



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-0127 • (614) 466-3934 • Website: www.med.ohio.gov

March 8, 2006

David Ta-Wei Huang, M.D.
5875 SW 131 Terrace
Miami, FL 33156

Dear Doctor Huang:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 8, 2006, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4329 8050
RETURN RECEIPT REQUESTED

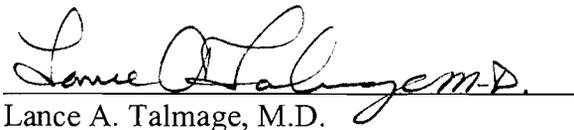
Cc: Eric J. Plinke, Esq.
CERTIFIED MAIL NO. 7003 0500 0002 4329 8074
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CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 8, 2006, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of David Ta-Wei Huang, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.



Lance A. Talmage, M.D.
Secretary

(SEAL)

March 8, 2006

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

DAVID TA-WEI HUANG, M.D.

*

ENTRY OF ORDER

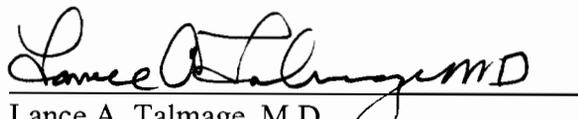
This matter came on for consideration before the State Medical Board of Ohio on March 8, 2006.

Upon the Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

David Ta-Wei Huang is **REPRIMANDED**.

(SEAL)



Lance A. Talmage, M.D.
Secretary

March 8, 2006

Date

REPORT AND RECOMMENDATION ²⁰⁰⁶ FEB -8 P 1:11
IN THE MATTER OF DAVID TA-WEI HUANG, M.D.

The Matter of David Ta-Wei Huang, M.D., was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on January 24, 2006.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated November 9, 2005, the State Medical Board of Ohio [Board] notified David Ta-Wei Huang, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's action was based on allegations that the State of Florida Board of Medicine [Florida Board] had issued an order adopting the terms of a consent agreement that required Dr. Huang to pay a \$10,000 fine, perform 100 hours of community service, and complete five hours of continuing medical education in risk management. The Board alleged that the Florida Board's action constituted "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in R.C. 4731.22(B)(22)." Accordingly, the Board advised Dr. Huang of his right to request a hearing in this matter. (State's Exhibit 1A)
- B. On November 23, 2005, Eric J. Plinke, Esq., filed a letter requesting a hearing on behalf of Dr. Huang. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Damion M. Clifford, Assistant Attorney General.
- B. On behalf of the Respondent: Eric J. Plinke, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

None

II. Exhibits Examined

- A. Presented by the State
1. State's Exhibits 1A through 1K: Procedural exhibits.

2. State's Exhibit 2: Certified copy of documents in the complaint files of the Division of Medical Quality Assurance, Florida Department of Health, relating to Dr. Huang.
 3. State's Exhibit 3: Copy of R.C. 4731.22(B)(22).
- B. Presented by the Respondent
1. Respondent's Exhibit A: Dr. Huang's written statement to the Board.
 2. Respondent's Exhibit B: Dr. Huang's curriculum vitae.
 3. Respondent's Exhibit C: Letter dated January 23, 2006, regarding Dr. Huang's mandatory community service.
- C. Board Exhibit (Admitted post hearing on the Hearing Examiner's own motion.)
- Board Exhibit A: Information regarding a continuing medical education course. (See Procedural Matter, below.)

PROCEDURAL MATTER

At the hearing, the Hearing Examiner inquired as to whether it would be possible to obtain a description or syllabus of the course that the Florida Board had required Dr. Huang to attend, and the record was held open for the purpose of filing additional evidence. On February 1, 2006, Respondent's counsel submitted three documents: two pages of course information and a letter regarding Dr. Huang's plans for performing community service as ordered. On February 2, 2006, the Hearing Examiner held a telephone conference with counsel, and no objections were made to admitting any of the documents. The two pages of course information were marked as Board Exhibit A, and the letter was marked as Respondent's Exhibit C. The record then closed on February 2, 2006.

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

Background

1. In a written statement to the Board dated January 20, 2006, David T. Huang, M.D., Ph.D., provided the following narrative description of his educational and professional history:

I went to medical school at Lake Forest, where I graduated in 1987, after having received a Ph.D. from UNC Chapel Hill in 1984. I did my training at the Medical College of Virginia at Virginia Commonwealth University. I am

board-certified in radiation oncology. I spent many years on the faculty at the Medical College of Virginia before leaving to become the Medical Director of Radiation Oncology at the Adena Regional Medical Center in Chillicothe, Ohio. I returned to an academic post at the University of Miami College of Medicine in August of 2000. In September of 2004, I decided to go into private practice and joined a 20 plus physician group in Miami after leaving the University of Miami on good terms. I have been active in hospital committees and QA activities throughout my career and have published extensively in my field.

(Respondent's Exhibit [Resp. Ex.] A)

2. According to his curriculum vitae, Dr. Huang received a master's degree from the University of Texas at Houston upon a thesis regarding dose computation for radiation therapy, and he received his Ph.D. from the University of North Carolina upon a dissertation addressing polychromaticity artifacts in CT images. From 1993 to 1998, Dr. Huang served as the Director of Quality Assurance of the Radiation Oncology Service at the Medical College of Virginia, where he was an Assistant Professor, according to his CV. In addition, he was an Assistant Professor at the University of Miami Medical School, Department of Radiation Oncology, from 2000 to 2002, and an Associate Professor from 2002 to 2004. Dr. Huang's CV lists numerous articles, abstracts, and other publications that he authored with others in the field of radiation oncology. (Resp. Ex. B)

The Administrative Complaint in Florida

3. In April 2004, the Florida Department of Health [DOH] issued an Administrative Complaint against David Ta-Wei Huang, M.D., alleging facts including the following:
 5. On or about May 13, 2002, Patient C.M., a 57 year-old male presented to Jackson Memorial Hospital (JMH) for ultrasound-guided biopsy of the prostate.
 6. On May 16, 2002, a pathologist reported that the biopsy specimen demonstrated chronic inflammation, benign prostatic hyperplasia and granulomatous prostatitis. The report did not include any reference to malignancy.
 7. On or about May 31, 2002, an incorrect diagnosis of adenocarcinoma was entered into Patient C.M.'s chart by a urology intern.
 8. On or about June 11, 2002, Respondent [Dr. Huang] performed a consultative examination of Patient C.M., and recorded as his impression that C.M. had a "Stage T3ANXM0 adenocarcinoma of the prostate, Gleason's score of 3 + 3". Respondent also noted: "I have not seen a formal pathology report on this patient".
 9. In the June 11, 2002 consultative report, Respondent recommended hormonal and radiation therapy, with a plan to irradiate Patient C.M. with "7380 cGy to the prostate and the whole pelvis will be treated to 45 Gy".

10. Between September 11, 2002 and November 12, 2002, Respondent did in fact irradiate Patient C.M. as planned.
11. On or about February 20, 2003, and after radiation therapy, a routine review of patient records by hospital staff revealed that patient C.M.'s prostate problem was benign, and that his actual condition did not necessitate radiation treatment.

(State's Exhibit [St. Ex.] 2 at 15-17)

In its administrative complaint, the Florida DOH charged that Dr. Huang had violated Section 458.331(1)(t), Florida Statutes, by failing to practice medicine according to applicable standards in two respects: that he had "failed to confirm the histological diagnosis listed in patient C.M.'s hospital record before planning and initiating his treatment plan," and that, "between September 11, 2002 and November 12, 2002 [Dr. Huang had] administered radiation treatments to Patient C.M. based upon an erroneous diagnosis." Based on the alleged violation of Florida law, the DOH asked the Florida Board to impose one or more of the following penalties: "permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate." (St. Ex. 2 at 17-19)

The Consent Agreement

4. In May 2005, Dr. Huang entered into a consent agreement with the Florida DOH, conditioned on approval by the Florida Board. In this agreement, Dr. Huang agreed to pay a fine of \$5,000, pay \$3,000 in costs, perform fifty hours of community service, and complete a five-hour continuing medical education class on risk management. (St. Ex. 2 at 7-14)
5. On August 6, 2005, the Florida Board rejected the proposed consent agreement and offered a counter proposal that included the same basic terms but imposed an increased fine and more community service, with lower costs. Dr. Huang accepted the amended agreement, and, on August 19, 2005, the Florida Board signed a Final Order in which it adopted, approved, and incorporated by reference the consent agreement as amended and accepted [the Consent Agreement]. The Final Order was mailed on August 22, 2005. (St. Ex. 2 at 4-6)

In the Consent Agreement, the parties recited stipulated facts, including the following: "Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only." (Consent Agr. at 2)¹ The Consent Agreement also includes the admission by Dr. Huang that the facts alleged in the complaint, "*if proven*, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint." (Consent Agr. at 2, italics added) In addition,

¹ Copies of the Consent Agreement are included in both State's Exhibits 1 and 2. For ease of reference, the page numbers cited are the internal page numbers in the Consent Agreement, not the pages numbers of either exhibit.

Dr. Huang agreed to the following “Stipulated Disposition” of the administrative complaint against him:

1. **Letter of Concern** – Respondent shall receive a Letter of Concern from the Board of Medicine.

2. **Fine** – The Board of Medicine *shall impose* an administrative fine of Ten Thousand dollars (\$10,000.00) against the license of Respondent, to be paid by Respondent * * * within thirty-days (30) from the date of filing of the Final Order accepting this Agreement. [Italics added]

* * *

3. **Reimbursement of Costs** – Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and preparation of this case. * * * The agreed amount of Department costs to be paid in this case shall not exceed \$1,798.30. * * *

* * *

4. **Community Service** – Respondent shall perform 100 hours of community service, within one year of the date of filing of the Final Order. Community Service shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services in the community, without fee or cost to the patient or the entity * * *. Community service shall be performed outside the physician’s regular practice setting. Respondent shall submit a written plan for * * * community service to the Probation Committee for approval prior to performance of said community service. Affidavits detailing the completion of community service requirements shall be filed with the Board as required by the Probation Committee.

5. **Continuing Medical Education – “Risk Management”** – Respondent shall complete five (5) hours of Continuing Medical Education in “Risk Management” within one (1) year of the date of filing of the Final Order.

(Consent Agr. at 2-5) (Bold and underlining in original) The Final Order includes a provision that, should Dr. Huang violate any of these terms, the Florida Board may initiate disciplinary action against his medical license. (Consent Agr. at 2-5)

Dr. Huang’s Statement to the Board

6. On January 20, 2006, Dr. Huang wrote as follows to the Board:

Members of the State Medical Board of Ohio,

I am writing to you regarding my interaction with the Florida Board of Medicine and the agreement that was made with that Board. I understand that you are

deciding whether or not to take disciplinary action against my Ohio license as a result of the agreement I entered into with the Florida Board. I encourage [you] not to discipline my Ohio license because of that agreement.

My request is based on the fact that when I made the agreement with the Florida Board, I did not admit any wrongdoing and no findings were made against me. The agreement was a difficult decision, but because I did not have to admit to any wrongdoing, I decided to settle the charges rather than go through a long and much more costly hearing process.

The complaint made by the Florida Board does not include the mitigating clinical circumstances surrounding my care and treatment of this patient. Prior to my involvement in this gentleman's care, he had been evaluated and examined by other physicians, including a urologist who made the diagnosis of adenocarcinoma of the prostate after having conducted a PSA test, bone scan, and ultra-sound biopsy of the prostate. The patient was referred to me for radiation treatment. I reviewed the written clinical report and documentation from the referring physician. The clinical report specified that the patient had a significantly elevated PSA level of 41.5 ng/ml, a positive biopsy result for prostate cancer, and a Gleason's score of 3+3. The patient's PSA level of 41.5 ng/ml was approximately 10 times higher than the base borderline range, which is 0-4. Further, the report specified that the biopsy result was: "Right prostate: benign hyperplasia chronic inflam. [inflammation]; Left prostate: well differentiated adenoca. [adenocarcinoma]."

Based on this clinical report documenting the significantly elevated PSA, a Gleason's score of 3+3 establishing advanced prostate cancer, a biopsy result diagnosing adenocarcinoma of the prostate, and my own exam findings of an abnormal, large, and hard prostate, I established a treatment plan of radiation therapy. While I had no way of knowing this at the time, it was later determined that the clinical report provided to me incorrectly documented the results of the biopsy and incorrectly diagnosed the patient. As a result, the treatment I provided was not necessary. After presenting this information to the Florida Board, and having weighed the risks and benefits of a hearing, the agreed settlement was reached with no findings against me. I have already made progress in complying with the agreement and expect to complete all terms by this Summer when I will attend the risk management CE course in June in Tampa and organizing the community service project with the Shake-a-Leg organization which is dedicated to improving the lives of the disabled.

I know that none of you know me and I'm sure that you would like to know something about my background and medical career. I have attached a copy of my CV for your review and consideration .

[Dr. Huang's narrative description of his professional background is omitted here, as it is quoted above.]

This matter was the first complaint of any kind I have ever been involved with. I also feel fortunate that I have never been the subject of [a] medical malpractice claim. That being said, I do not believe that discipline by the Ohio board for this matter in Florida, would serve any additional purpose beyond that which has been served already by the public Florida agreement. In fact, I understand that discipline by this Board, even in the form of reprimand, would be reportable to the NPDB and will severely complicate my status with third-party payors and other credentialing institutions. The letter of concern agreed to in the Florida settlement was not a reportable event to the NPBD. This fact that the Florida agreement was not reportable was a significant factor in my decision making process to settle as I did in Florida.

I thank you for your time and consideration in your review of this matter.

(Resp. Ex. A)

FINDINGS OF FACT

The State of Florida Board of Medicine [Florida Board] issued a Final Order effective on or about August 22, 2005, in which it approved, adopted, and incorporated the terms of a Consent Agreement between the Florida Department of Health and David Ta-Wei Huang, M.D., and thereby resolved an Administrative Complaint against Dr. Huang pursuant to Chapter 458 of the Florida Statutes.

Under this Final Order and Consent Agreement, Dr. Huang accepted that the Florida Board "shall impose" an administrative fine of \$10,000.00 against his license. In addition, the Florida Board ordered that Dr. Huang shall complete five hours of continuing medical education in risk management, shall perform 100 hours of board-approved community service within one year at a location not excluded under the terms of the Final Order, and shall receive a "letter of concern" from the Florida Board.

CONCLUSIONS OF LAW

1. The Board is within its authority and discretion to interpret the phrase "an order of censure or other reprimand" in Ohio Revised Code Section [R.C.] 4731.22(B)(22), as encompassing a "letter of concern" from the State of Florida Board of Medicine [Florida Board] to a licensee.

The "letter of concern" from the Florida Board to David Ta-Wei Huang, M.D., as set forth in the Findings of Fact above, constitutes one of "the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a

license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,” as that clause is used in R.C. 4731.22(B)(22). Therefore, the “letter of concern” is sufficient, in and of itself, to support disciplinary action by the Board under R.C. 4731.22(B)(22).

2. The Board is within its authority and discretion to interpret the phrase “the limitation * * * of an individual’s license to practice” in R.C. 4731.22(B)(22) as encompassing an order of another state’s medical board that has required its licensee, under penalty of disciplinary action, to undertake specific CME that the individual would not otherwise be obliged to undertake, and where the order has also required substantial community service pursuant to specific restrictions. With a free and unrestricted license, a licensee in Florida is not obliged to attend a five-hour CME course on risk management nor required to perform 100 hours of community service approved by the Florida Board within one year at a non-excluded location.

The Florida Board’s requirements of specific CME and community service, as set forth above in the Findings of Fact, constitutes one of “the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual’s license to practice; acceptance of an individual’s license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,” as that clause is used in R.C. 4731.22(B)(22). Therefore, regardless of whether the Florida Board has termed these requirements an “obligation” or a “limitation” on Dr. Huang’s license, the portion of the Florida Board’s Final Order that requires specific CME and community service is sufficient, in and of itself, to support disciplinary action by the Board under R.C. 4731.22(B)(22).

* * * * *

The record before this Board is sparse. It includes administrative *allegations* regarding a single error with no suggestion of a pattern or recurring problem. It is important to recognize that the Florida Board did not state a finding one way or the other as to whether Dr. Huang committed the actions or omissions alleged, nor did the Florida Board conclude that Dr. Huang had failed to practice medicine in accord with applicable Florida standards.

Materials regarding Dr. Huang’s history and background were presented only by Dr. Huang himself in the form of his curriculum vitae and a personal statement. Those summaries, if reliable, indicate that Dr. Huang is a well-trained physician with good credentials who has been active in research and publishing, and who has been involved in training physicians as a faculty member at respected medical schools. In addition, Dr. Huang asserted that he has not previously been the subject of any complaint.

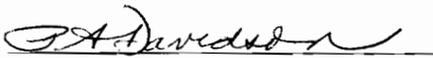
Nonetheless, in his statement to the Board, Dr. Huang directly addressed the events surrounding his radiation of a patient who did not need radiation. By addressing the underlying facts and setting forth explicit and implicit admissions, outside the administrative complaint, Dr. Huang has invited the Board to examine the events he describes. However, given the narrow wording of the notice of

opportunity for hearing, the Board must decline the invitation to consider the complaint's allegations in light of Dr. Huang's narrative. Although experienced physicians may wish to dispute Dr. Huang's assertion in his statement that he had "no way of knowing" that the urology report had incorrectly recited the contents of the biopsy report, the Board must focus solely on the issue of whether the Florida Board's order constituted or included any of the actions listed in R.C. 4731.22(B)(22), which is the narrow question set forth in the Board's notice of opportunity for hearing.

PROPOSED ORDER

It is hereby ORDERED that:

David Ta-Wei Huang is **REPRIMANDED**.


Patricia A. Davidson
Hearing Examiner



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/466-8934 • Website: www.state.oh.us/mcb

EXCERPT FROM THE DRAFT MINUTES OF MARCH 8, 2006

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Jabir Kamal Akhtar, M.D.; David Ta-Wei Huang, M.D.; Handel Jay Roberts, M.D.; and Marc H. Schwachter, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

Dr. Robbins - aye

Dr. Robbins noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

Dr. Robbins stated that, if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....

DAVID TA-WEI HUANG, M.D.

.....

DR. EGNER MOVED TO APPROVE AND CONFIRM MS. DAVIDSON’S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF DAVID TA-WEI HUANG, M.D. DR. KUMAR SECONDED THE MOTION.

.....

A vote was taken on Dr. Steinbergh’s motion to approve and confirm:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- nay
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

November 9, 2005

David Ta-Wei Huang, M.D.
5875 SW 131 Terrace
Miami, Florida 33156

Dear Doctor Huang:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) The State of Florida Board of Medicine [Florida Board] issued a Final Order, effective on or about August 22, 2005, which approved and adopted a Consent Agreement, imposed a fine of \$10,000.00, and required you to perform 100 hours of community service and complete five hours of continuing medical education in risk management. A copy of the Final Order is attached hereto and incorporated herein.

The Florida Board's Final Order, as alleged in paragraph (1) above, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments,

Mailed 11-10-05

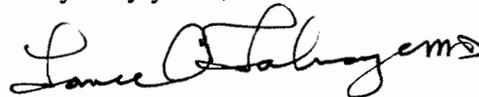
or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lance A. Talmage, M.D.", with a stylized flourish at the end.

Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4333 3768
RETURN RECEIPT REQUESTED

AK

Final Order No. DOH-05-1334-5-MOA
FILED DATE - 8-22-05
Department of Health

STATE OF FLORIDA
BOARD OF MEDICINE

By: Heather Coleman
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2004-02730
LICENSE NO.: ME0080401

DAVID TA-WEI HUANG, M.D.,

Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on August 6, 2005, in Jacksonville, Florida, for the purpose of considering a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises, the Board rejected the Consent Agreement and offered a Counter Consent Agreement which Respondent was given 7 days to accept. By letter dated August 12, 2005, counsel for Respondent accepted the Board's Counter Consent Agreement on behalf of Respondent. The Counter Consent Agreement incorporates the original Consent Agreement with the following amendments:

1. The fine set forth in Paragraph 2 of the Stipulated Disposition shall be increased to \$10,000.

2. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$1,798.30.

3. The community service set forth in Paragraph 4 of the Stipulated Disposition shall be amended to require 100 hours of community service.

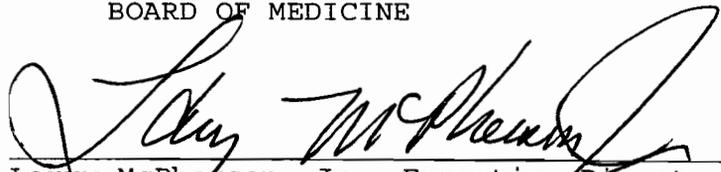
IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the amendments set forth above. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Consent Agreement as amended.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 19 day of AUGUST,

2005.

BOARD OF MEDICINE


Larry McPherson, Jr., Executive Director
for Laurie K. Davies, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to DAVID TA-WEI HUANG, M.D., 5875 SW 131st Terrace, Miami, Florida 33156; to Mark Dresnick, Esquire, Dresnick & Rodriguez, P.A., 201 Alhambra Circle, Suite 701, Coral Gables, Florida 33134; and by interoffice delivery to Denise O'Brien and Dana Baird, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 22 day of August, 2005.

Harmony McClaw
Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

STATE DEPARTMENT OF HEALTH
2004 MAY 29 11:11:52

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2004-02730

DAVID TA-WEI HUANG, M.D.

Respondent.

CONSENT AGREEMENT

David Ta-Wei Huang, M.D., referred to as the "Respondent," and the Department of Health, referred to as "Department" stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is a state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 80401.

2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Letter Of Concern** - Respondent shall receive a Letter of Concern from the Board of Medicine.

2. **Fine** - The Board of Medicine shall impose an administrative fine of Five Thousand dollars (\$5,000.00) against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box

6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer, within thirty-days (30) from the date of filing of the Final Order accepting this Agreement. All fines shall be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

3. **Reimbursement Of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and preparation of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The agreed upon amount of Department costs to be paid in this case shall not exceed Three Thousand Dollars (\$3,000.00). Respondent will pay costs to the Department of Health, HMQAMS/Client Services,

P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer within thirty-days (30) from the date of filing of the Final Order in this cause. Any post-Board costs, such as the costs associated with probation, are not included in this agreement.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

4. **Community Service** - Respondent shall perform fifty hours of community service, within one year of the date of filing of the Final Order. Community Service shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services in the community, without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting. Respondent shall submit a written plan for performance and completion of the community service to the Probation Committee for approval prior

to performance of said community service. Affidavits detailing the completion of community service requirements shall be filed with the Board as required by the Probation Committee.

5. **Continuing Medical Education – "Risk Management"** - Respondent shall complete five (5) hours of Continuing Medical Education in "Risk Management" within one (1) year of the date of filing of the Final Order.

STANDARD PROVISIONS

6. **Appearance:** Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

7. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

8. **Addresses** - Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses.

9. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine. Prior to signing this agreement, the Respondent shall read

Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

10. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

11. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

12. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board

and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

13. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

14. **Waiver of further procedural steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

SIGNED this 29th day of APRIL, 2005.

David Ta-Wei Huang
David Ta-Wei Huang, M.D.

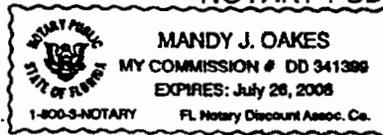
STATE OF FL
COUNTY OF Miami-Dade

Before me, personally appeared David Ta-Wei Hung, M.D., whose identity is known to me or by 4520-178-48-107-0 (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 29 day of April, 2005.

Mandy J. Oakes
NOTARY PUBLIC

My Commission Expires:



APPROVED this 31st day of May, 2005.

John O. Agwunobi, M.D., M.B.A., M.P.H.
Secretary, Department of Health

Wings S. Benton
By: Wings S. Benton
Deputy General Counsel
Department of Health

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2004-02730

DAVID TA-WEI HUANG, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against Respondent, David Ta-Wei Huang, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of Medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed physician within the state of Florida and was issued license number ME 80401.

3. Respondent's address of record is University of Miami, Radiation Oncology Post Office Box 016960 (D-31), Miami, FL 33136. At all times relevant to this complaint, Respondent was affiliated with Jackson Memorial Hospital, also located in Miami, Florida.

4. Respondent is board certified in radiology.

5. On or about May 13, 2002, Patient C.M., a 57 year-old male presented to Jackson Memorial Hospital (JMH) for an ultrasound-guided biopsy of the prostate.

6. On May 16, 2002, a pathologist reported that the biopsy specimen demonstrated chronic inflammation, benign prostatic hyperplasia and granulomatous prostatitis. The report did not include any reference to malignancy.

7. On or about May 31, 2002, an incorrect diagnosis of adenocarcinoma was entered into Patient C.M.'s chart by a urology intern.

8. On or about June 11, 2002, Respondent performed a consultative examination of Patient C.M., and recorded as his impression that C.M. had a "Stage T3ANXM0 adenocarcinoma of the prostate, Gleason's score of 3+3". Respondent also noted: "I have not seen a formal pathology report on this patient".

9. In the June 11, 2002 consultative report, Respondent recommended hormonal and radiation therapy, with a plan to irradiate Patient C.M. with "7380 cGy to the prostate and the whole pelvis will be treated to 45 Gy".

10. Between September 11, 2002 and November 12, 2002, Respondent did in fact irradiate Patient C.M. as planned.

11. On or about February 20, 2003, and after radiation therapy, a routine review of patient records by hospital staff revealed that Patient C.M.'s prostate problem was benign, and that his actual condition did not necessitate radiation treatment.

COUNT ONE – Standard of Care

8. Petitioner realleges and incorporates paragraphs one (1) through eight (8) as if fully set forth herein this Count One.

9. Section 458.331(1)(t), Florida Statutes (2001, 2002), provides that gross or repeated malpractice or the failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances constitutes grounds for disciplinary action by the Board of Medicine.

10. Respondent failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonable prudent similar physician as being acceptable under similar conditions and circumstances, in that he failed to confirm the histological diagnosis listed in Patient C.M.'s hospital record before planning and initiating his treatment plan.

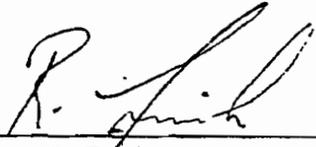
12. Respondent failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances, in that between September 11, 2002 and November 12, 2002, Respondent administered radiation treatments to Patient C.M. based upon an erroneous diagnosis.

13. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes (2001, 2002), by failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonable prudent similar physician as being acceptable under similar conditions and circumstances.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 18th day of APRIL, 2004⁵.

John O. Agwunobi, M.D., M.B.A., M.P.H.
Secretary, Department of Health



Robert E. Fricke
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 0567027
(850) 414-8126
(850) 414-1989 FAX

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Heather Coleman
DATE 4-19-05

REF
Reviewed and approved by: mc (initials) 6/3/04 (date)

PCP: April 15, 2005
PCP Members: El-Bahri, McCoy, Dyches

David Ta-Wei Huang M.D., 2004-02730

David Ta-Wei Huang M.D., 2004-02730

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.