



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

September 15, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Igor Chanmin, M.D.

Redacted Address

Robert Bogan, Esq.
NYS Department of Health
Hedley Bldg. - 4th Floor
433 River Street
Troy, New York 12180

Douglas M. Nadjari, Esq.
Kern, Augustine, Conroy &
Schoppman, P.C.
420 Lakeville Road
Lake Success, New York 11042

RE: In the Matter of Igor Chanmin, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 08-65) of the Professional Medical Conduct Administrative Review Board 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

Redacted Signature

(James F. Horan, Acting Director
Bureau of Adjudication

JFH:cah

Enclosure

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

In the Matter of

Igor Chanmin, M.D. (Respondent)

A proceeding to review a Determination by a
Committee (Committee) from the Board for
Professional Medical Conduct (BPMC)

Administrative Review Board (ARB)

Determination and Order No. 08-65

COPY

Before ARB Members Grossman, Lynch, Pellman, Wagle and Wilson
Administrative Law Judge James F. Horan drafted the Determination

For the Department of Health (Petitioner): Robert Bogan, Esq.
For the Respondent: Douglas Nadjari, Esq.

In this proceeding pursuant to New York Public Health Law (PHL) § 230-c
(4)(a)(McKinney 2008), the ARB considers whether to take disciplinary action against the
Respondent's license to practice medicine in New York State (License) following the
Respondent's criminal convictions for several felonies under New York Law. After a hearing
below, a BPMC Hearing Committee determined that the Respondent's criminal conduct
constituted professional misconduct and the Committee voted to suspend the Respondent's
License for one year and to place the Respondent on probation for five additional years under the
terms that appear as the Appendix to the Committee's Determination. Upon considering the
record below and the parties' review submissions, the ARB affirms the Committee's
Determination that the Respondent's conduct amounted to professional misconduct. The ARB
overturns the Committee's Determination on penalty and votes 5-0 to revoke the Respondent's
License.

Committee Determination on the Charges

The Committee conducted a hearing in this matter under the expedited hearing procedures (Direct Referral Hearing) in PHL § 230(10)(p). The Petitioner commenced the proceeding by a November 20, 2007 Summary Order from the New York Commissioner of Health suspending the Respondent's License pursuant to the Commissioner's authority under PHL § 230(12). The Petitioner alleged that the Respondent committed professional misconduct under the definition in N. Y. Education Law (EL) §§ 6530(9)(a)(i) (McKinney 2008) by engaging in conduct that resulted in a felony conviction under New York Law. In the Proceeding, the statute limits the Committee to determining the nature and severity for the penalty to impose against the licensee, see In the Matter of Wolkoff v. Chassin, 89 N.Y.2d 250 (1996). Following the Direct Referral Hearing, the Committee rendered the Determination now on review.

The evidence at the hearing demonstrated that the Respondent was convicted in Suffolk County Court for:

- one count of Conspiracy in the Fourth Degree, a Class E Felony under New York Penal Law (PL) § 105.10;
- four counts of Insurance Fraud in the Third Degree, a Class D Felony under PL § 176.20; and,
- four counts of Reckless Endangerment in the Second Degree, a Class A Misdemeanor under PL § 120.20.

The Court sentenced the Respondent to time served and ordered that the Respondent pay \$1,250.00 in fees and surcharges. The conviction involved a fraudulent no-fault insurance scheme in which people received payments to make false medical complaints related to staged accidents. The Respondent billed no-fault insurance carriers for examinations and tests for the false claims.

The Committee rejected license revocation as a penalty for the Respondent's criminal activity. The Committee found the Respondent remorseful and committed to serving elderly home-bound patients. The Committee gave weight to testimony by Detective Arthur Scalvo concerning the Respondent's complete and extended cooperation with the law enforcement officials. The Respondent provided law enforcement extensive information and contributed fifty thousand dollars of his own money, not to be reimbursed, to the investigations into the insurance fraud. The Committee also indicated they were impressed with a number of witnesses who traveled a great distance to testify on behalf of the Respondent. The Committee did express concerns about the Respondent's operation of I. ChanMin Medical, a home health practice the Respondent operates. The Committee noted that the Respondent provided no information to indicate that the Respondent received formal training to operate a home based home health practice or specialized training in home health or gerontology. The Committee noted also that the Respondent created a corporation for his wife so that she could continue to bill for services to physicians who are covering for the Respondent.

The Committee voted to suspend the Respondent's License for one year and to order the Respondent to enroll in and complete a thirty-hour continuing medical education (CME) program in home care and gerontology. The Committee also placed the Respondent on probation for five years following the suspension, under probation terms that appear as Appendix B to the Committee's Determination.

Review History and Issues

The Committee rendered their Determination on April 22, 2008. This proceeding commenced on or about May 6, 2008, when the ARB received the Petitioner's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record, the Petitioner's brief and the Respondent's reply brief. The record closed when the ARB received the reply brief on July 7, 2008.

The Petitioner requested that the ARB overturn the Committee and revoke the Respondent's License. The Petitioner argues that the Respondent began cooperating with authorities only after his conviction, when the Respondent was facing a serious prison sentence. The Petitioner argued that the Respondent's extensive criminal behavior warranted revocation as a penalty.

The Respondent opposed any increase in the penalty and stated that he has accepted full responsibility for his actions and has never tried to excuse or conceal his conduct. The Respondent argued that he has cooperated fully and showed genuine remorse. The Respondent also pointed out that the Committee addressed their concerns about formal training in home health and gerontology by imposing the thirty-hour CME requirement. The Respondent claimed that he posed no threat to the public and that he took full responsibility for his actions, so no more severe sanction was warranted.

ARB Authority

Under PHL §§ 230(10)(i), 230-c(1) and 230-c(4)(b), the ARB may review Determinations by Hearing Committees to determine whether the Determination and Penalty are consistent with the Committee's findings of fact and conclusions of law and whether the Penalty is appropriate and within the scope of penalties which PHL §230-a permits. The ARB may substitute our judgment for that of the Committee, in deciding upon a penalty Matter of Bogdan v. Med. Conduct Bd. 195 A.D.2d 86, 606 N.Y.S.2d 381 (3rd Dept. 1993); in determining guilt on the charges, Matter of Spartalis v. State Bd. for Prof. Med. Conduct 205 A.D.2d 940, 613 NYS 2d 759 (3rd Dept. 1994); and in determining credibility, Matter of Minielly v. Comm. of Health,

222 A.D.2d 750, 634 N.Y.S.2d 856 (3rd Dept. 1995). The ARB may choose to substitute our judgment and impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate, Matter of Kabnick v. Chassin, 89 N.Y.2d 828 (1996). In determining the appropriate penalty in a case, the ARB may consider both aggravating and mitigating circumstances, as well as considering the protection of society, rehabilitation and deterrence, Matter of Brigham v. DeBuono, 228 A.D.2d 870, 644 N.Y.S.2d 413 (1996).

The statute provides no rules as to the form for briefs, but the statute limits the review to only the record below and the briefs [PHL § 230-c(4)(a)], so the ARB will consider no evidence from outside the hearing record, Matter of Ramos v. DeBuono, 243 A.D.2d 847, 663 N.Y.S.2d 361 (3rd Dept. 1997).

A party aggrieved by an administrative decision holds no inherent right to an administrative appeal from that decision, and that party may seek administrative review only pursuant to statute or agency rules, Rooney v. New York State Department of Civil Service, 124 Misc. 2d 866, 477 N.Y.S.2d 939 (Westchester Co. Sup. Ct. 1984). The provisions in PHL §230-c provide the only rules on ARB reviews.

Determination

The ARB has considered the record and the parties' briefs. The ARB affirms the Committee Determination that the Respondent's criminal conduct constituted professional misconduct. The ARB overturns the Committee and revokes the Respondent's License.

The Respondent used his License to engage in serious and extensive criminal activity and he thus proved himself unfit to practice medicine in New York State. The Respondent did

cooperate with law enforcement, but he did so while facing a jail sentence. The Respondent received time served as a sentence, so the Respondent's cooperation has resulted in a benefit to the Respondent. The Committee found mitigating circumstances in the Respondent's care for home-bound patients, but at the same time the Committee expressed concerns over the Respondent's business practices concerning the home care practice. The ARB finds that the business practices demonstrated that the Respondent has failed to learn anything from his criminal conviction and we find that the business practices contradict the Respondent's assertions concerning remorse. The ARB concludes that revocation provides the appropriate sanction for the Respondent's crimes.

ORDER

NOW, with this Determination as our basis, the ARB renders the following ORDER:

1. The ARB affirms the Committee's Determination that the Respondent committed professional misconduct.
2. The ARB overrules the Committee's Determination to suspend the Respondent's License and to place the Respondent on probation thereafter.
3. The ARB revokes the Respondent's License.

Thea Graves Pellman
Datta G. Wagle, M.D.
Stanley L. Grossman, M.D.
Linda Prescott Wilson
Therese G. Lynch, M.D.

In the Matter of Igor Chanmin, M.D.

Linda Prescott Wilson, an ARB Member concurs in the Determination and Order in the

Matter of Dr. Igor Chanmin.

Dated: 5 September 2008

Redacted Signature

A horizontal line representing a redacted signature, with a small scribble at the beginning.

Linda Prescott Wilson

In the Matter of Matter of Igor Chanmin, M.D.

Thea Graves Pellman, an ARB Member concurs in the Determination and Order in the
Matter of Dr. Igor Chanmin.

Dated: Sept 4, 2008

Redacted Signature

Thea Graves Pellman

In the Matter of Matter of Igor Chanmin, M.D.

Datta G. Wagle, M.D., an ARB Member concurs in the Determination and Order in the
Matter of Dr. Igor Chanmin.

Dated: 9/4, 2008

Redacted Signature

Datta G. Wagle, M.D.

In the Matter of Matter of Igor Chanmin, M.D.

Stanley I. Grossman, an ARB Member concurs in the Determination and Order in the
Matter of Dr. Igor Chanmin.

Dated: September 5, 2008

Redacted Signature

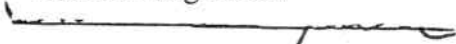

Stanley L Grossman, M.D.

In the Matter of Matter of Igor Chanmin, M.D.

Therese G. Lynch, M.D., an ARB Member concurs in the Determination and Order in the
Matter of Dr. Igor Chanmin.

Dated: Sept 4, 2008

Redacted Signature


Therese G. Lynch, M.D.