

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

BPMC No. 24-040

IN THE MATTER
OF
CHEH LU, D.O.

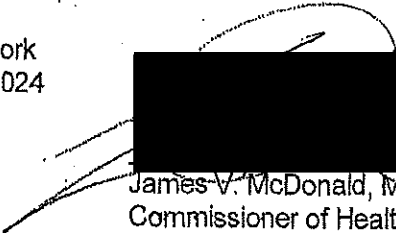
ORDER

TO: CHEH LU, D.O.


The undersigned, in consideration of a Permanent Surrender of License, BPMC No. 24-001, (Attachment A), issued by the New York State Board for Professional Medical Conduct on or about January 2, 2024, effective January 10, 2024, which constitutes a final resolution of the matters under investigation by the New York State Office of Professional Medical Conduct, and which permanently prohibits the Respondent from practicing medicine in New York State, it is therefore:

ORDERED, that the Commissioner's Order of Summary Action with respect to Cheh Lu, D.O. (BPMC No. 23-279), (Attachment B), license number 192188, is hereby rescinded effective January 25, 2024, and Respondent is subject to the terms and conditions of BPMC Order No. 24-001.

DATED: Albany, New York
January 25, 2024


James V. McDonald, M.D., M.P.H.
Commissioner of Health
New York State Health Department

ATTACHMENT "A"



Department
of Health

KATHY HOCHUL
Governor

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

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

January 3, 2024

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Cheh S. Lu, D.O.


Re: License No. 192188

Dear Dr. Lu:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 24-001. This order and any penalty provided therein goes into effect January 10, 2024.

You are required to deliver your license and registration within 5 days of the effective date of the surrender provision to: c/o Physician Monitoring Unit, NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719.

If your license is framed, please remove it from the frame and only send the parchment paper on which your name is printed. Our office is unable to store framed licenses.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct. The enclosed Board Order checklist requires your review and compliance as it relates to your Order.

Please direct any questions to: NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719, telephone # (518) 402-0846.

Sincerely,


David Besser, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

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

BPMC No. 24-001

IN THE MATTER
OF
CHEH LU, D.O.

SURRENDER
ORDER

Upon the application of (Respondent) CHEH LU, D.O. to surrender the Respondent's license as a physician in the State of New York, which is made a part of this Surrender Order, it is;

ORDERED, that the Surrender, and its terms, are adopted and it is further

ORDERED, that Respondent's name be stricken from the roster of physicians in the State of New York; it is further


ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender of License application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

Whichever is first,

SO ORDERED.

DATE: 01/02/2024


THOMAS T. LEE, M.D.
Chair
State Board for Professional Medical Conduct

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

IN THE MATTER
OF
CHEH LU, D.O.

SURRENDER
OF
LICENSE
AND
ORDER

CHEH LU, D.O., represents that all of the following statements are true:

That on or about May 11, 1993, I was licensed to practice as a physician in the State of New York and issued License No. 192488 by the New York State Education Department.

My current address is [REDACTED]

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", which is attached to and part of this Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I agree not to contest the allegations in full satisfaction of the charges against me.

I ask the Board to accept my Surrender of License and I agree to be bound by all of the terms set forth in attached Exhibit "B".

I understand that if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged.

This application shall not be used against me in any way and shall be kept in strict confidence, and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts my Surrender of License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender Order, this agreement, and all attached exhibits shall be public documents, with only patient identities or other confidential information, if any, redacted. As public documents, they may be posted on the Department's website(s). OPMC shall report this action to the National Practitioner Data Bank, the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed

agreement and Order based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 12-12-2013



CHEHLU, D/O
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and Order and to its proposed penalty, terms and conditions.

DATE: _____

ESQ
Attorney for Respondent

DATE: 12/20/2023

JOHN THOMAS VITI
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 12-27-23

SHELLY WANG BANDAGO
Director
Office of Professional Medical Conduct

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

IN THE MATTER

OF

CHEH LU, D.O.

STATEMENT

OF

CHARGES

CHEH LU, D.O., the Respondent, was authorized to practice medicine in New York State on or about May 11, 1993, by the issuance of license number 192188 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about September 7, 2023, in the United States District Court for the District of New Jersey, Respondent pled guilty to one count of unlawful distribution of a controlled substance in violation of Title 21 U.S.C. §841(a)(1), (b)(1)(c) and Title 18 U.S.C. §2. On or about September 8, 2023, Respondent was convicted and sentenced to 36 months' probation and was ordered to pay a \$1,000,000.00, fine.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

CRIMINAL CONVICTION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) Being convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. The Facts in Paragraph A.

DATE: December 19 2023
New York, New York



HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Requirements for Closing a Medical Practice Following a Revocation, Surrender, Limitation or Suspension of a Medical License

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application, and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at RiverView Center, 150 Broadway, Suite 355, Albany, New York 12204-2749.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact person who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.
5. In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within 15 days of the Order's

effective date, advise the DEA, in writing, of the licensure action and shall surrender Licensee's DEA controlled substance privileges for New York State to the DEA. Licensee shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Division Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.

6. Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.

7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.

8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.

9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.

10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment for up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges of which the licensee is found guilty and may include revocation of a suspended license.

ATTACHMENT "B"

IN THE MATTER
OF
CHEH LU, D.O.

COMMISSIONER'S
ORDER OF
SUMMARY
ACTION

TO: CHEH LU, D.O.


The undersigned, James V. McDonald, M.D., M.P.H., Commissioner of Health, pursuant to N.Y. Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that Cheh Lu, D.O. (henceforth "Respondent"), has pleaded or been found guilty or convicted of committing an act constituting a felony under New York State law, federal law, or the law of another jurisdiction which, if committed within this state, would have constituted a felony under New York State law, as is more fully set forth in the Statement of Charges attached to the Notice of Referral Proceeding or Notice of Hearing and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York, or practice in any setting under the authority of Respondent's New York license.


Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the service of this order and shall end within ninety days


thereafter. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding provided to the Respondent contemporaneously with this Order.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
December 10, 2023


James V. McDonald, M.D., M.P.H.
Commissioner of Health
New York State Department of Health


Inquiries should be directed to:

John Thomas Viti
Associate Counsel
Bureau of Professional Medical Conduct
90 Church Street
New York, NY 10007


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

IN THE MATTER
OF
CHEH LU, D.O.

NOTICE OF
REFERRAL
PROCEEDING

TO: CHEH LU, D.O.


PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on February 15, 2024, at 9:30 a.m., EST, at the offices of the New York State Department of Health, 90 Church Street, 4th Floor, New York, NY 10007, or by video conference as directed by the Administrative Law Judge, and at such other adjourned dates, times and places as the committee may direct.

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, or by video conference if directed by the Administrative Law Judge and may be represented by counsel who shall be an attorney admitted to practice in New York state. 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 the New York State


Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. NATALIE J BORDEAUX, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. You may also file a written brief and affidavits with the Committee. All such documents shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

Pursuant to §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. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here 

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, 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.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
December 19, 2023.


Henry Weintraub
Chief Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

John Thomas Viti
Associate Counsel
Bureau of Professional Medical Conduct
90 Church Street
New York, NY 10007



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

IN THE MATTER

OF

CHEH LU, D.O.

STATEMENT
OF
CHARGES

CHEH LU, D.O., the Respondent, was authorized to practice medicine in New York State on or about May 11, 1993, by the issuance of license number 192188 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about September 7, 2023, in the United States District Court for the District of New Jersey, Respondent pled guilty to one count of unlawful distribution of a controlled substance in violation of Title 21 U.S.C. §841(a)(1), (b)(1)(c) and Title 18 U.S.C. §2. On or about September 8, 2023, Respondent was convicted and sentenced to 36 months' probation and was ordered to pay a \$1,000,000.00, fine.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

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1. The Facts in Paragraph A.

DATE: December 19 2023
New York, New York



HENRY WEINTRAUB
Chief Counsel
Bureau of Professional Medical Conduct