

Public

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

BPMC No. 14-231

IN THE MATTER

OF

HOI KAM, M.D.
CO-14-02-0619A

COMMISSIONER'S
ORDER
AND
NOTICE OF
HEARING

TO: Hoi Kam #79686-053
FCI Ft. Dix
PO Box 2000
Ft. Dix, NJ 08640

The undersigned, Howard A. Zucker, M.D., J.D., Acting Commissioner of Health, pursuant to New York 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 **HOI KAM, M.D**, Respondent, New York license number 183043, has pleaded guilty to committing an act constituting a felony under federal law; as is more fully set forth in the Statement of Charges attached hereto, and made a part hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately, **HOI KAM, M.D**, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

ANY PRACTICE OF MEDICINE IN VIOLATION OF THIS COMMISSIONER'S ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY, DEFINED BY NEW YORK EDUCATION LAW §6512.

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230 and New York State Administrative Procedure 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 the 19th day of November, 2014, at 10:30 a.m., at Riverview Center, 150 Broadway, Suite 510, Albany, New York 12204-2719, at the offices of the New York State Health Department and at such other adjourned dates, times, and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. Respondent shall appear in person at the hearing and may be represented by counsel who shall be an attorney admitted to practice in New York state. 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. The licensee may file a brief and affidavits with the Committee on Professional Conduct. A summary of the Department of Health Hearing Rules is enclosed. 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.

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. JAMES F. HORAN, ACTING 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 then (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges no less than ten (10) days prior 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. The answer 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, who name appears below. You may file a written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) 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 of 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 New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that 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 and/or other evidence that cannot be photocopied.

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 (5) 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, conclusion as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.

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
16 Sept, 2014

REDACTED

Howard A. Zucker, M.D., J.D.
Acting Commissioner of Health
New York State Department of Health

Inquiries should be addressed to:

Jude B. Mulvey
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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

IN THE MATTER
OF
HOI KAM, M.D.
CO-14-02-0619A

STATEMENT
OF
CHARGES

HOI KAM, M.D., Respondent, was authorized to practice medicine in New York State on July 17, 1990, by the issuance of license number 183043 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 31, 2014, in the United States District Court, Eastern District of New York, Respondent was convicted, following his plea of guilty, of Conspiracy To Commit Health Care Fraud, a felony, in violation of 18 USC § 1349. Respondent was sentenced to, among others, one year and one day incarceration, followed by three years supervised release, 200 hours community service, six months home detention and \$2,217,656.38 restitution.

B. On or about March 10, 2014 in Supreme Court, Bronx County, New York, Respondent was convicted, following his guilty plea, of Criminal Facilitation in the 4th degree, an A misdemeanor, in violation of New York Penal Law § 115.00. Respondent was sentenced, among others, to time served and fines and court costs of \$250.

C. On or about July 5, 2011, a Hearing Committee for the New York State Board of Professional Medical Conduct ("Hearing Committee") by Decision and Order BPMC 11-172 ("BPMC 11-172"), after a hearing, revoked Respondent's license to practice medicine based upon, among others, Respondent's violation of Title 18 of the Official Compilation at Codes Rules and Regulations of the State of New York ("NYCRR") Sections 515.2(b)(1)(l)(a) and/or 515.2(b)(12). On or about October 20, 2011, the Administrative Review Board ("ARB") sustained the Hearing Committee's determination that Respondent committed professional misconduct but overturned the penalty of revocation. The ARB suspended Respondent's

medical license for five (5) years, stayed the suspension, and placed Respondent on a five (5) year term of probation.

D. On or about December 1, 2011, Respondent submitted a Drug Enforcement Administration ("DEA") renewal application. Respondent answered "no" to the question which asked if he had "ever surrendered for cause or had a state professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation or is any action pending" when, in fact:

1. Respondent's New York State medical license had been revoked on or about July 5, 2011; and/or
2. Respondent's New York State medical license had been suspended on or about October 20, 2011.

Respondent's answer was an intentional misrepresentation of a fact known to him made in the practice of medicine with the intent to deceive.

E. By the United States Department of Justice, Drug Enforcement Administration, Office of Diversion Control ("DEA") Decision and Order, Federal Register Volume 78 Number 204 ("DEA Decision") dated October 22, 2013, Respondent was found to have violated the Controlled Substances Act (CFR 1306.05[a]) by inappropriately pre-signing prescriptions. The DEA suspended Respondent's DEA registration for six months effective November 21, 2013.

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(a)(i) by having been convicted of an act constituting a crime under New York State law, in that Petitioner charges:

2. The facts in Paragraph B.

THIRD AND FOURTH SPECIFICATIONS

Respondent violated New York State Education Law §6530 (2) by practicing the profession fraudulently, in that Petitioner charges:

3. The facts in Paragraphs C and D.1; and/or
4. The facts in Paragraphs C and D.2.

FIFTH – SEVENTH SPECIFICATIONS

Respondent violated New York Education Law §6530 (16) by his willful or grossly negligent failure to comply with substantial provisions of federal, state or local laws, rules, or regulations governing the practice of medicine, in that Petitioner Charges:

5. The facts in Paragraphs C and D.1;
6. The facts in Paragraphs C and D.2; and/or
7. The facts in Paragraph E.

DATED: *Sept. 17*, 2014
Albany, New York

REDACTED

MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct