



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

April 5, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Bogan, Esq.
Paul Robert Maher, Esq.
NYS Department of Health
Hedley Park Place
433 River Street – Fourth Floor
Troy, New York 12180

David Chang-Chur Tsai, M.D.
Chung Mei 3rd St., No. 62, 5F3
Hua Lien
Taiwan (970)

David Chang-Chur Tsai, M.D.
500 High Point Drive #PH1
Hartsdale, NY 10530-1142

David Chang-Chur Tsai, M.D.
Walnut Avenue #5
Chino, CA 91710

David Chang-Chur Tsai, M.D.
3717 Nobel Dr.-#1215
San Diego, CA 92122

David Chang-Chur Tsai, M.D.
20602 E. Oak Meadow La.
Diamond Bar, CA 91765

David Chang-Chur Tsai, M.D.
141 S. Central Park Ave.
Hartsdale, NY 10530

RE: In the Matter of David Chang-Chur Tsai, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-100) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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.

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 penalties other than suspension or revocation 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
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

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 black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

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

COPY

IN THE MATTER
OF
DAVID CHANG-CHUR TSAI, M.D.

DECISION
AND
ORDER

BPMC-00-100

A Commissioner's Order and Notice of Hearing, dated January 25, 2000 and a Statement of Charges, dated January 20, 2000, were served upon the Respondent, **DAVID CHANG-CHUR TSAI, M.D.**

WILLIAM MAJOR, M.D., Chairperson, HOWARD SOHNEN, M.D. and MR. JOHN TORRANT, duly designed members of the State Board of Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on March 22, 2000, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent failed to appear.

Evidence was received and transcripts of these proceeding 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 case, 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. 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, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) and (d). A copy of the Commissioner's Order and Notice of Hearing and the Statement of Charges is attached to this Determination and Order as Appendix 1.

FINDINGS OF FACT

The following Findings Fact were made after a review of the entire record in this matter. Numbers in parenthesis refer to transcript page number 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. All Hearing Committee findings were unanimous unless otherwise stated.

1. **DAVID CHANG-CHUR TSAI, M.D.**, the Respondent, was authorized to practice medicine in New York State on November 12, 1976, by the issuance of license number 129307 by the New York State Education Department. (Pet's. Ex. 4)

2. On June 10, 1999, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board") by a Default Decision, (hereinafter "California Decision") revoked Respondent's Physician's and Surgeon's Certificate and ordered reimbursement of \$16,445.70 investigative costs, based on gross negligence, repeated negligent act incompetence, and dishonesty, in the treatment of two patients. (Pet's. Ex. 4)

3. By ORDER, dated January 25, 2000, the Commissioner of Health of the State of New York, upon the recommendation of a committee of professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, "has determined the David Chang-Chur Tsai, M.D. has been disciplined by a duly authorized professional disciplinary agency of another jurisdiction, namely, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, for acts which if committed in the state of New York would have constituted the basis for summary action pursuant to New York Public Health Law Section 230(12)(a), and has further determined that the continued practice of medicine in the state of New York by David Chang-Chur Tsai, M.D., the Respondent, constitutes imminent danger to the health of people of this state."

The Commissioner further "ORDERED, pursuant to New York Public Health Law Section 230(12)(b), that effective immediately, David Chang-Chur Tsai, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect

unless modified or vacated by Commissioner of Health pursuant to New York Public Health Law Section 230(12)." (Pet's. Ex. 1)

HEARING COMMITTEE CONCLUSIONS

The Hearing Committee concludes that the conduct resulting in the California Board's disciplinary action against Respondent would constitute misconduct under the laws of New York state.

VOTE OF THE HEARING COMMITTEE

SPECIFICATION

FIRST SPECIFICATION

Respondent is charged with professional misconduct by reason of his having violated New York Education Law §6530(9)(b) by reason of having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state.

VOTE: SUSTAINED (3-0)

SECOND SPECIFICATION

Respondent is charged with professional misconduct by reason of his having violated New York State Education Law §6530(9)(d) by reason of his having had disciplinary action taken against him by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws in New York state.

VOTE: SUSTAINED (3-0)

HEARING COMMITTEE DELIBERATIONS

The record in this case indicates that Medical Board of California revoked the Respondent's license to practice medicine in that state based on a determination that the Respondent was guilty of gross negligence, repeated acts of negligence, incompetence and dishonesty in his treatment of two patients.

Based on the action of the "California Board" the Commissioner of Health of the State of New York issued an Order wherein it was determined that the "continued practice of medicine in the state of New York by David Chang-Chur Tsai, M.D., the Respondent, constitutes imminent danger to the health of the people of this state" and ordered that the "Respondent shall not practice medicine in the State of New York."

The Respondent failed to appear for the instant hearing and he did not submit any evidence in mitigation of the charges.

The Hearing Committee determines unanimously (3-0) that the Respondent's license to practice medicine in the state of New York should be REVOKED.

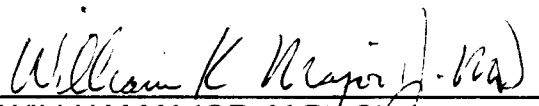
ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is hereby REVOKED.
2. This **ORDER** shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified mail.

DATED: New York

Mar 31, 2000


WILLIAM MAJOR, M.D., Chairperson

HOWARD SOHNEN, M.D.
MR. ROBERT TORRANT

APPENDIX I



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

-----X

IN THE MATTER
OF
DAVID CHANG-CHUR TSAI, M.D.

COMMISSIONER'S
ORDER AND
NOTICE OF HEARING

-----X

TO: David Chang-Chur Tsai, M.D.
Chung Mei 3rd St., No. 62, 5F3
Hua Lien
Taiwan (970)

David Chang-Chur Tsai, M.D.
Walnut Avenue #5
Chino, CA 91710

David Chang-Chur Tsai, M.D.
500 High Point Drive #PH1
Hartsdale, NY 10530-1142

David Chang-Chur Tsai, M.D.
20602 E. Oak Meadow La.
Diamond Bar, CA 91765

David Chang-Chur Tsai, M.D.
3717 Nobel Dr. - #1215
San Diego, CA 92122

David Chang-Chur Tsai, M.D.
141 S. Central Park Ave.
Hartsdale, New York 10530

The undersigned, Antonia C. Novello, M.D., M.P.H., Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that David Chang-Chur Tsai, M.D. has been disciplined by a duly authorized professional disciplinary agency of another jurisdiction, namely, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, for

acts which if committed in the state of New York would have constituted the basis for summary action pursuant to New York Public Health Law Section 230(12)(a), and has further determined that the continued practice of medicine in the state of New York by David Chang-Chur Tsai, M.D., the Respondent, constitutes imminent danger to the health of the people of this state.

It is therefore,

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, David Chang-Chur Tsai, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Public Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Public Health Law Section 230, and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 22nd day of March, 2000 at 10:00 am in the forenoon at the Hedley Park Plaza, 5th Floor, 433 River Street, Troy, New York, 12180, and at such other adjourned dates, times, and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to Section 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

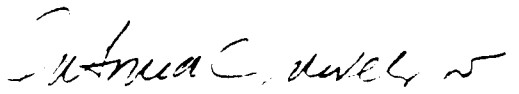
interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180, (518-402-0751), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. 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 MAY BE FINED OR SUBJECT TO OTHER
SANCTIONS SET FORTH IN NEW YORK PUBLIC
HEALTH LAW SECTION 230-a. YOU ARE
URGED TO OBTAIN AN ATTORNEY IN THIS
MATTER.**

DATED: Albany, New York
JANUARY 25, 2000


ANTONIA C. NOVELLO, M.D., M.P.H.
Commissioner

Inquiries should be directed to:

Robert Bogan
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Hedley Park Place
433 River Street
Suite 303
Troy, New York 12180
(518) 402-0820

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

-----X

IN THE MATTER	STATEMENT
OF	OF
DAVID CHANG-CHUR TSAI, M.D.	CHARGES

-----X

DAVID CHANG-CHUR TSAI, M.D., the Respondent, was authorized to practice medicine in New York State on November 12, 1976, by the issuance of license number 129307 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 10, 1999, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board") by a Default Decision, (hereinafter "California Decision") revoked Respondent's Physician's and Surgeon's Certificate and ordered reimbursement of \$16,445.70 investigative costs, based on gross negligence in the treatment of two patients, repeated negligent acts, incompetence, and dishonesty.

B. The conduct resulting in the California 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 law:

1. New York Education Law §6530(3) (negligence on more than one occasion);

2. New York Education Law §6530(4) (gross negligence);

3. New York Education Law §6530(5) (incompetence on more than one occasion);
4. New York Education Law §6530(6) (gross incompetence);
5. New York Education Law §6530(16) (failure to comply with federal, state, or local laws, rules, or regulations governing the practice of medicine); and/or
6. New York Education Law §6530(30) (abandoning or neglecting a patient under and in need of immediate professional care).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent is charged with professional misconduct by reason of his having violated New York Education Law §6530(9)(b) by reason of having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that the Petitioner charges:

1. The facts in paragraphs A and/or B.

SECOND SPECIFICATION

Respondent is charged with professional misconduct by reason of his having violated New York State Education Law §6530(9)(d) by reason of his having had disciplinary action taken against him by a duly authorized professional disciplinary

agency of another 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 state, in that the Petitioner charges:

2. The facts in paragraphs A and/or B.

DATED: *Jan 20*, 2000
Albany, New York


PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct