



**Department  
of Health**

**KATHY HOCHUL**  
Governor

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

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

March 28, 2024

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Richard Chang, M.D.  


Marc S. Nash, Esq.  
NYS Department of Health  
Corning Tower Room 2512  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Richard Chang, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 24-068) 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:

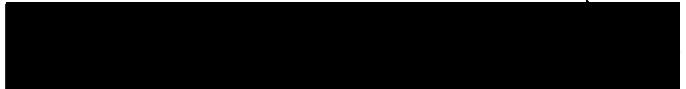
Jean T. Carney, Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Riverview Center  
150 Broadway – Suite 510  
Albany, New York 12204

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:nm  
Enclosure

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

COPY

-----X  
IN THE MATTER  
OF  
RICHARD CHANG, M.D.  
-----X

DETERMINATION  
AND  
ORDER

BPMC-24-068

A Notice of Referral Proceeding and Statement of Charges dated January 26, 2024, were duly served upon Richard Chang, M.D. (Respondent) pursuant to Public Health Law (PHL) § 230(10)(d)(i). (Exhibits 1, 2.) A hearing was held on March 27, 2024, via WebEx videoconference. Pursuant to PHL § 230(10)(c), **ANDREW J. MERRITT, M.D.**, Chairperson, **DAVID E. KAPLAN, M.D.**, and **RUTH HOROWITZ, Ph.D.**, 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 Marc S. Nash, Esq. The Respondent appeared and represented himself. The Hearing Committee received and examined documents from the Department (Exhibits 1-5) and from the Respondent (Exhibits A-E). 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, and determinations 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 pursuant to Education Law § 6530(9)(d), having disciplinary

action taken against his medical license in Maryland after a disciplinary action was instituted by a duly authorized professional agency of that state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York. 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 March 15, 2007, under license number 243451. (Exhibit 3.)
2. By Consent Order effective September 20, 2023, the Respondent agreed with the findings of the Maryland State Board of Physicians (Maryland Board) that he was guilty of unprofessional conduct in the practice of medicine pursuant to Maryland Code, Health Occupations (Health Occ.) § 14-404(a)(3)(ii); he willfully made or filed a false report in the practice of medicine, in violation of Health Occ. § 14-404(a)(11); he practiced medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine, in violation of Health Occ. § 14-404(a)(18); and he violated Maryland and federal law pertaining to the practice of medicine pursuant to Health Occ. § 14-404(a)(43). With respect to the conclusion that the Respondent violated Health Occ. § 14-404(a)(43), the Maryland Board concluded that the Respondent violated the following federal and Maryland laws: knowingly disclosing individually identifiable health information to another person, in violation of 42 U.S.C. § 1320d-6(a)(3); failing to keep the record of a patient confidential and disclosing the medical record only as authorized by law, in violation of Maryland Code Health-Gen §§ 4-302(a)(1)&(2); failing to maintain the confidentiality of a patient's health information in telehealth interactions, in violation of Health Occ. § 1-1004(b); and failing to develop and follow procedures to protect patient information when performing telehealth services, in violation of

Maryland Code of Regulations § 10.32.05.04A. The Respondent was reprimanded, ordered to pay a \$10,000 fine, and placed on probation for a minimum of 18 months, during which he was required to take and successfully complete courses in ethics and medical documentation/recordkeeping within six months. (Exhibit 4.)

### DISCUSSION

The Maryland Board conducted an investigation of the Respondent after receiving a complaint from the Respondent's employer, which included a recording of the Respondent in an active Zoom meeting session with an unknown individual (Individual 1), who was observed having control of the Respondent's keyboard and mouse through Zoom's screen sharing feature and navigating the Respondent's employer's internal systems containing protected health information. During the course of the investigation, the Respondent admitted to "chatting with some friends" from the Philippines on Zoom during work hours, sharing his screen with those friends, and breaching the confidentiality of protected health information. The Respondent admitted that he paid Individual 1 to help him increase his productivity at his place of employment, and also admitted to discussing patient cases with her, and allowing her to look through patient records for necessary information for the Respondent's clinical determinations and leaving the Zoom meetings open to access the Respondent's laptop. (Exhibit 4.)

Ultimately, the Respondent signed a Consent Order with the Maryland Board wherein he agreed that he violated federal law and various Maryland state laws, including willful filing or making a false report in the practice of medicine (Health Occ. § 14-404(a)(11)); practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine (Health Occ. § 14-404(a)(18)); failing to maintain the confidentiality of patient medical records while rendering

telemedicine services (42 U.S.C. § 1320d-6(a)(3); Maryland Code Health-Gen §§ 4-302(a)(1)&(2); Health Occ. §1-1004(b); and Maryland Code of Regulations § 10.32.05.04A). (Exhibit 4.)

The Hearing Committee agreed that the Respondent's conduct resulting in the Maryland Board's disciplinary action would, if committed in New York, constitute misconduct pursuant to Education Law § 6530(11), permitting, aiding or abetting an unlicensed person to perform activities requiring a license; Education Law § 6530(16), a willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine; and Education Law § 6530(21), willfully making or filing a false report. The Hearing Committee thus determined that the Respondent violated Education Law § 6530(9)(d).

After determining to sustain the charge, the Hearing Committee considered all possible penalties authorized by PHL § 230-a. The Department recommended the imposition of a censure and reprimand, along with a fine deemed acceptable to the Hearing Committee. The Respondent sought leniency, and contended that he had no malicious intent, no evidence was shown that his conduct harmed patients, and that Individual 1, who he referred to as his virtual assistant, was not controlling his screen even though the Zoom meeting recording submitted by his then-employer showed that Individual 1 had control of the Respondent's screen. The Respondent also debated the charge that Individual 1 was practicing medicine, and sought to distinguish between physical access to patient records and electronic access, despite the Maryland Board's findings that the Respondent violated laws concerning patient privacy and integrity of medical records applicable to all patient information, as well as those specific to the practice of telehealth.

The Hearing Committee was very concerned with the Respondent's unwillingness to accept responsibility for his own actions and noted that despite the trainings that he has completed regarding HIPAA, medical recordkeeping and medical ethics, boundaries, and professionalism (Exhibits A, D,

E), the Respondent remained adamant that he had not violated any law, including those pertaining to patient privacy, and had not created unnecessary risks that patient information could be accessed, compromised, and exploited by unauthorized individuals. He insisted that patient information was not at risk as a result of his granting others access to his employer's files electronically, even while simultaneously acknowledging that he did not recognize one of the offshore internet protocol (IP) addresses identified. The Respondent also steadfastly refused to acknowledge that Individual 1, a non-physician, was granted control of the patient records that he shared with her, despite the Zoom recording showing that Individual 1 had access and inputted information into a patient's record. (Exhibit 5.) Instead, the Respondent sought to analogize his use of an unlicensed individual unaffiliated with his employer with any other office assistant with access to patient records.

The Hearing Committee found the Maryland Board's findings (which the Respondent did not dispute with the Maryland Board), the Respondent's explanations for the Maryland Board's findings, along with his unwillingness to adjust his actions, and his lack of understanding for the Maryland Board's findings and disciplinary measures, all very troubling. They also noted that the Respondent profited financially by willfully disregarding the confidentiality and integrity of patients' protected health information.

The Hearing Committee, by a vote of two to one, determined to impose a censure and reprimand and a \$5,000 fine. While all three Hearing Committee members agreed that the Respondent's misconduct was grave and warranted discipline, two Hearing Committee members determined that the imposition of a censure and reprimand, along with a \$5,000 fine, constituted adequate penalties to reflect the Hearing Committee's utter disapproval of the Respondent's misdeeds and acknowledgement of the Respondent's improper financial gains at the expense of patient privacy. One Hearing Committee member disagreed and voted for a more severe penalty, observing that the

Maryland Board order that served as the basis for this direct referral proceeding appears to have made no impression whatsoever on the Respondent.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The charge of professional misconduct, as set forth in the specification of charges in Statement of Charges, is sustained.
2. A censure and reprimand is imposed on the Respondent's license pursuant to PHL § 230-a(1).
3. A fine in the amount of \$5,000 is imposed pursuant to PHL § 230-a(7). Payment shall be made within 90 days of this Determination and Order.
4. This Order shall be effective upon service on the Respondent in accordance with the requirements of PHL § 230(10)(h).

DATED: 4.3, 2024

Onondaga, New York

[Redacted Signature]

Andrew J. Merritt, M.D., Chairperson  
David E. Kaplan, M.D.  
Ruth Horowitz, Ph.D.

To: Richard Chang, M.D.  
[Redacted]

Marc S. Nash, Esq.  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
Albany, New York 12237



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

IN THE MATTER  
OF  
RICHARD CHANG, M.D.

STATEMENT  
OF  
CHARGES

RICHARD CHANG, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 15, 2007, by the issuance of license number 243451 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about September 20, 2023, the Maryland State Board of Physicians (hereinafter "Maryland Board") issued a Consent Order, at which time Respondent was reprimanded, placed on probation for a minimum period of eighteen months, and assessed a fine in the amount of Ten Thousand Dollars (\$10,000.00). During the period of probation, Respondent was directed to take and complete courses in ethics and recordkeeping. The Maryland Board found Respondent was observed in active Zoom meeting sessions with an unknown individual (hereinafter "Individual I"), and that Individual I had control of Respondent's keyboard and mouse and was navigating the Respondent's employer's internal systems which contained protected health information of the employer's members. An internal employer audit revealed that during Respondent's course of employment, he utilized the screen sharing feature on multiple occasions in numerous Zoom meetings with Individual I and other unknown

individuals, with all unknown individuals having offshore internet protocol addresses. The employer determined that medical necessity determinations for these cases may have been decided by the unknown individuals who were not authorized or employed to do so.

B. Pursuant to the findings in Paragraph A, the Maryland Board concluded that Respondent was guilty of unprofessional conduct in the practice of medicine, willfully made or filed a false report in the practice of medicine; practiced medicine with an unauthorized person or aids an unauthorized person in the practice of medicine; and violated state and federal laws, including 42 U.S.C. § 1320d-6(a)(3).

C. The conduct resulting in the Maryland Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following Sections of New York State Laws:

1. New York Education Law § 6530(11) (Permitting, aiding or abetting an unlicensed person to perform activities requiring a license);
2. New York Education Law § 6530(16) (A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine); and/or
3. New York Education Law § 6530(21) (Willfully making or filing a false report).

**SPECIFICATION OF CHARGES**  
**HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §§ 6530(11), (16), and (21) as alleged in the facts of the following:

1. The facts in Paragraphs A, B, C, and C.1, A, B, C and C.2, and/or A, B, C and C.3.

DATE: January 26, 2024  
Albany, New York

  
JEFFREY J. CONKLIN  
Deputy Director  
Bureau of Professional Medical Conduct