

NEW YORK
state department of
HEALTH

Public

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

Sue Kelly
Executive Deputy Commissioner

May 15, 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Daniel Shin, M.D.

REDACTED

Joel E. Ablove, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

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

Dear Parties:

Enclosed please find the Determination and Order (No. 12-99) 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
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), (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
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,

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

COPY

IN THE MATTER

OF

DANIEL SHIN, M.D.
C0-09-07-4388-A

DETERMINATION

AND

ORDER

BPMC #12-99

A hearing was held on April 18, 2012, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and an Amended Statement of Charges, both dated January 27, 2012, were served upon the Respondent, Daniel Shin, M.D. Pursuant to Section 230(10)(e) of the Public Health Law, Michael R. Golding, M.D., Chairperson, Toni M. McLaurin, M.D., and Constance Diamond, D.A., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. Christine C. Traskos, Esq. Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by James Dering, Esq., General Counsel, by Joel E. Abelow, Esq. of Counsel. The Respondent did not appear at the hearing.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

BACKGROUND

This proceeding 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 Section 6530(9)(a)(iii), Education Law Section 6530(9)(b) and 6530(9)(d).

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

WITNESSES

For the Petitioner: None

For the Respondent: None

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." 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 Shin, M.D., the Respondent, was authorized to practice medicine in New York State on June 27, 1996, by the issuance of license number 203343 by the New York State Education Department. (Petitioner's Ex. 4)

2. On January 25, 2007, in the Supreme Court, Los Angeles County, California, Respondent was found guilty based on a plea of nolo contendere, to assault with a deadly weapon, a misdemeanor, in violation of PC 245(a)(1), and was sentenced to three (3) years probation, ordered to serve one day in jail, pay a fine of \$120.00, perform 472 hours of community service, and complete a 26 week anger management program. (Petitioner's Ex. 6)

3. On October 25, 2007, Respondent pled nolo contendere in the Superior Court of California, Los Angeles County, to VC Section 14601.1(a), willfully and unlawfully driving a motor vehicle when his driving privileges were suspended/revoked. Respondent was placed on summary probation for 36 months and was fined \$300.00, state penalty assessment of \$720.00, restitution of \$1,240.00 and additional fees. (Petitioner's Ex. 6)

4. On June 24, 2009, the Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision (hereinafter "California Decision"), inter alia, revoked Respondent's license to practice medicine, stayed the revocation, and placed him on probation for two (2) years, under terms and conditions which include: undergo and complete a psychiatric evaluation; undergo a medical evaluation and treatment: CME in ethics; Respondent cannot supervise physician assistants while on probation and must submit quarterly reports and comply with the Board's Probation Unit. On July 29, 2011, Respondent's Physician's and Surgeon's Certificate was fully restored

to renewed/current status and free of probation requirements, effective July 24, 2011.

(Petitioner's Exs. 5 and 7)

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

Respondent violated New York Education Law §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."

VOTE: Paragraphs A and/or B : Sustained (3-0)

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 or 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: Paragraphs A, B and/or C: Sustained (3-0)

THIRD SPECIFICATION

Respondent violated New York Education Law Section 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.

VOTE: Paragraphs A, B and/or C : Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Hearing Committee notes that Respondent's has incurred two convictions since 2007, in the state of California, one involving the use of a deadly weapon against a registered process server. The Hearing Committee has concerns about Respondent's mental health. Respondent has provided no explanation or mitigating factors to the Hearing Committee for their consideration. As a result, the Hearing Committee has no recourse but to revoke Respondent's license to practice medicine in New York State. The Hearing Committee believes that revocation protects the safety of the public and that it is the appropriate action under the circumstances.

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent's license to practice medicine in New York State is **REVOKED**;
2. This Order shall be effective upon service on the Respondent by personal service or registered or certified mail in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: New York, New York
14 MAY, 2012

REDACTED

Michael R. Golding, M.D. /
Chairperson

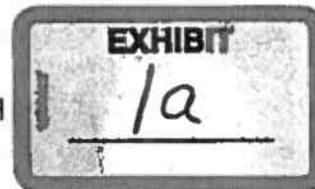
Toni M. McLaurin, M.D.
Constance Diamond, D.A.

TO:

Daniel Shin, M.D.
REDACTED

Joel E. Ablove Esq.
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Coming Tower- Rm. 2512
Empire State Plaza
Albany, N.Y. 12237

APPENDIX I



IN THE MATTER
OF
DANIEL SHIN, M.D.
CO-09-07-4388-A

NOTICE OF
REFERRAL
PROCEEDING

TO: Daniel Shin, M.D.
REDACTED

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 18th day of April, 2012, at 10:30 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered that would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

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, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, 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 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 not less than ten (10) 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. 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 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.

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

Department attorney: Initial here _____

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

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

January 27, 2012

REDACTED

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

Inquiries should be addressed to:

JOEL E. ABELOVE
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

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

IN THE MATTER
OF
DANIEL SHIN, M.D.
CO-09-07-4388-A

AMENDED
STATEMENT OF
CHARGES

DANIEL SHIN, M.D., Respondent, was authorized to practice medicine in New York State on June 27, 1996, by the issuance of license number 203343 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 25, 2007, in the Supreme Court, Los Angeles County, California, Respondent was found guilty, based on a plea of nolo contendere, to assault with a deadly weapon, a misdemeanor, in violation of PC 245(a)(1), and was sentenced to three (3) years probation, ordered to serve one day in jail, pay a fine of \$120.00, perform 472 hours of community service, complete a 26 week anger management program.

B. On or about October 25, 2007, Respondent pled nolo contendere in the Superior Court of California, Los Angeles County, to VC Section 14601.1(a), willfully and unlawfully driving a motor vehicle when his driving privileges were suspended/revoked. Respondent was placed on summary probation for 36 months, fined \$300.00, state penalty assessment of \$720.00, restitution of \$1,246.00 and additional fees.

C. On or about June 24, 2009, the Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision (hereinafter "California Decision"), inter alia, revoked Respondent's license to practice medicine, stayed the revocation, and placed him on probation for two (2) years, under terms and conditions which include: undergo and complete a psychiatric evaluation; undergo a medical evaluation and treatment; CME in ethics; Shin cannot supervise physician assistants while on probation and must submit quarterly reports and comply with the Board's Probation Unit. On July 29, 2011, Shin's

Physician's and Surgeon's Certificate was fully restored to renewed/current status and free of probation requirements, effective July 24, 2011.

D. The conduct resulting in the California 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 State Education Law §6530(9)(a)(iii) (being convicted of committing under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law.

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(iii) by being convicted of committing an act constituting a crime under California law, in that Petitioner charges:

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

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, and/or C.

THIRD SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having his license to practice medicine revoked and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that the Petitioner charges:

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

DATED: *January 27*, 2012
Albany, New York

REDACTED

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