

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

November 6, 2015

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul Tsui, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

Chang Ho Lee, M.D.


Chang Ho Lee #82192-053
FCI Cumberland
Federal Correctional Institution
P.O. Box 1000
Cumberland, Maryland 21501

RE: In the Matter of Chang Ho Lee, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 15-262) 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. 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 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,



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**

COPY

**IN THE MATTER
OF
CHANG HO LEE, M.D.**

**DETERMINATION
AND
ORDER**

BPMC #15-262

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("the Department"). A June 2, 2015 Commissioner's Order and Notice of Referral Proceeding with Statement of Charges was served upon Chang Ho Lee, M.D. ("Respondent") and is attached to this Determination and Order as Appendix 1. A hearing, pursuant to N.Y. Public Health Law ("PHL") §230 and New York State Admin. Proc. Act §§301-307 and 401, was held on September 17, 2015 at the Department's offices at 150 Broadway, Albany, New York.

Jill M. Rabin, M.D., Sanford H. Levy, M.D., and Randolph H. Manning, Ph.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee ("Committee") in this matter. Administrative Law Judge Ann H. Gayle served as the administrative officer. The Department appeared by Paul Tsui, Associate Counsel. The Respondent did not appear and did not submit an answer to the charges.

STATEMENT OF CASE

Respondent is charged with professional misconduct pursuant to N.Y. Education Law ("Educ. Law") §6530(9)(a)(ii) for having been convicted of a crime under federal law,

§6530(9)(b) for having been found guilty of professional misconduct by another state, and §6530(9)(d) for having had disciplinary action taken against him.

When a licensee is charged with misconduct under Educ. Law §6530(9), the scope of the hearing is limited to a determination of the penalty, if any, to be imposed upon the licensee (PHL §230(10)(p)).

FINDINGS OF FACT

Citations in brackets, which refer to transcript page numbers ["T"] and exhibits ["Ex"] that were accepted into evidence, represent evidence found persuasive by the Committee in arriving at the following Findings of Fact. All Committee findings are unanimous.

1. Respondent was authorized to practice medicine in New York State on April 13, 1994 by the issuance of license number 195375 by the New York State Education Department. [Ex 3]
2. On February 21, 2014, Respondent was adjudicated guilty based on a guilty plea to a charge of Conspiracy to Commit Health Care Fraud under 18 U.S.C. 1349 and 1347 by the United States District Court, Eastern District of New York in case number CR-13-00295, and his January 9, 2015 sentence included fourteen months imprisonment, three years supervised release upon his release from imprisonment, and restitution in the amount of \$3,441,577.68. [Ex 4; Ex 5]
3. On July 2, 2015, Respondent's license to practice medicine in New York State was summarily suspended pursuant to PHL §230(12)(b). [Ex 1]
4. Respondent did not appear at the hearing despite having been notified of the September

17, 2015 hearing by personal service of the Commissioner's Order and Notice of Referral Proceeding and Statement of Charges on July 7, 2015. [Ex 1; Ex 2; T 5-8]

5. Respondent failed to file a written answer to the Statement of Charges at least ten days prior to the hearing date and as such the charges and allegations were deemed admitted pursuant to PHL §230.10(p). [Ex 1; T 5-8]

CONCLUSIONS OF LAW

Respondent was charged with professional misconduct under Educ. Law §6530(9)(a)(ii) for having been convicted of committing an act constituting a crime under federal law (First Specification of Charges), §6530(9)(b) by 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 (Second Specification), and §6530(9)(d) by having his license to practice medicine revoked, suspended or having other disciplinary action taken, where the conduct resulting in the revocation, suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state (Third Specification).

The Committee concludes that the conviction of Conspiracy to Commit Health Care Fraud in Federal Court and the conduct upon which the New Jersey Board's findings was based and the disciplinary action was taken, *i.e.*, having been convicted of acts constituting crimes or offenses involving moral turpitude, would constitute professional misconduct under the laws of New York state, to wit, Educ. Law §§6530(9)(a)(ii) and (20). Although the Committee

unanimously and affirmatively arrived at this conclusion based on the evidence before it, pursuant to PHL §230.10(p), by failing to file an answer at least ten days prior to the hearing, all three Specifications were deemed admitted as well.

For all of the above reasons, the Committee unanimously concludes that the First, Second, and Third Specifications are sustained.

DETERMINATION AS TO PENALTY

The Committee, in considering the full range of penalties available pursuant to PHL Law §230-a, including: (1) censure and reprimand; (2) suspension of the license, wholly or partially; (3) limitation on practice; (4) revocation of the license; (5) annulment of the license or registration; (6) limitation on registration or further licensure; (7) a fine up to \$10,000 per specification sustained; (8) a course of education or training; (9) performance of public service; and, (10) probation, unanimously concludes that the only appropriate penalty for Respondent's wrongdoing is revocation. Respondent's role in the blatant, malevolent, long-lasting scheme to commit health care fraud with his co-defendants was made possible by virtue of his license to practice medicine. Although Respondent's felony conviction for such serious health care fraud, alone, demands a revocation of his license to protect the public, the Committee also considered how Respondent's misconduct which resulted in the New Jersey Board's revocation of his license further warrants a revocation of Respondent's license to practice medicine in New York State.

For all of the above reasons, the Committee unanimously concludes that Respondent's license to practice medicine in New York State must be revoked.

ORDER

IT IS HEREBY ORDERED THAT:

1. The following charges of misconduct under Educ. Law §6530 are sustained:

Educ. Law §6530(9)(a)(ii) - having been convicted of a crime
under federal law


Educ. Law §6530(9)(b) - having been found guilty of professional
misconduct by another state

Educ. Law §6530(9)(d) - having had disciplinary action taken

2. Pursuant to PHL §230-a(4) Respondent's license to practice medicine shall be revoked.

3. This order shall be effective upon service on the Respondent by personal service or by certified mail as required under PHL §230(10)(h)

DATED: New York, New York
November 6th, 2015


JILL M. RABIN, M.D., Chair
SANFORD H. LEVY, M.D.
RANDOLPH H. MANNING, Ph.D.

APPENDIX 1

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

IN THE MATTER
OF
CHANG HO LEE, M.D.
CO-15-02-0601A

COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING

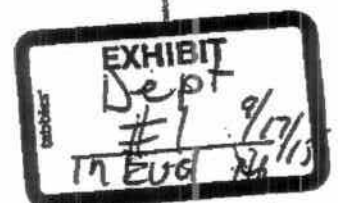
TO: Chang Ho Lee, M.D.

The undersigned, Howard A. Zucker, M.D., J.D., 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 CHANG HO LEE, M.D., Respondent, New York license number 195375, 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, CHANG HO LEE, 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 17th day of September, 2015, at 10:30 a.m., at Riverview Center, 150 Broadway, Suite 510, Menands (Albany), New York 12204-2719¹, 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:

¹ For GPS purposes, enter "Menands", not "Albany".

(Telephone: 518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten (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, whose 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 HEREBY ADVISED 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
June 2, 2015


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

Inquiries should be addressed to:

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

IN THE MATTER
OF
CHANG HO LEE, M.D.
CO-15-02-0601-A

STATEMENT
OF
CHARGES

CHANG HO LEE, M.D., Respondent, was authorized to practice medicine in New York State on April 13, 1994, by the issuance of license number 195375 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 21, 2014, in the United States District Court, Eastern District of New York, Respondent was found guilty, based on a plea of guilty, of Conspiracy to Commit Health Care Fraud, a felony, in violation of 18 U.S.C. §1347 and §1349, and on or about January 9, 2015, was sentenced to fourteen (14) months in prison, three (3) years of supervised release, restitution in the amount of \$3,441,577.68, and a \$100.00 assessment.

B. On or about December 23, 2014, the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners (hereinafter "New Jersey Board") by a Consent Order Granting Surrender of License to be Deemed a Revocation (hereinafter "New Jersey Order"), inter alia, allowed Respondent to surrender his license to practice medicine in the State of New Jersey and deemed the surrender a revocation of Respondent's license.

C. The conduct resulting in the New Jersey 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 §6530(9)(a)(ii) (Being convicted of committing an act constituting a crime under federal law);

2. New York Education Law §6530(20) (Conduct in the practice of medicine which evidences moral unfitness to practice medicine).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(ii) by being 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 Education Law §6530(9)(b) by 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 Petitioner charges:

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

THIRD SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having voluntarily or otherwise surrendered his 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 the surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

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

DATED: *July 2*, 2015
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

To: Paul Tsui
Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Room 2512, Corning Tower
Empire State Plaza
Albany, New York 12237

Chang Ho Lee, M.D.



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