



**Department
of Health**

ANDREW M. CUOMO
Governor

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

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

July 13, 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Daniel Tam, M.D.


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

RE: In the Matter of Daniel Tam, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 16-249) 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 (1), (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

X COPY

IN THE MATTER

DETERMINATION

OF

AND

DANIEL TAM, M.D.
CO-15-03-1679A

ORDER

X BPMC #16-249

A hearing was held on May 18, 2016, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated April 5, 2016, were served upon the Respondent, DANIEL TAM, M.D.

Pursuant to Section 230(10)(e) of the Public Health Law, William P. Dillon, M.D., Chair, Elisa E. Burns, M.D., and Gail S. Homick Herrling, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. David A. Lenihan, Esq., Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by Richard J. Zahnleuter, Esq., General Counsel, by Jeffrey J. Conklin, Esq., of Counsel. The Respondent, Daniel Tam, M. D., did not appear in person, although duly served. He did, however, offer testimony by telephone. Evidence was received 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 when 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 State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that 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 §6530(9)(d) by having disciplinary action taken by a duly authorized 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. The Respondent is also charged with professional misconduct pursuant to Education Law §6530(9)(b) by having been found guilty of improper professional conduct 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 addition to the above, the Respondent is further charged with professional misconduct pursuant to Education Law §6530(2) by practicing the profession of medicine fraudulently and Education Law §6530(21) by making a false report.

Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:	None
For the Respondent:	Daniel Tam, M.D., by telephone

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." References to the transcript are designated by (T. __-) to indicate the page. These citations refer to 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.

1. Daniel Tam, M.D., the Respondent, appeared by telephone and was duly served and notified of the hearing by substituted service on April 15, 2016. (Petitioner's Exhibits 2, 2B, 2C, and 2D)

2. Daniel Tam, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 31, 1994 by the issuance of license number 195281 by the New York State Education Department. (Petitioner's Exhibit 3)

3. On or about the 25th day of February, 2015, the Virginia Board of Medicine (Virginia Board) issued an Order, pursuant to §§ 54.1-105, 54.1-110, 2.2-4020, and 2.2-4021 of the Code of Virginia, revoking the Respondent's license to practice medicine based upon findings that the Respondent violated certain laws governing the practice of medicine in the Commonwealth of Virginia. (Petitioner's Exhibit 4)

4. The Virginia Board found, *inter alia*, that the Respondent failed to disclose on his Virginia Application for a License to Practice Medicine and Surgery, dated September 21, 2002, that his 1993 residency contract with Albert Einstein College of Medicine was placed on probation; that he was subsequently denied clinical privileges due to unsatisfactory performance; and that his residency contract was terminated in December 1993 due to unsatisfactory performance. The Virginia Board further found that the Respondent failed to disclose that he received his medical degree from Autonomous University of Guadalajara in 1989. (Petitioner's Exhibit 4)

5. The Virginia Board also found that the Respondent failed to disclose that SUNY Upstate Medical University suspended the Respondent's privileges when he was terminated from a fellowship in nuclear medicine due to unsatisfactory performance in July 2007. (Petitioner's Exhibit 4, page 2)

6. The Virginia Board further found that the Respondent failed to disclose that he practiced medicine for only 16 months between 1997 and 2008. The Virginia Board deemed that the above referenced findings of fact constituted violations of §§54.1-2915A(1), (4), (12), (13), (14), (16), (18) of the Code of Virginia; §54.1-111 (A)(7) of the Code of Virginia; and §18 VAC 85-20-105 of the Board of Medicine General Regulations. As a result of the foregoing, the Virginia Board revoked the Respondent's privilege to renew his license. (Petitioner's Exhibit 4, page 3)

7. The conduct resulting in the Virginia Board Order would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

- a. New York Education Law §6530(2) (practicing the profession fraudulently);
- b. New York Education Law §6530(21) (willfully making or filing a false report)

8. On or about May 1, 2008, the North Carolina Medical Board denied the Respondent's application for a license to practice medicine in North Carolina, pursuant to N.C. Gen. Stat. §90-14(a)(6) and §90-14(a)(11), based upon findings that the Respondent violated certain laws governing the practice of medicine in the State of North Carolina. (Petitioner's Exhibit 5A)

9. The North Carolina Board found that the Respondent was unable to provide verification of his medical education from the Universidad Autonomo de Guadalajara. The North Carolina Board further found that the Respondent received unsatisfactory evaluations from a nuclear medicine fellowship at SUNY Upstate for the years 2006 to 2007. The North Carolina Board further found that the Respondent answered in the negative on his license application regarding whether he had ever

been placed on probation where he trained or was a staff member, when in fact the Respondent had been placed on probation in his anesthesiology residency and his employment was terminated. (Petitioner's Exhibit 5B)

10. By Order, dated June 25, 2008, the North Carolina Medical Board granted the Respondent's request for a hearing following the denial of his application for a license to practice medicine and surgery in North Carolina. On or about August 6, 2013, the Respondent withdrew his request for a hearing. (Petitioner's Exhibit 5C)

11. The conduct resulting in the North Carolina Board's denial of the Respondent's application for a license to practice medicine and surgery in the State of North Carolina would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

a. New York Education Law §6530(2) – [practicing the profession fraudulently] and/or;

b. New York Education Law §6530(21) – [willfully making or filing a false report] (Petitioner's Exhibit 5A - C)

12. On or about August 28, 2008, Respondent prepared and/or submitted to the New York State Education Department a Registration Renewal Application wherein Respondent falsely answered "No" to the questions, "Since you last registered, has any licensing or disciplinary authority revoked, annulled, cancelled, accepted surrender of, suspended, place on probation or refused to issue or renew a professional license or certificate held by you now or previously, or fined, censured, reprimanded or otherwise disciplined you?" and "Since your last registration application, has any hospital or licensing facility restricted or terminated your

professional training, employment, or privileges, or have you voluntarily resigned or withdrawn from such authorization to avoid imposition of such action due to professional misconduct, unprofessional conduct, incompetency, or negligence?"

(Petitioner's Exhibit 6)

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS OF CHARGES

FIRST AND SECOND SPECIFICATIONS

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

"Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional conduct 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)

THIRD AND FOURTH SPECIFICATIONS

HAVING HAD DISCIPLINARY ACTION TAKEN

"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 his application for a license refused, revoked or suspended 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 refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York State..."

VOTE: Sustained (3-0)

FIFTH SPECIFICATION

PRACTICING THE PROFESSION FRAUDULENTLY

"Respondent violated New York Education Law §6530(2) by practicing the profession of medicine fraudulently..."

VOTE: Sustained (3-0)

SIXTH SPECIFICATION

WILLFULLY MAKING OR FILING A FALSE REPORT

"Respondent violated New York Education Law §6530(21) by willfully making or filing a false report..."

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing, either in person or by counsel. It is noted that Dr. Tam telephoned the office of the Administrative Law Judge the morning of the hearing requesting an adjournment. This application was denied as the Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Attempted Service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Exhibit 2), ruled that the Petitioner had met the requirements of law for due diligence in the service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits notwithstanding the Respondent's absence.

It was clear that the Respondent was well aware of this proceeding as it was he who telephoned the morning of the hearing. As Doctor Tam was calling from Syracuse, New York, the ALJ offered to have the hearing put off until that afternoon, affording the Respondent the opportunity to drive to Albany, a distance of 147 miles, and appear in person. The Respondent declined this offer and the hearing commenced.

The record in this case indicates that Respondent has a long history of difficulties with his medical license in other jurisdictions. Dr. Tam's revocation in the Commonwealth of Virginia alone would warrant a revocation in New York. To begin with, the Virginia Board, revoked his license to practice medicine based upon findings that the Respondent violated certain laws governing the practice of

medicine in the Commonwealth of Virginia. The Virginia Board found that the Respondent failed to disclose on his Virginia Application for a License to Practice Medicine and Surgery, dated September 21, 2002, that his 1993 residency contract with Albert Einstein College of Medicine was placed on probation; that he was subsequently denied clinical privileges due to unsatisfactory performance; and that his residency contract was terminated due to unsatisfactory performance in December 1993. The Virginia Board further found that the Respondent failed to disclose that he received his medical degree from Autonomous University of Guadalajara in 1989.

The actions, which took place in Virginia, and the dishonesty that they evidence are sufficient to warrant a revocation here in New York. The Virginia Board also found that the Respondent failed to disclose that SUNY Upstate Medical University suspended the Respondent's privileges when he was terminated from a fellowship in nuclear medicine due to unsatisfactory performance in July 2007. In addition, the Virginia Board further found that the Respondent failed to disclose that he practiced medicine for only 16 months between 1997 and 2008. As a result of these proven violations, the Virginia Board revoked the Respondent's privilege to renew his license. (Petitioner's Exhibit 4, page 3)

In addition to the Virginia action, the North Carolina Medical Board found that the Respondent was unable to provide verification of his medical education from the Autonomous University of Guadalajara and that Respondent received unsatisfactory evaluations from a nuclear medicine fellowship at SUNY for the years 2006 to 2007. Finally, the North Carolina Board found that the Respondent answered in the

negative on his license application regarding whether he had ever been placed on probation where he trained or was a staff member, when in fact the Respondent had been placed on probation in his anesthesiology residency and his employment was terminated. For this dishonesty, the North Carolina Medical Board denied his application for a license to practice medicine and surgery in North Carolina. The North Carolina Board did afford the Respondent the opportunity for a hearing in this matter back in 2008, which he never attended. Then, in 2013, the Respondent withdrew his request for a hearing and the denial of his application remained in place.

Finally, in August of 2008, and directly related to New York State, the record shows that the Respondent submitted to the New York State Education Department a Registration Renewal Application wherein Respondent falsely answered "No" to the questions, "Since you last registered, has any licensing or disciplinary authority revoked, annulled, cancelled, accepted surrender of, suspended, place on probation or refused to issue or renew a professional license or certificate held by you now or previously, or fined, censured, reprimanded or otherwise disciplined you?" and "Since your last registration application, has any hospital or licensing facility restricted or terminated your professional training, employment, or privileges, or have you voluntarily resigned or withdrawn from such authorization to avoid imposition of such action due to professional misconduct, unprofessional conduct, incompetency, or negligence?"

The panel noted that the North Carolina action was in May of 2008. The Respondent claimed this dishonesty was inadvertent. The panel found this hard to believe as it was only shortly before his submission of the New York Renewal.

In his testimony over the phone, the Respondent did not dispute the facts of the case as presented by the Department. He asked the Board for leniency, claiming that he never hurt any patient. He claimed that deep in his heart he was a caring person. (T. 24) The panel did not accept this claim of remorse and noted that he last practiced medicine back in 2010. The Hearing Committee, pursuant to the Findings of Fact set forth above, after due deliberation, unanimously determined that all of the charges and specifications raised against Respondent were sustained.

As to an appropriate penalty, the Hearing Committee considered the full range of penalties available and determined, unanimously, that the people of New York State would be protected best by a revocation of the Respondent's license.

ORDER

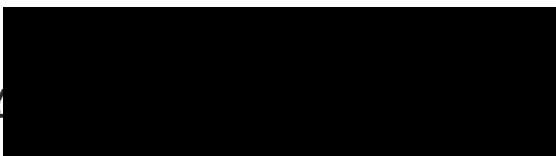
IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**.
2. The license of the Respondent to practice medicine in New York State is revoked.

3. This Determination and Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

4. 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: East Aurora, New York
July 11, 2016



William P. Dillon, M.D., Chair

Elisa E. Burns, M.D.
Gail S. Homick Herrling

To: Daniel Tam, M.D.



Jeffrey Conklin, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower Building, Room 2512
Albany, New York 12237

APPENDIX 1

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



IN THE MATTER
OF
DANIEL TAM, M.D.

NOTICE
OF
HEARING

TO: Daniel Tam, M.D.



PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 and N.Y. State Admin. Proc. 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 May 18th, 2016 at 10:30 a.m., at the Offices of the New York State Department of Health, Riverview Center, 150 Broadway, Menands (Albany), NY 12204-2719 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, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You 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. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses

and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

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

Department attorney: Initial here [REDACTED]

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone 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 HORAN, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), 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. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date 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. 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. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the 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 or other evidence which cannot be photocopied.

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 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 BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATE: April 5, 2016
Albany, NY


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be directed to:

**Jeffrey J. Conklin
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower - Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282**

IN THE MATTER

OF

DANIEL TAM, M.D.

STATEMENT
OF
CHARGES

DANIEL TAM, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 31, 1994, by the issuance of license number 195281 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about the 25th day of February, 2015, the Virginia Board of Medicine (Virginia Board) issued an Order, pursuant to §§54.1-105, 54.1-110, 2.2-4020, and 2.2-4021 of the Code of Virginia, based upon allegations that the Respondent violated certain laws governing the practice of medicine in the Commonwealth of Virginia. The Virginia Board found, inter alia, that the Respondent failed to disclose on his Virginia Application for a License to Practice Medicine and Surgery, dated September 21, 2002, that his 1993 residency contract with Albert Einstein College of Medicine was placed on probation; that he was subsequently denied clinical privileges due to unsatisfactory performance; and that his residency contract was terminated due to unsatisfactory performance in December 1993. The Virginia Board further found that the Respondent failed to disclose that he received his medical degree from Autonomous University of Guadalajara in 1989. The Virginia Board further found that the Respondent failed to disclose that SUNY Upstate Medical University suspended the Respondent's privileges when he was terminated from a fellowship in nuclear medicine due to unsatisfactory performance in July 2007. The Virginia Board further found that the Respondent failed to disclose that he only practiced medicine for 16 months between 1997 and 2008. The Virginia Board deemed that the above referenced findings of fact constituted violations of §§54.1-2915.A(1), (4), (12), (13), (14), (16), (18) of the Code of Virginia; §54.1-111(A)(7) of the Code of Virginia; and §18 VAC 85-20-105 of the Board of Medicine General Regulations. As a result of the foregoing, the Virginia Board revoked the Respondent's privilege to renew his license.

B. The conduct resulting in the Virginia Board Order 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(2) (practicing the profession fraudulently); and/or
2. New York Education Law §6530(21) (willfully making or filing a false report).

C. On or about May 1, 2008, the North Carolina Medical Board (North Carolina Board) denied the Respondent's application for a license to practice medicine in North Carolina, pursuant to N.C. Gen. Stat. §90-14(a)(6) and §90-14(a)(11), based upon allegations that the Respondent violated certain laws governing the practice of medicine in the State of North Carolina. The North Carolina Board found that the Respondent was unable to provide verification of his medical education from the Universidad Autonoma de Guadalajara. The North Carolina Board further found that the Respondent received unsatisfactory evaluations from a nuclear medicine fellowship at SUNY for the years 2006 to 2007. The North Carolina Board further found that the Respondent answered in the negative on his license application regarding whether he had ever been placed on probation where he trained or was a staff member, when in fact the Respondent had been placed on probation in his anesthesiology residency and his employment was terminated. By Order, dated June 25, 2008, the North Carolina Medical Board granted the Respondent's request for a hearing following the denial of his application for a license to practice medicine and surgery in North Carolina. On or about August 6, 2013, the Respondent withdrew his request for a hearing.

D. The conduct resulting in the North Carolina Board's denial of the Respondent's application for a license to practice medicine and surgery in the State of North Carolina 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(2) (practicing the profession fraudulently); and/or
2. New York Education Law §6530(21) (willfully making or filing a false report).

E. On or about August 28, 2008, Respondent prepared and/or submitted to the New York State Education Department a Registration Renewal Application wherein Respondent falsely answered "No" to the questions, "Since you last registered, has any licensing or disciplinary authority revoked, annulled, cancelled, accepted surrender of, suspended, place on probation,

or refused to issue or renew a professional license or certificate held by you now or previously, or fined, censured, reprimanded or otherwise disciplined you?"; and "Since your last registration application, has any hospital or licensing facility restricted or terminated your professional training, employment, or privileges, or have you voluntarily resigned or withdrawn from such authorization to avoid imposition of such action due to professional misconduct, unprofessional conduct, incompetency, or negligence?"

SPECIFICATIONS OF CHARGES
FIRST AND SECOND SPECIFICATIONS
HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in New York Education Law §6530(9)(b) by having been found guilty of improper professional conduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committing in New York State, constitute professional misconduct under the laws of New York State, (namely New York Education Law §6530(2); and/or §6530(21) as alleged in the facts of the following:

1. The facts in Paragraphs "A" and "B".
2. The facts in Paragraphs "C" and "D".

THIRD AND FOURTH SPECIFICATIONS
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in New York Education Law §6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her 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 refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York State (namely New York Education Law §6530(2); and/or §6530(21)) as alleged in the facts of the following:

3. The facts in Paragraphs "A" and "B".
4. The facts in Paragraphs "C" and "D".

FIFTH SPECIFICATION
PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with committing professional misconduct as defined by New York Education Law §6530(2) by practicing the profession of medicine fraudulently and as alleged in the facts of the following:

5. The facts in Paragraph "E".

SIXTH SPECIFICATION
WILLFULLY MAKING OR FILING A FALSE REPORT

Respondent is charged with committing professional misconduct as defined by New York Education Law §6530(21) by willfully making or filing a false report as alleged in the facts of the following:

6. The facts in Paragraph "E".

DATE: April 5, 2016
Albany, New York


MICHAEL A. HISER, ESQ.
Deputy Counsel
Bureau of Professional Medical Conduct