



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

January 7, 1993

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Chin Lin Cheng, M.D.  
200A Morrison Boulevard  
Bristol, Virginia 24201

Kevin P. Donovan, Esq.  
Assistant Counsel  
NYS Department of Health  
Corning Tower - Room 2429  
Empire State Plaza  
Albany, New York 12237-0032

**RE: In the Matter of Chin Lin Cheng, M.D.**

Dear Dr. Cheng and Mr. Donovan:

Enclosed please find the Determination and Order (No. BPMC-93-02) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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  
Corning Tower - Fourth Floor (Room 438)  
Empire State Plaza  
Albany, New York 12237

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 (p), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he 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 all action 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.

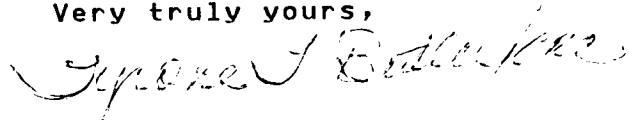
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Corning Tower - Room 2503  
Empire State Plaza  
Albany, New York 12237-0030

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.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Tyrone T. Butler".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:crc  
Enclosure

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

-----X  
IN THE MATTER : DETERMINATION  
OF :  
CHIN LIN CHENG, M.D. : AND  
: ORDER  
-----X

ORDER NO. BPMC-93-02

A Notice of Hearing and Statement of Charges, both dated September 11, 1992, were served upon the Respondent, Chin Lin Cheng, M.D. **THOMAS L. HAWKINS, JR., M.D. (Chair), ANN SHAMBERGER, and GERALD J. HAUSLER, D.O.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer. A hearing was held on October 21, 1992. The Department of Health appeared by Kevin P. Donovan, Esq., Assistant Counsel. The Respondent appeared pro se. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

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

**STATEMENT OF CASE**

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where 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 or another jurisdiction, or upon a prior administrative adjudication regarding conduct which 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, Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order in Appendix I.

#### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent 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.

1. Chin Lin Cheng, M.D. (hereinafter "Respondent") was authorized to practice medicine in New York State on March 7, 1975 by the issuance of license number 123043 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine in New York State. (Pet. Ex. #2).

2. By an Order entered on June 4, 1987, the Virginia Board of Medicine (hereinafter "Board") found that between March 1985 and January 1986, Respondent prescribed controlled substances of high abuse potential to eighteen (18) patients, without therapeutic purpose and contrary to sound medical judgment. The controlled substances included Dilaudid, Inderal LA, Preludin Endurets, Valium, Percodan, Indocin, Fiorinal, Tylenol #3, Tylox, Tussionex, Prelu-2, Percocet, and Phenergan with Codeine. (Pet. Ex. #3, pp. 8-15).

3. The Virginia Board placed Respondent on indefinite probation, subject to various terms and conditions. Respondent was prohibited from prescribing all Schedule II, III, and IV controlled substances, and required to undergo an audit of his medical practice six months following the effective date of the Virginia consent order. (Pet. Ex. #3, pp. 13-15).

4. By an Order entered March 28, 1989, the Virginia Board restored Respondent's Schedule II, III, and IV controlled substances prescribing privileges. The Board accepted the findings of a Medical Practices Audit Committee which found that Respondent's patient management appeared within normal limits and that Respondent was able to appropriately care for patients with painful conditions, psychiatric conditions and obesity without resorting to the use of Schedule II, III, and IV controlled substances. The Board also found that Respondent had earned approximately 245 hours of continuing medical education credit

hours during the prior four-year period. The Board continued Respondent's indefinite probation, adding a requirement that Respondent maintain accurate written logs recording all controlled substances prescribed, administered and dispensed. (Pet. Ex. #3, pp. 25 - 29).

5. By an Order entered June 20, 1990. the Virginia Board terminated the indefinite probation and granted Respondent a full and unrestricted license to practice medicine in the Commonwealth of Virginia. (Pet. Ex. #3, pp. 30 - 32).

6. A proceeding was instituted by the United States Drug Enforcement Administration (hereinafter "DEA") seeking revocation of Respondent's DEA registration. Following a hearing, Administrative Law Judge Paul A. Tenney recommended that no action be taken against Respondent's DEA registration. He found that Respondent's misconduct took place during the eight month period when Respondent first entered private practice, and that there were no other complaints regarding his practice during the approximately nineteen years during which Respondent practiced medicine in the United States. Judge Tenney further considered Respondent's successful completion of probation in Virginia. The DEA ultimately decided to take no further action against Respondent. (10; Resp. Ex. C).

7. Respondent is currently engaged in a family practice located in Bristol, Virginia. (9, 19).

### CONCLUSIONS OF LAW

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Hearing Committee concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that Respondent was disciplined by the Virginia Board of Medicine because he was found to have inappropriately prescribed various controlled substances with high abuse potential to eighteen patients over the period between March 1985 and January 1986. The Hearing Committee further concluded that Respondent's conduct would have constituted negligence and incompetence on more than one occasion, in violation of Education Law Sections 6530(3) and 6530(5). As a result, the Committee voted to sustain the specification of professional misconduct contained in the Statement of Charges.

### DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent should receive no additional penalty in consequence of his misconduct. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.



The record unequivocally established that Respondent inappropriately prescribed controlled substances to a number of patients. However, the conduct in question took place more than seven years ago, when Respondent first entered into private practice after practicing emergency medicine in a hospital setting.

The record further established that Respondent was disciplined by the Virginia Board of Medicine. The Virginia Board placed Respondent on indefinite probation, with severe restrictions on his ability to prescribe controlled substances. Respondent remained on probation for a period of three years, following which he was granted an unrestricted license to practice medicine in Virginia. His license was restored following monitoring and evaluation by a medical practice audit committee which found that Respondent's medical skills were within acceptable norms. In addition, the Virginia Board found that Respondent had obtained remediation through continuing medical education courses, and had practiced without deviations from accepted standards during the period of probation.

The Hearing Committee accepted the findings and determinations of the Virginia Board, which was in a better position to assess the success of Respondent's rehabilitation. In addition, the Committee found Respondent's testimony to be sincere and credible. The Committee concluded that Respondent was genuinely remorseful about his past misconduct and had taken sufficient steps to ensure that it is not repeated. As a result,

the Hearing Committee concluded that any further sanction imposed against Respondent would merely be punitive and would not serve the interests of the people of New York.

**ORDER**

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of professional misconduct contained in the Statement of Charges (Petitioner's Exhibit #1) is **SUSTAINED** and

2. No additional sanction shall be imposed upon Respondent.

DATED: Albany, New York

*Jan 6*, 1993



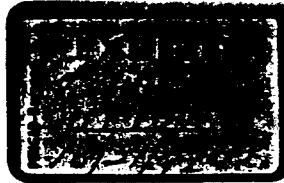
THOMAS L. HAWKINS, Jr., M.D. (Chair)

Ann Shamberger  
Gerald J. Hausler, D.O.

TO: Chin Lin Cheng, M.D.  
200A Morrison Boulevard  
Bristol, Virginia 24201

Kevin P. Donovan, Esq.  
Assistant Counsel  
New York State Department of Health  
Corning Tower - Room 2429  
Empire State Plaza  
Albany, New York 12237-0032

**APPENDIX I**



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

-----X  
IN THE MATTER : NOTICE OF  
OF : REFERRAL  
CHIN LIN CHENG, M.D. : PROCEEDING  
-----X

TO: CHIN LIN CHENG, M.D.  
200 A Morrison Boulevard  
Bristol, Virginia 24201

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) (McKinney Supp. 1992) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1992). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 21st day of October, 1992 at 10:00 o'clock in the forenoon of that day at the Corning Tower, ESP, Room 2509, Albany, New York 12237.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which 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. You may produce evidence or sworn testimony on your behalf. Such evidence 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 which 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 Larry Storch, Administrative Law Judge, New York State Department of Health, Corning Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, as well as the Department of Health attorney indicated below, on or before October 12, 1992 .

You may file a written answer, brief, and affidavits with the Committee. Seven copies of all papers you wish to submit must be filed with Judge Storch at the address indicated above on or before October 12, 1992 and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 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.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to Judge Storch 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 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  
*September 11, 1992*

*Peter D. Van Buren*  
\_\_\_\_\_  
PETER D. VAN BUREN  
Bureau of Professional Medical  
Conduct

Inquiries should be addressed to:  
Kevin P. Donovan  
Assistant Counsel  
(518) 474-8266

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
CHIN LIN CHENG, M.D. : CHARGES

-----X

CHIN LIN CHENG, M.D., the Respondent, was authorized to practice medicine in New York State on March 7, 1975, by the issuance of license number 123043 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine in New York State. Respondent's last registered address with the New York State Education Department was 660 West 180th Street, Apt. 5G, New York, New York 10033.

FACTUAL ALLEGATIONS

A. By Order entered June 4, 1987, the State Board of Medicine for the Commonwealth of Virginia entered an Order finding that between March 1985 and January 1986, the Respondent prescribed, to eighteen (18) patients, controlled substances of high abuse potential without accepted therapeutic purpose and contrary to sound medical judgement; the controlled substances included Dilaudid, Inderal LA, Preludin, Endurets Valium,




Valium, Percodan, Indocin, Fiorinal, Tylenol # 3, Tylox,  
Tussionex, Prelu-2, Percocet, Phenergan with Codeine.

SPECIFICATION

Respondent is charged with professional misconduct within the meaning of New York Education Law §6530(9)(b) (McKinney Supp. 1992) [formerly N.Y. Education Law §6509(5)(b)] in that he has 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:

1. The facts of paragraphs A.

DATED: Albany, New York  
*Sept. 11*, 1992

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