



Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

C. Maynard Guest, M.D.
Executive Secretary

September 15, 1993

Mr. Robert Bentley
Director
Division of Professional Licensing Services
New York State Education Department
Empire State Plaza-Cultural Education Center
Albany, New York 12230

RE: License No. 123050
EFFECTIVE DATE: 8/24/93

Dear Mr. Bentley:

Enclosed please find Order #93-125 of the New York State Board for Professional Medical Conduct concerning Dr. Prasert Chunmuang.

Neither the Department of Health nor the Respondent has requested an administrative review in this matter. The failure to request a review exhausts the administrative remedies in this matter.

Sincerely,

C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

August 17, 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Prasert Chunmuang, M.D.
401 Devonshire Drive
Franklin Lake, New Jersey 07417

Roy Nemerson, Esq.
NYS Department of Health
Bureau of Professional
Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

RE: In the Matter of Prasert Chunmuang, M.D.

Dear Dr. Chunmuang and Mr. Nemerson:

Enclosed please find the Determination and Order (No. BPMC-93-125) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

New York State Department of Health
Office of Professional Medical Conduct
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

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 than 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), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "(t)he 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 all action 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., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Corning Tower -Room 2503
Empire State Plaza
Albany, New York 12237-0030

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.

Very truly yours,

Tyrone T. Butler nam

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nam
Enclosure

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

-----X
IN THE MATTER :
OF :
PRASERT CHUNMUANG, M.D. :
-----X

HEARING
COMMITTEE'S
DETERMINATION
AND ORDER
NO. BPMC-93- 125

SUMNER SHAPIRO, Chairperson, and HILDA RATNER, M.D.,¹
duly designated members of the State Board for Professional
Medical Conduct, appointed by the Commissioner of Health of the
State of New York pursuant to Section 230(1) of the Public Health
Law, served as the Hearing Committee in this matter pursuant to
Sections 230(10)(e) and 230(12) of the Public Health Law.
ELLEN B. SIMON, ESQ., Administrative Law Judge, served as
Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing
Committee submits this determination.

SUMMARY OF THE PROCEEDINGS

Commissioner's Order and Notice of Hearing dated:	June 28, 1993
Statement of Charges dated:	June 28, 1993
Hearing date:	July 7, 1993
Deliberation date:	July 7, 1993
Place of hearing:	NYS Department of Health 5 Penn Plaza

¹ Rafael A. Lantigua, M.D. was the third member
appointed to the Hearing Committee in this matter.
Dr. Lantigua did not appear on the scheduled hearing
date. Roy Nemerson, Esq, Petitioner's Attorney, had no
objection to proceeding in Dr. Lantigua's absence.
(Transcript Page 8)

New York, New York

Petitioner appeared by:

Peter J. Millock, Esq.
General Counsel
NYS Department of Health
BY: Roy Nemerson, Esq.
Deputy Counsel

Respondent Did Not Appear

COMMISSIONER'S ORDER

The Commissioner's Order cites the Commissioner of Health's determination, after an investigation by the State Board for Professional Medical Conduct (SBPMC) and the resulting SBPMC recommendation, that the continued practice of medicine in the State of New York by the Respondent constitutes an imminent danger to the health of the people of the State. Under the Order, the Respondent was immediately to suspend his practice of medicine in the State, such Order to remain in effect unless modified or vacated by the Commissioner pursuant to N.Y. Public Health Law Section 230(12) (McKinney Supp. 1993).

STATEMENT OF CHARGES

The Statement of Charges essentially charges the Respondent with professional misconduct by reason of having been found guilty, by a duly authorized professional disciplinary agency of New Jersey, of professional misconduct, which conduct would, if committed in New York State, constitute professional misconduct under the laws of this State.

The Statement of Charges cites the New Jersey finding of the Respondent's sexual misconduct involving four patients and

charges the Respondent with misconduct, moral unfitness to practice, willful physical abuse, and negligence under the laws of the State of New York.

The charges are more specifically set forth in the Statement of Charges, a copy of which is attached to and made a part of this Determination and Order (Appendix I).

FINDINGS OF FACT

Numbers in parentheses refer to the exhibits of the Department of Health, and they denote evidence that the Hearing Committee found persuasive in determining a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited.

GENERAL FINDINGS

1. Prasert Chunmuang, M.D., the Respondent, was authorized to practice medicine in New York State on March 7, 1975 by the issuance of license number 123050 by the New York State Education Department (Ex. 1).

2. The Respondent practiced medicine in New Jersey until the revocation of his license to practice pursuant to an order of the New Jersey State Board of Medical Examiners filed June 17, 1993 (Ex. 5).

FINDINGS OF FACT

3. According to the June 17, 1993 Order of the New Jersey State Board of Medical Examiners, the Respondent was found guilty of professional medical misconduct which resulted in the revocation of his license to practice medicine in the State of New Jersey (Ex. 5).

4. The Findings of Fact of the Administrative Law Judge in the New Jersey proceeding (Ex. 6, p. 37) were that the Respondent engaged, during pelvic examinations of four different patients, in conduct of a blatantly sexual nature without any medical purpose whatsoever; for example, rubbing of breasts in a sexual manner and touching of a clitoris in a sexual manner. Those findings were adopted in their entirety by the New Jersey State Board of Medical Examiners and were the basis for the Board's order revoking the Respondent's license to practice medicine in the State of New Jersey (Ex. 5).

5. The Findings of Fact of the New Jersey Administrative Law Judge were based upon a fully litigated hearing on the charges against the Respondent (Exs. 5 and 6).

CONCLUSIONS

1. The conduct of the Respondent that resulted in the revocation of his license to practice medicine in New Jersey would, if committed in New York, constitute professional medical misconduct within the meaning of N.Y. Education Law Section 6530(9)(b) (McKinney Supp. 1993).

2. Such conduct evidences moral unfitness to practice medicine within the meaning of N.Y. Education Law Section 6530(20) (McKinney Supp. 1993).

3. There is compelling evidence of the Respondent's forceful sexual manipulation of patients (Ex. 6, pp. 26-27) deemed to be credible by the New Jersey Administrative Law Judge (Ex. 6, p. 12) and further credited by the New Jersey Board of Medical Examiners (Ex. 5, p. 2, paragraph 2). Such conduct constituted willful physical abuse within the meaning of N.Y. Education Law Section 6530(31) (McKinney Supp. 1993).

4. The findings of fact of the New Jersey Administrative Law Judge evidence deviation from acceptable medical standards in the treatment of a patient. The practices cited constitute at least four breaches of the duty of care that would be exercised by a reasonably prudent physician under the circumstances. Such negligent practices constitute professional misconduct within the meaning of N.Y. Education Law Section 6530(3) (McKinney Supp. 1993).

VOTE OF THE HEARING COMMITTEE

The Hearing Committee voted 2 to 0, with one member absent, as follows:

FIRST SPECIFICATION (Having been found guilty of misconduct)	SUSTAINED
SECOND THROUGH FIFTH SPECIFICATIONS (Moral unfitness to practice)	SUSTAINED
SIXTH THROUGH NINTH SPECIFICATIONS (Willful physical abuse)	SUSTAINED

TENTH SPECIFICATION
(Negligence)

SUSTAINED

DETERMINATION OF THE HEARING COMMITTEE AS TO PENALTY

The Hearing Committee determines, by a vote of 2 to 0, with one member absent, that the Respondent's license to practice medicine in the State of New York be revoked.

The Hearing Committee further determines, by a vote of 2 to 0, with one member absent, that because of the imminent danger that the Respondent presents to potential patients, the Order of the Commissioner be extended pending the surrender of the Respondent's license to practice medicine in the State of New York.

Although the Respondent did not appear at the hearing, either himself or by counsel, the Hearing Committee finds, from the initial decision of the Administrative Law Judge in the New Jersey proceeding (Ex. 6, pp. 23-29) and the Order affirming that decision and revoking the Respondent's license (Ex. 5), that the Respondent had the opportunity in New Jersey to litigate fully the facts of this matter. The issues of the Respondent's misconduct under the guise of legitimate medical treatment were raised and fully heard in a formal proceeding before the New Jersey Board of Medical Examiners with all the safeguards of due process and fairness that such a proceeding affords a respondent physician.

The Hearing Committee holds, by a vote of 2 to 0, with one member absent, that the evidence cited in Exhibits 5 and 6 is sufficient to sustain its findings of guilt of professional

medical misconduct within the meaning of N.Y. Law Section 6530(9)(b), moral unfitness to practice within the meaning of N.Y. Education Law Section 6530(20), willful physical abuse within the meaning of N.Y. Education Law Section 6530(31), and negligence on more than one occasion within the meaning of N.Y. Education Law Section 6530(3).

Under these circumstances, the panel finds that the penalty of license revocation is fair and appropriate.

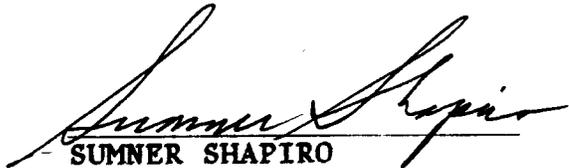
ORDER

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

1. The license of the Respondent to practice medicine in the State of New York is **REVOKED**; and
2. The Order of the Commissioner is extended pending the surrender of such license.

DATED: Delmar, New York

August 10, 1993


SUMNER SHAPIRO
Chairperson

Hilda Ratner, M.D.

TO: Prasert Chunmuang, M.D.
401 Devonshire Drive
Franklin Lake, New Jersey 07417

Roy Nemerson, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001-1810

A P P E N D I X I

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

-----:
IN THE MATTER
OF
PRASERT CHUNMUANG, M.D.

: COMMISSIONER'S
: ORDER AND
: NOTICE OF HEARING
-----:

TO: PRASERT CHUNMUANG, M.D.
401 Devonshire Drive, Franklin Lake, NJ 07417

The undersigned, Mark R. Chassin, M.D., Commissioner of Health of the State of New York, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that the continued practice of medicine in the State of New York by PRASERT CHUNMUANG, M.D., the Respondent, constitutes an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law Section 230(12) (McKinney Supp. 1993), that effective immediately PRASERT CHUNMUANG, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law Section 230(12) (McKinney Supp. 1993).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1993), and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 7th day of July, 1993 at 10:00 a.m. at 5 Penn Plaza, Sixth Floor Hearing Room A, New York, NY 10001, and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

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. The Respondent shall appear in person at the hearing and may be represented by counsel. The 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. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to Section 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.

The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Empire State Plaza, Corning Tower Building, 25th Floor, Albany, New York 12237-0026 and by telephone (518-473-1385), 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. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

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 or sanction 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 FORTH IN NEW
YORK PUBLIC HEALTH LAW SECTION 230-a
(McKinney Supp. 1993). YOU ARE URGED TO
OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS
MATTER.

DATED: Albany, New York
July 28, 1993



MARK R. CHASSIN, M.D.
Commissioner of Health

Inquiries should be directed to:
Roy Nemerson
Deputy Counsel /BPMC
N.Y.S. Department of Health
5 Penn Plaza, Sixth Floor
New York, NY 10001

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

-----X
IN THE MATTER : STATEMENT
OF : OF
PRASERT CHUNMUANG, M.D. : CHARGES
-----X

PRASERT CHUNMUANG, M.D., the Respondent, was authorized to practice medicine in New York State on March 7, 1975 by the issuance of license number 123050 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994 from 401 Devonshire Drive, Franklin Lake, NJ 07417.

ALLEGATIONS

- A. Respondent's license to practice medicine in the state of New Jersey was revoked and he was fined \$10,000.00 by the issuance of an order of the New Jersey State Board of Medicine filed June 17, 1993. This action was based on Respondent's sexual misconduct involving four patients, conduct which, if committed in New York, would constitute professional misconduct as defined in N.Y. Educ. Law Section 6530 (3), (20) and/or (31) (McKinney Supp. 1993).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF MISCONDUCT

1. Respondent is charged with professional misconduct, within the meaning of N.Y. Educ. Law Section 6530(9)(b) (McKinney Supp. 1993), in that Respondent has been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct resulting 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 alleges the facts in Paragraph A.

SECOND THROUGH FIFTH SPECIFICATIONS

MORAL UNFITNESS TO PRACTICE

2. Respondent is charged with professional misconduct, within the meaning of N.Y. Educ. Law Section 6530(20) (McKinney Supp. 1993), by engaging in conduct in the practice of medicine which evidences moral unfitness to practice medicine in that Petitioner alleges the facts in Paragraph A, with regard to each of four patients, Luz A., Melissa T., Lillie M., and Arita G.

SIXTH THROUGH NINTH SPECIFICATIONS
WILLFUL PHYSICAL ABUSE

3. Respondent is charged with professional misconduct, within the meaning of N.Y. Educ. Law Section 6530(31) (McKinney Supp. 1993), by willfully abusing a patient physically in that Petitioner alleges the facts in Paragraph A with regard to each of four patients, Luz A., Melissa T., Lillie M., and Arita G.

TENTH SPECIFICATION
NEGLIGENCE

4. Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law Section 6530(3) (McKinney Supp. 1993) by practicing with negligence on more than one occasion, in that Petitioner charges the facts alleged in Paragraph A.

DATED: New York, New York

June 28, 1993

Chris Stern Hyman

CHRIS STERN HYMAN

Counsel

Bureau of Professional Medical
Conduct