

STATE OF NEW YORK DEPARTMENT OF HEALTH

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Karen Schimke
Executive Deputy Commissioner

September 15, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dianne Abeloff, Esq.
Associate Counsel
NYS Dept. of Health
5 Penn Plaza-6th Floor
New York, New York 10001

Jeffrey M. Rubin, Esq.
Rubin & Shang
9 East 40th Street
New York, New York 10016

RECEIVED
SEP 18 1995
OFFICE OF PROFESSIONAL MEDICAL CONDUCT

Bing Huei Tang, M.D.
182-01 Union Turnpike
Flushing, New York 11366

RE: In the Matter of Bing Huei Tang, M.D.

Dear Ms. Abeloff, Mr. Rubin and Dr. Tang:

Enclosed please find the Determination and Order (No. 95-226) 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.

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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Coming 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 (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the 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.

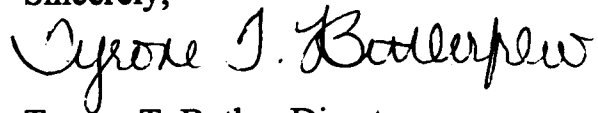
The notice of review served on the Administrative Review Board should be forwarded to:

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

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:rlw
Enclosure

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

**IN THE MATTER
OF
BING HUEI TANG, M.D.**

**DETERMINATION
AND
ORDER
BPMC-95-226**

A Notice of Hearing and Statement of Charges both dated May 11, 1995 were served upon the Respondent, **BING HUEI TANG, M.D.** **WILLIAM P. DILLON, M.D., (Chair), JAMES B. EISENKRAFT, M.D.** and **BARRY N. KRIESBERG**, 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. **CHRISTINE C. TRASKOS, ESQ.,** Administrative Law Judge, served as the Administrative Officer. A hearing was held on July 6, 1995 at the offices of the NYS Department of Health, Metropolitan Regional Office, 5 Penn Plaza, New York, New York. The Department of Health appeared by **DIANNE ABELOFF, ESQ.,** Associate Counsel. The Respondent appeared by, **RUBIN & SHANG, ESQS., JEFFREY M. RUBIN, ESQ.,** of counsel. 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.

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) (a) (i). 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. Respondent was authorized to practice medicine in New York State on or about September 6, 1973, by the issuance of license number 117916 by the New York State Education Department. (Pet. Ex. 2)
2. On or about April 12, 1994, Respondent pleaded guilty to and was convicted of violating N.Y. Penal Law Section 175.10, Falsifying Business Records in the First Degree, in that Respondent while acting in concert with another with intent to defraud, made or caused a false entry in the business records of the Offices of Bay Imaging Center, in the form of a medical report of the CT scan of the lumbosacral spine relating to a patient, and their intent to defraud included an intent to commit another crime, namely, insurance fraud, or to aid or conceal the commission thereof. (Pet. Exs. 3 and 4)

3. Respondent was sentenced to probation for five years, a \$25,000 fine and 300 hours of community service. (Pet. Ex. 4)

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 unanimously concluded that the Department has sustained its burden of proof. The preponderance of the evidence demonstrates that Respondent was convicted of Falsifying Business Records in the First Degree, in violation of the New York Penal Code. He was also sentenced to probation for five years, fined \$25,000 and ordered to perform 300 hours of community service. Section 6530(9)(a)(i) of the Education Law defines professional misconduct as "being convicted of committing an act constituting a crime under New York State law." As a result, the Hearing Committee voted to sustain the Specification of professional misconduct contained within 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's license to practice medicine in New York State should be suspended for three years following the effective date of this Determination and Order. Two years of the suspension shall be stayed, and Respondent placed on probation. The complete terms of probation are attached to this Determination and Order in Appendix II. 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.

At the hearing, Respondent argued that he did not agree with the diagnosis of Dr. Singer, the other physician involved in filing the falsified medical report. (T.62, 64) The Hearing Committee, however, questions why Respondent did not ask for a second opinion before allowing the report with Dr. Singer's contrary opinion to be issued. Respondent further attempted to direct the Hearing Committee's attention to the circumstances surrounding the plea bargain, but the Hearing Committee notes that Respondent was represented by counsel at the time.

Notwithstanding his arguments, Respondent stands convicted of a crime involving insurance fraud. The Hearing Committee believes that crimes of insurance fraud have a serious impact upon the health care system in the State of New York. However, the Hearing Committee has considered several factors which they believe preclude the revocation of Respondent's license in this instance. After the indictment, Respondent incurred severe emotional stress surrounding his son's diagnosis and treatment of schizophrenia, the break up of his marriage and his loss of privileges at his local hospital. Also, as a result of the criminal conviction, Respondent has been placed on probation for 5 years, fined \$25,000 and ordered to perform 300 hours of community service. The Hearing Committee concluded that Respondent has already been significantly punished and that revocation is not warranted. However, the Hearing Committee is obliged to protect the public interest from insurance fraud and to deter Respondent and other physicians from future acts of professional misconduct of this nature. Under the totality of the circumstances, partial suspension and probation are the appropriate sanctions in this instance.

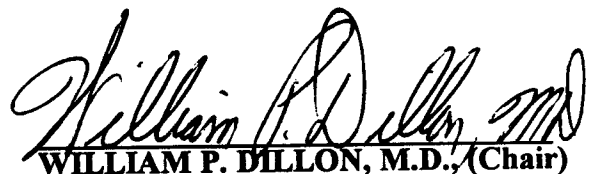
ORDER

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

1. The Specification of professional misconduct contained within the Statement of Charges (Petitioner's Exhibit #1) is **SUSTAINED**;
2. Respondent's license to practice medicine in New York State be and hereby is **SUSPENDED** for a period of three years from the effective date of this Determination and Order. Two years of the suspension shall be stayed, and Respondent shall be placed on probation in accordance with the terms of probation contained in Appendix II which is attached to this Determination and Order and incorporated herein.
3. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

Dated: Albany, New York

Sept. 14 1995


WILLIAM P. DILLON, M.D., (Chair)

JAMES B. EISENKRAFT, M.D.
BARRY N. KRIESBERG

TO: Dianne Abeloff, Esq.
Associate Counsel
NYS Department of Health
Metropolitan Regional Office
5 Penn Plaza-Sixth Floor
New York, New York 10001

Jeffrey M. Rubin, Esq.
Rubin & Shang, Esqs.
9 East 40th Street
New York, New York 10016

Bing Hwei Tang, M.D.
182-01 Union Tpke.
Flushing, New York 11366

APPENDIX 1

7/6/95

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

IN THE MATTER
OF
BING HUEI TANG, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: Bing Huei Tang, M.D.
182-01 Union Tpke.
Flushing, N.Y. 11366

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1995) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1995). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on June 15, 1995, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

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 the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Corning Tower

Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (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.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. 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.

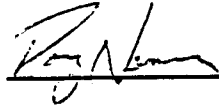
The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days 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.

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: New York, New York
May 11, 1995



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be addressed to:

Dianne Abeloff
Associate Counsel
NYS Department of Health
Division of Legal Affairs
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 613-2615

IN THE MATTER
OF
BING HUEI TANG, M.D.

STATEMENT
OF
CHARGES

BING HUEI TANG, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 6, 1973, by the issuance of license number 117916 by the New York State Education Department.

FIRST SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Education Law §6530 (9)(a)(i)(McKinney Supp. 1995), in that Respondent was convicted of committing a crime under New York State law, specifically:

On or about April 12, 1994, Respondent pleaded guilty to and was convicted of violating N.Y. Penal Law § 175.10, Falsifying Business Records in the First Degree, in that Respondent while acting in concert with another with intent to defraud, made or caused a false entry in the business records of the Offices of Bay Imaging Center, in the form of a medical report of the CT scan of the lumbosacral spine relating to a patient, and their intent to defraud included an intent to commit another crime, namely, insurance fraud, or to aid or conceal the commission thereof.

Respondent was sentenced to probation for five years, \$25,000 fine and 300 hours of community service.

DATED: May 11, 1995
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

APPENDIX II

TERMS OF PROBATION

1. Dr. Tang shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.
2. Dr. Tang shall comply with all federal, state and local laws, rules and regulations governing the practice of medicine in New York State.
3. Dr. Tang shall submit prompt written notification to the Board addressed to the Director, Office of Professional Medical Conduct, Empire State Plaza, Corning Tower Building, Room 438, Albany, New York 12237, regarding any change in employment, practice, residence or telephone number, within or without New York State.
4. In the event that Dr. Tang leaves New York to reside or practice outside the State, Dr. Tang shall notify the Director of the Office of Professional Medical Conduct in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his departure and return. Periods of residency or practice outside New York shall toll the probationary period, which shall be extended by the length of residency or practice outside New York.
5. Dr. Tang shall have quarterly meetings with an employee or designee of the Office of Professional Medical Conduct during the period of probation. During these quarterly meetings Dr. Tang's professional performance may be reviewed by having a random selection of office records, patient records and hospital charts reviewed.
6. Dr. Tang shall have quarterly meetings with a monitoring physician who shall review Dr. Tang's practice. The monitoring physician shall be board-certified in neurologic surgery who has been in practice as such for at least five years, selected by Dr. Tang and subject to the approval of the Office of Professional Medical Conduct. This monitoring physician shall review randomly selected medical records and evaluate whether Dr. Tang's medical care comports with generally accepted standards of medical practice. Dr. Tang shall not practice medicine in New York State until an acceptable monitoring physician is approved by the Office of Professional Medical Conduct.
7. Dr. Tang shall submit quarterly declarations, under penalty of perjury, stating whether or not there has been compliance with all terms of probation and, if not, the specifics of such non-compliance. These shall be sent to the Director of the Office of Professional Medical Conduct at the address indicated above.
8. Dr. Tang shall submit written proof to the Director of the Office of Professional Medical Conduct at the address indicated above that he has paid all registration fees due and is currently registered to practice medicine with the New York State Education Department. If Dr. Tang elects not to practice medicine in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.

9. If there is full compliance with every term set forth herein, Dr. Tang may practice as a physician in New York State in accordance with the terms of probation; provided, however, that upon receipt of evidence of non-compliance or any other violation of the terms of probation, a violation of probation proceeding and/or such other proceedings as may be warranted, may be initiated against Dr. Tang pursuant to New York Public Health Law Section 230(19) or any other applicable laws.