2,2002
Notice of Hearing returnable:	June 27, 2002
First Amended Statement of Charges Dated:	N/A
Respondent's Answer Dated / Served:	June 10, 2002
Pre-Hearing Conference held:	June 27, 2002
90/120 days ends:	9 / 27, 10/27 2002
License Registration Number:	121796
License Registration Date:	September 16,1974
License Registration Expiration Date	
State Board PMC appeared by:	David W. Smith, Esq. , Associate Counsel Division of Legal Affairs Bureau of Professional Medical Conduct 5 Penn Plaza New York, NY 10001
Respondent represented by:	Ralph, Erbaio, Jr., Esq. ¹ Lifshutz, Poland & Hoffman 675 Third Ave. New York, New York 10017
Respondent's Present Address:	802 Seneca Ave. Ridgewood, NY 11227
Conferences Held	None
Location of Hearing	5 Penn Plaza, New York City
Hearing Dates	June 27 and August 20, 2002
State Rests	June 27 2002
Respondent Rests:	August 20, 2002
Closing Briefs Due:	September 16, 2002
Closing Brief From State Received:	September 16, 2002
Closing Brief From Respondent Received:	N/A
Record Closed:	September 16, 2002
Deliberations Held:	November, 14 2002

¹On September 6,2002 Counsel for Respondent reported he was withdrawing from this case because Respondent did not meet his financial obligations.

SUMMARY OF PROCEEDINGS

The Statement of Charges in this proceeding alleges 5 grounds of misconduct:

<u>SPECIFICATION NUMBER</u>	<u>SPECIFICATION DESCRIPTION</u>
First and Second	(2) Fraudulent Practice
Third and Fourth	(20) Moral Unfitness
Fifth	(17) Exercising undue influence

The allegations are more particularly set forth in the Statement of Charges which is attached hereto as Appendix One.

The State called these witnesses:

Richard E. Hoffman, M.D.
Frank McKeon

Respondent testified in his own behalf and called no witnesses.

The findings of fact in this decision were made after review of the entire record. Numbers in parentheses (T._) refer to transcript pages or numbers of exhibits (Ex._) in evidence. These citations represent evidence and testimony found persuasive by the Hearing Committee in arriving at a particular finding. Evidence or testimony which conflicted with any finding of this Hearing Committee was considered and rejected. Some evidence and testimony may have been rejected as irrelevant.

FINDINGS OF FACT

1. Respondent treated Patient A, 93 years old, at his office on May 9, 1999. When she asked how much the visit would cost, Respondent said he didn't know because he couldn't predict what the laboratory fees would be. (T. 12-14, 38; Ex. 5)

2. Respondent then had Patient A sign a blank check and, without the knowledge or consent of Patient A, deliberately and with intent to deceive, filled it in for the excessive amount of \$950. Respondent then cashed the check at a Chinese restaurant. (T. 13-14; Ex. 5)

3. The next night, May 10th, Respondent made a house call to treat Patient A at home. (T. 15, 16, 38) When Patient A asked the cost of the visit, Respondent again said he did not know what the laboratory charges would be. Again, at his request, Patient A signed a blank check. (T. 15-16)

4. Respondent, without the knowledge or consent of Patient A, deliberately and with intent to deceive, made out this check for the excessive amount \$4500 payable to Orient Clipper Travel Service who cashed it. (T. 15-18; Ex. 5)

5. Patient A did not know the amounts of these checks until they were returned to her as part of her monthly bank statement. (T. 16-17; Ex. 5)

6. Patient A subsequently told her son all that had happened with Respondent. (T. 22-23)

7. He then called both the police and Respondent. (T. 17-18)

8. Respondent admitted to the son that he had overcharged Patient A and agreed to give the money back. (T. 18-19) He then repaid \$4000 and said he would repay the balance \$1400. Respondent did not repay the balance. (T. 18-20, 30, 34)

9. Respondent, deliberately and with intent to deceive, created a fictitious patient record for Patient A and put it in evidence at the Hearing to support the lies he told the Committee under oath, about the care he provided Patient A. (T. 97-98, 100, 106-108, 110-114, 138-141, 166-180; . Ex. 5, 6; .Ex. C)

10. He couldn't even produce an accurate CV. (T. 134-137; Ex. B)

11. During the interview of January 20, 1999, Respondent deliberately and with intent to deceive, told OPMC the following untruths:
 - A. That he was Board Certified (T. 44-45)
 - B. That he had privileges at Wyckoff Hospital (Id)
 - C. That he practiced in partnership with another physician (T. 55-56)

CONCLUSIONS WITH REGARD TO FACTUAL ALLEGATIONS ²

Respondent is charged with two factual allegations: Allegation A. concerns diversion of a patient's money. Allegation B concerns false statements made to the Office of Professional Medical Conduct during an interview. The evidence supporting the elements of these charges was clear and

² This section was composed entirely by the Committee

convincing.³ Respondent did not deny he had returned a significant portion of that which he took.

The Committee adopts the observations set forth in the State's summation, as its own, as follows:

Dr. Sawangkao is a predator and his testimony was filled with mendacity and dishonesty. He saw a chance to trick an elderly, ailing widow into giving him lots of money and he took it. It is unlikely that at the time he wrote the excessive amounts in the blank checks previously signed by Patient A, he thought that he would be caught. Otherwise, how to explain the arrogance of the \$4500 check he made out to a travel agent. (Pet. Ex. 5)

The deceitful and greedy nature of Respondent's character is nowhere more clear than in his own testimony. He testified, under oath, that Patient A gave him permission to fill in the two blank checks, one for \$950, the other for \$4500 and to back up this lie, he created a fictitious patient record for Patient A.

Respondent then testified that Patient A signed the two checks on May 18th while, at the same time, giving him permission to fill in the amounts. (T. 97-98, 109-114, 143-146) Not true. The Chase Bank statement of Patient A, however, shows clearly that the two checks were both paid by the Bank on May 12th, six days prior to when Respondent testified that he received them. (Pet. Ex. 5)

Further evidence of Respondent's disingenuousness was his answers to the Committee's questions regarding the services he allegedly provided as listed on Respondent's Exhibit C. It is clear from those answers that the services listed were never provided. (T. 166-180)

³ A standard higher than is necessary.

It is not unusual, when a physician is caught in some act of misconduct, for such physician to admit it and claim repentance. Respondent didn't even try that. Instead, he decided to play everybody for fools, first by just skipping the opening day of hearing and then by trying to lie his way out of the misconduct.

Finally, the Committee finds not an iota of remorse. As Respondent fell further and further into the pit of deceit he had created, he did not revert to the truth. Rather, he simply added more mendacity to explain or justify himself. It is clear Respondent never thought he would be caught. This gave him a license to steal.

CONCLUSIONS WITH REGARD TO SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS **FRAUDULENT PRACTICE**

The Hearing Committee sustains the First and Second Specifications. A preponderance of the evidence established that Respondent cheated a 93-year-old patient of \$5450 and then, during the investigation, deliberately lied to the Office of Professional Medical Conduct.

THIRD AND FOURTH SPECIFICATIONS **MORAL UNFITNESS**

The Hearing Committee sustains the Third and Fourth Specifications. A preponderance of the evidence proves conclusively that Respondent engaged in conduct evidencing moral unfitness.

FIFTH SPECIFICATION
EXERCISING UNDUE INFLUENCE

The Hearing Committee sustains the Fifth Specification. A preponderance of the evidence establishes that Respondent used the trust and faith placed in him by Patient A, a 93 year old widow, to cheat her of \$5450.

Therefore,

The First Specification IS SUSTAINED
The Second Specification IS SUSTAINED
The Third Specification IS SUSTAINED
The Fourth Specification IS Sustained
The Fifth Specification IS SUSTAINED

CONCLUSIONS WITH REGARD TO PENALTY ⁴

After listening to the testimony and examining the evidence, the Committee found Dr. Chaggrit Sawangkao to be a predator and a liar. He saw a chance to trick an elderly ailing widow into giving him lots of money, and he took it. By fraud and deceit, he took significant monies from Patient A that were not earned or deserved. It is unlikely that at the time he wrote the excessive amounts in bank checks previously signed by Patient A, he thought he would be caught. Otherwise, how to explain the arrogance of the \$4,500.00 check he made out to a travel agency (Ex. 5). The committee found Dr. Sawangkao to be dishonest and mendacious throughout his testimony. Particularly egregious, was his blatant falsification of medical records and his generation of bills for services that were not rendered. Evidence of the respondents disingenuousness were his answers to the Committee's questions regarding the

⁴ This section was composed entirely by the Committee.

services he allegedly provided as listed on respondent's Exhibit C. It is clear from these answers that the services were never provided (TR166-180).

In his appearance' before the Committee, the respondent continued to lie about the facts even though contradictory evidence was well-documented by bank checks and original medical records. Dr. Sawangkao never admitted error or claimed repentance. There was no evidence of contrition or insight that his behavior might be wrong. Instead, he attempted to lie his way out of misconduct with clumsy falsifications and indefensible prevarications.

Fraud and cheating should never be tolerated or protected. We have no way of knowing if Respondent has cheated other patients in the past or whether he'll do it again in the future. Revocation is the only possible sanction the only way to sufficiently protect the public interest.

ORDER

WHEREFORE, Based upon the foregoing facts and conclusions,

It is hereby **ORDERED** that:

1. The following Factual allegations in the Statement of Charges (attached to this Decision and Order as Appendix One) **ARE SUSTAINED;**
Allegation A.
Allegation B

Furthermore, it is hereby **ORDERED** that;

2. The Following Specifications of Misconduct contained within the Statement of Charges (Appendix One) are Sustained;

The First Specification
The Second Specification
The Third Specification
The Fourth Specification
The Fifth Specification

Furthermore, it is hereby **ORDERED** that;

3. Respondent's license to practice medicine in the State of New York is **REVOKED;**

Furthermore, it is hereby **ORDERED** that;

4. Respondent shall pay a civil penalty of Thirty Thousand Dollars (\$30,000).

Furthermore, it is hereby **ORDERED** that;

5. **That any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State**

of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; and non-renewal of permits or licenses (Tax Law , section 171(27); State Finance Law, section 18; CPLR, section 5001; Executive Law, section 32);.

Furthermore, it is hereby **ORDERED** that;

6. This order shall take effect **UPON RECEIPT** or **SEVEN (7) DAYS** after mailing of this order by Certified Mail.

DATED: Somers, New York

January 7, 2003

Edward C. Sinnott, M.D.

EDWARD C. SINNOTT, M.D., CHAIRPERSON,

LINDA PRESCOTT WILSON

ARTHUR J. WISE, M.D.

To:

David W. Smith, Esq.
Associate Counsel
Division of Legal Affairs
Bureau of Professional Medical Conduct
5 Penn Plaza
New York, New York 10001

Chaggrit Sawangkao, M.D.
802 Seneca Ave.
Ridgewood, NY 11227

APPENDIX ONE

IN THE MATTER

OF

STATEMENT

OF

CHARGES

CHAGGRIT SAWANGKAO, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 16, 1974, by the issuance of license number 121796 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about May 9, 1997, and or about May 10, 1997, Respondent, with an intent to mislead Patient A, age 93, and/or exercising undue influence upon Patient A in such a manner as to exploit her for his own financial gain, obtained one blank check from Patient A on each of these two dates after telling Patient A on each occasion that he did not know the amount owed at the time of medical visits, made one check out to himself for \$950 and the other to the Orient Clipper Travel Agency for \$4500, and backdated both checks to May 6, 1997. Both checks, in amounts to which he was not entitled were presented and paid.

- B. On or about January 20, 1999, during an interview at the Office of Professional Medical Conduct, Respondent, with an intent to mislead OPMC, made representations that he knew to be false, including:
1. that he was a board-certified surgeon;
 2. that he is affiliated with Wyckoff Heights Medical Center; and
 3. that he practices medicine in partnership with a Dr. S. Khan.

SPECIFICATIONS

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

- C. Paragraph A.
- D. Paragraph B.

THIRD AND FOURTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

- E. Paragraph A.
- F. Paragraph B

FIFTH SPECIFICATION

EXERCISING UNDUE INFLUENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(17) by exercising undue influence on the patient in such manner as to exploit the patient for the financial gain of the licensee, as alleged in the facts of the following:

- 5. Paragraph A.

DATED: January , 2003
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct