

Nirav R. Shah, M.D., M.P.H.
Commissioner

NEW YORK
state department of
HEALTH

Sue Kelly
Executive Deputy Commissioner

Public

November 14, 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Michael G. Bass, Esq.
NYS Department of Health
ESP-Corning Tower – Room 2512
Albany, New York 12237

Han Mok Yang, M.D.
P.O. Box 59
16759 Snake Hollow Road
Hocking Correctional Facility
Nelsonville, Ohio 45764

RE: In the Matter of Han Mok Yang, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 12-244) 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 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
Office of Professional Medical Conduct
Riverview Center
150 Broadway - Suite 355
Albany, New York 12204

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), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "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., Chief 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 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,

REDACTED

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH:cah

Enclosure

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

-----X
IN THE MATTER

OF

HAN MOK YANG, M.D.
CO-11-10-5345-A
-----X

: DETERMINATION

:
: AND

:
: ORDER

:
BPMC #12-244

COPY

A Notice of Referral Proceeding and Statement of Charges, both dated August 22, 2012, were served upon the Respondent, Han Mok Yang, M.D. IRVING S. CAPLAN (Chair), ELISA E. BURNS, M.D., and LELAND DEANE, M.D., M.B.A., 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. LARRY G. STORCH, ESQ., ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. The Department of Health appeared by Michael G. Bass, Esq., Assistant Counsel. The Respondent failed to appear, either in person or by counsel. A hearing was held on October 17, 2012. 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 §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. 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 §6530(9)(d) and §6530(9)(a)(iii). A copy of the 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. Han Mok Yang, M.D., (hereinafter "Respondent") was authorized to practice medicine in New York State on August 29, 1972 by the issuance of license number 113992 by the New York State Education Department. (Exhibit #3).

2. On or about October 12, 2011, the State Medical Board of Ohio (the "Ohio Board"), by Entry of Order, revoked Respondent's license to practice medicine in the state of Ohio. In the Permanent Surrender of Certificate to Practice Medicine and Surgery attached to the Ohio Order, Respondent stipulated that he was surrendering his medical license in lieu of further investigation from the Ohio Board regarding, *inter alia*, failure to maintain minimal standards applicable to the selection or administration of drugs; selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes; and a departure from, or failure to conform to, minimal standards of care. (Exhibit #4).

3. On or about January 10, 2012, in the County Court of Clark County, Ohio, Respondent pled guilty to one count a pattern of corrupt activity, six counts of trafficking in drugs, and one count of theft, all crimes under Ohio law. On or about February 2, 2012, Respondent was sentenced by the Court, *inter alia*, to three years of imprisonment. (Exhibit #5).

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 evidence established that Respondent's Ohio medical license was revoked by the Ohio Board pursuant to a surrender agreement in lieu of further action against Respondent for his unlawful trafficking of drugs. This conduct, had it occurred within New York, would constitute misconduct under New York Education Law §6530(3) [negligence on more than one occasion]; §6530(4) [gross negligence]; §6530(5) [incompetence on more than one occasion]; and §6530(6) [gross incompetence]. Therefore, the Hearing Committee sustained the First Specification of professional misconduct set forth in the Statement of Charges.

The record further established that Respondent was convicted of multiple drug trafficking related offenses in Ohio. These actions would also have constituted crimes under New York law, had they occurred here. Thus, the Committee voted to sustain the Second Specification.

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 revoked. 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.

Respondent was convicted of multiple crimes involving the illegal trafficking of drugs. He used his medical license to enrich himself, at the expense of society as a whole. He presented no evidence which might mitigate the sanction to be imposed. Under the circumstances, revocation is the only appropriate sanction to protect the public.

ORDER

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

1. The First and Second Specifications of professional misconduct, as set forth in the Statement of Charges (Petitioner's Exhibit # 1) are SUSTAINED;

2. Respondent's license to practice medicine in New York State be and hereby is REVOKED;

3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Albany, New York
10-30, 2012

REDACTED

IRVING S. CAPLAN / (CHAIR)

ELISA E. BURNS, M.D.
LELAND DEANE, M.D., M.B.A.

TO: Michael G. Bass, Esq.
Assistant Counsel
New York State Department of Health
Corning Tower - Room 2512
Albany, New York 12237

Han Mok Yang, M.D.
P.O. Box 59
16759 Snake Hollow Road
Hocking Correctional Facility
Nelsonville, Ohio 45764

APPENDIX I

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

IN THE MATTER
OF
HAN MOK YANG, M.D.
CO-11-10-5345-A

STATEMENT
OF
CHARGES

HAN MOK YANG, M.D., Respondent, was authorized to practice medicine in New York state on August 29, 1972 by the issuance of license number 113992 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 12, 2011, the State Medical Board of Ohio, (hereinafter "Ohio Board"), by ENTRY OF ORDER, (hereinafter "Ohio Order"), REVOKED Respondent's license to practice medicine osteopathic and surgery in the state of Ohio. In the PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY attached to the Ohio Order, Respondent stipulated that he was surrendering his medical license in lieu of further investigation from the Ohio Board regarding, *inter alia*, failure to maintain minimal standards applicable to the selection or administration of drugs; selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes; and a departure from, or failure to conform to, minimal standards of care.

B. The conduct resulting in the Ohio Board 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 Sec. 6530(3) (negligence on more than one occasion); and/or
2. New York Education Law Sec. 6530(4) (gross negligence); and/or
3. New York Education Law Sec. 6530(5) (incompetence on more than one occasion); and/or
4. New York Education Law Sec. 6530(6) (gross incompetence).

C. On or about January 10, 2012, in the County Court of Clark County, Ohio, Respondent pled guilty to one (1) count of A Pattern of Corrupt Activity, six (6) counts of Trafficking in Drugs, and one (1) count of Theft, all crimes. On or about February 2, 2012, in the County Court of Clark County, Ohio, Respondent was sentenced, *inter alia*, to 3 years of imprisonment.

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law Sec. 6530(9)(d) by having disciplinary action taken 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 Petitioner charges:

1. The facts in Paragraphs A and B.

SECOND SPECIFICATION

Respondent violated New York Education Law Sec. 6530(9)(a)(iii) by being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

2. The facts in paragraph C.

DATED: August 22, 2012
Albany, New York

REDACTED

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