



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Acting Executive Deputy Commissioner

November 21, 2023

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul E. Walker, Esq.
315 West 106th Street
Suite 1A
New York, New York 10025

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

RE: In the Matter of Woojin Cho, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 23-238) 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.

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 Respondent or the Department may seek a review of a committee determination.

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 Judge 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,



Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
Enclosure

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

COPY

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IN THE MATTER
OF
WOOJIN CHO, M.D.
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: DETERMINATION
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: AND
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: ORDER
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: BPMC-23-238
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A Notice of Referral Proceeding and Statement of Charges dated October 12, 2023, were duly served upon Woojin Cho, M.D. (Respondent) pursuant to Public Health Law (PHL) § 230(10)(d)(i). (Exhibits 1-2.) The Respondent submitted an answer to the charges on November 1, 2023. (Exhibit B.) A hearing was held on November 16, 2023, via WebEx videoconference. Pursuant to PHL § 230(10)(e), **JOSE M. DAVID, M.D.**, Chairperson, **ELAINE L. WILK, D.O.**, and **SARA AOUN, P.A.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. **NATALIE BORDEAUX** served as the administrative officer.

The Department appeared by Nathaniel White, Esq. The Respondent was represented by Paul E. Walker, Esq., and testified on his own behalf. Two other witnesses testified in support of the Respondent: (1) David Essig, M.D.; and (2) Michael Faloon, M.D. The Hearing Committee received and examined documents from the Department (Exhibits 1-4) and from the Respondent (Exhibits A-B). A transcript of the proceeding was made. After consideration of the entire hearing record, the Hearing Committee hereby issues this Determination and Order, sustaining the charge and imposing professional discipline. All findings, conclusions, determinations, and orders herein are unanimous unless otherwise noted.

BACKGROUND

The Department brought the case pursuant to PHL § 230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Education Law § 6530(9). The Respondent is charged with professional misconduct for being convicted of committing an act constituting a crime under New York state law in violation of Education Law § 6530(9)(a)(i). Under PHL § 230(10), the Department had the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

1. The Respondent was authorized to practice medicine in New York on May 16, 2013, under license number 270239. (Exhibit 3.)
2. On February 7, 2023, the Bronx Criminal Court issued a Certificate of Disposition detailing that the Respondent was found guilty, after trial, of the following crimes committed against a patient during a medical examination on September 4, 2020: one count of Forcible Touching – Intimate Parts pursuant to New York Penal Law section 130.52(1), a class A misdemeanor; and one count of Sexual Abuse in the third degree pursuant to New York Penal Law section 130.55, a class B misdemeanor. He was sentenced to nine months' imprisonment for the conviction of the class A misdemeanor and a concurrent imprisonment term of 90 days for the class B misdemeanor conviction. (Exhibit 4.)

DISCUSSION

The Hearing Committee reviewed the Department's evidence showing the Respondent's conviction in Bronx Criminal Court, after trial, of crimes under New York state law. Based on this conviction, the Hearing Committee determined that the Respondent violated Education Law § 6530(9)(a)(i) and sustained the charge.

After determining to sustain the charge, the Hearing Committee considered all possible penalties authorized by PHL § 230-a. The Department recommended the revocation of the Respondent's medical license, noting that the Respondent was convicted of criminal acts (forcibly touching the sexual or other intimate parts of another person for the purpose of degrading or abusing such person, or for the purpose of gratifying the actor's sexual desire in violation of New York Penal Law § 130.52(1); and subjecting another person to sexual contact without the latter's consent in violation of New York Penal Law § 130.55), that he committed in his medical practice. The Respondent sought leniency, and requested the imposition of probation in conjunction with a mandate that the Respondent see all female patients with a chaperone. The Hearing Committee rejected the Respondent's suggested penalty as impractical and not enforceable.

The Hearing Committee carefully considered the three witnesses' testimony and the documentary evidence in this matter. While all three Hearing Committee members agreed that a penalty was warranted in this matter, by a vote of two to one, the Hearing Committee deemed the Department's recommendation as overly harsh and unnecessary. Two Hearing Committee members were swayed by the Respondent's character witnesses' descriptions of the Respondent's contributions to the community by performing complex and lengthy surgeries that yield lower profits and which most orthopedic surgeons avoid in furtherance of generating greater profits by performing a high volume of shorter-duration surgeries.

The Hearing Committee found the character witnesses' testimony to be very sincere, specifically, with respect to the Respondent's dedication to his patients and their own personal trust in him. They also deemed the Respondent's testimony to be sincere, and reflective of a remorseful, broken individual trying to regain his reputation and livelihood. However, only two Hearing Committee members were satisfied that the Respondent had learned his lesson and would adjust his

medical practice if given the opportunity to re-enter the workforce while one Hearing Committee member strongly believed that the crimes for which the Respondent was convicted presented a significant and continued risk to patients.

Therefore, the Hearing Committee, by a vote of two to one determined to suspend the Respondent's license, partially, until he completes a combined 60 hours of continuing medical education in the topics of professional boundaries and sexual misconduct, as well as patient privacy, with such coursework serving as a separate obligation from New York state continuing medical education requirements.

ORDER

IT IS HEREBY ORDERED THAT:

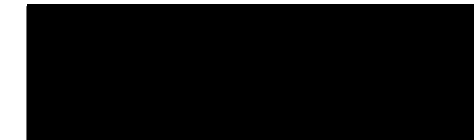
1. The specification of professional misconduct, as set forth in the Statement of Charges, is sustained.

2. The Respondent's license to practice medicine in the state of New York is **SUSPENDED PARTIALLY**, pursuant to PHL § 230-a(2)(f), until the Respondent successfully completes a total of 60 hours of coursework in the following topics: (i) professional boundaries and sexual misconduct; and (ii) patient privacy. The required courses shall be completed in addition to the Respondent's ongoing New York state continuing medical education requirements.

3. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

DATED: November 20, 2023

Albany, New York



Jose M. David, M.D., Chairperson
Elaine L. Wilk, D.O.
Sara Aoun, P.A.

To: Paul E. Walker, Esq.
315 West 106th Street
Suite 1A
New York, New York 10025

Nathaniel White, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower – 2512
Empire State Plaza
Albany, New York 12237

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

IN THE MATTER

OF

WOOJIN CHO, M.D.

STATEMENT

OF

CHARGES

WOOJIN CHO, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 16, 2013, by the issuance of license number 270239 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 7, 2023, a Certificate of Disposition was issued by the Bronx Criminal Court in New York, detailing that the Respondent was found guilty after trial of one count of Forcible Touching – Intimate Parts as defined by New York Penal Law section 130.52(1), a class "A" misdemeanor, and one count of Sexual Abuse in the third degree as defined by New York Penal Law section 130.55, a class "B" misdemeanor. The Respondent was sentenced to imprisonment for nine months for the conviction of the "A" misdemeanor and a concurrent term of imprisonment for ninety days for the conviction of the "B" misdemeanor.

SPECIFICATION OF CHARGES

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

1. Paragraph A.

DATE: October 12, 2023
Albany, New York



JEFFREY J. CONKLIN
Deputy Director
Bureau of Professional Medical Conduct