



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

Denise M. Bolan, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

February 15, 2001

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Chomyong Kulvanich Charoenkul, M.D.
22 Revere Road
Ardsley, New York 10502

RE: License No. 117594

Dear Dr. Charoenkul:

Enclosed please find Order #BPMC 01-36 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect February 15, 2001.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: Alan Lambert, Esq.
Lifshutz, Polland and Assoc., P.C.
675 Third Avenue
New York, NY 10017

Daniel Guenzburger, Esq.

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

IN THE MATTER
OF
CHOMYONG KULVANICH CHAROENKUL, M.D.

SURRENDER
ORDER
BPMC No. 01-36

Upon the proposed agreement of CHOMYONG KULVANICH CHAROENKUL, M.D. (Respondent) to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Surrender Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 2/13/01



WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
CHOMYONG KULVANICH CHAROENKUL, M.D.

SURRENDER
OF
LICENSE

CHOMYONG KULVANICH CHAROENKUL, M.D., representing all statements herein made to be true, deposes and says:

On or about September 9, 1973, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 117594 by the New York State Education Department.

My current address is 22 Revere Road, Ardsley, New York, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with fourteen (14) specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I agree not to contest the first specification as it pertains to Patients A, B, C and D in full satisfaction of the Statement of Charges.

I hereby make this application to the State Board for Professional Medical Conduct and request that it be granted.

I understand that, in the event that the application is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that, in the event the State Board for Professional Medical Conduct grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Surrender Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Surrender Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

Chomyong Kulvanich Charoenkul, M.D.
RESPONDENT

DATED Feb 1, 01

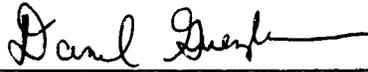
The undersigned agree to the attached application of the Respondent to surrender his license.

Date: Jan 29, 2001



ALLAN LAMBERT, Esq.
Lifshutz, Polland and Assoc., P.C.
Attorney for Respondent

Date: Jan. 31, 2001



DANIEL GUENZBURGER
Associate Counsel
Bureau of Professional
Medical Conduct

Date: 2/2/01



~~PATRICIA E. WHITMAN~~ DENNIS J. GRAZIANO
Deputy Director of Operations
Office of Professional Medical Conduct

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A
REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more)
OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall have delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230-a of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.

"EXHIBIT A"

IN THE MATTER
OF
CHOMYONG KULVANICH CHAROENKUL, M.D.

STATEMENT
OF
CHARGES

CHOMYONG KULVANICH CHAROENKUL, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 6, 1973, by the issuance of license number 117594 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. At all times relevant to the Statement of Charges the Respondent maintained a radiological practice, Pelham X-Ray Services Inc., at 2114 Willamsbridge Road, Bronx, NY 10461. On or about October 23, 1997, Respondent performed and evaluated a mammogram and breast ultrasound for Patient A. Respondent concluded that Patient A had asymmetrical breast tissue, which was more pronounced in the left breast. (Patient A and the other patients in the Statement of Charges are identified in the appendix.)
- Respondent:
1. Failed to order a coned compression view of the left upper breast.
 2. Failed to perform and/or advise the referring physician to perform a focused physical exam of the left breast.
 3. Failed to order a biopsy.

- 111 000 0100 111117
- B. On or about December 21, 1996, the Respondent evaluated a mammogram of Patient B in which she found a mass with coarse calcifications in the apex of the right breast cone. The calcifications were only seen on one mammographic image, the mediolateral oblique view. Respondent diagnosed a complicated cyst, but could not completely exclude the possibility of a central necrotic mass.**

On or about March 25, 1997, Respondent conducted a follow-up study, consisting of a mammogram and breast ultrasound. Respondent concluded that the mass had decreased in size and density.

- 1. With respect to the December 21, 1996 study, Respondent:**
 - a. Failed to order an additional X-CC (rotated cranio-caudal) mammographic view.**
 - b. Failed to order a biopsy.**
 - c. Failed to take an adequate ultrasound image and/or ensure the performance of an adequate breast ultrasound examination.**
 - d. Failed to adequately describe the location of the mass.**
- 2. With respect to the March 25, 1997 study, Respondent:**
 - a. Failed to measure and/or note the decrease in size of the breast cyst.**
 - b. Failed to take adequate breast ultrasound images and/or ensure the performance of an adequate breast ultrasound examination.**

- C. On or about July 24, 1997 Respondent evaluated a mammogram and breast ultrasound of Patient C. Respondent:
1. Inappropriately based her evaluation on mammographic films that were not adequately penetrated.
 2. Failed to reorder a second mammographic examination.
 3. Performed a breast ultrasound examination without adequate indication.
- D. On or about April 29, 1997, Respondent evaluated a mammogram and breast ultrasound examination for Patient D. Respondent:
1. Inappropriately described dense fibrocystic changes.
 2. Performed a breast ultrasound examination without adequate indication.
- E. On or about January 29, 1996, and on or about June 6, 1997, the Respondent performed and evaluated mammograms and breast ultrasound examinations for Patient E. Respondent:
1. Performed the breast ultrasound examination dated January 29, 1996 without adequate indication.
 2. Performed the breast ultrasound examination dated June 6, 1997 without adequate medical indication.
- F. On or about September 30, 1997, Respondent performed and evaluated a

mammogram and breast ultrasound examination for Patient F.

Respondent:

1. Performed the breast ultrasound examination without adequate medical indication.
2. Failed to maintain a hard copy image of the breast ultrasound examination.

G. On or about August 29, 1997 the Respondent performed and evaluated a mammogram and breast ultrasound of Patient G. Respondent:

1. Performed the breast ultrasound examination without adequate indication.

H. On or about June 3, 1997, Respondent performed and evaluated a mammogram and breast ultrasound for Patient H. Respondent:

1. Performed a breast ultrasound without adequate indication.
2. Failed to maintain a hard copy image of the ultrasound examination.

I. On or about April 8, 1999, during an interview at the Office of Professional, Respondent submitted her curriculum vitae to an investigator.

Respondent:

1. Knowingly and falsely represented on the curriculum vitae that she had maintained hospital privileges at Harlem Hospital since

1975, when, in fact, she knew that Harlem Hospital had terminated her privileges in or about 1986. Respondent intended to deceive.

2. Knowingly and falsely represented to the investigator that she had resigned from Harlem Hospital, Respondent intended to deceive.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 2000) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. A, A1, A2, A3, B, B1, B1(a), B1 (b), B1 (c), B1 (d), B2, B2 (a), B2 (b), C, C1, C2, C2, C3, D, D1, D2, E, E1, E2, F, F1, F2, G, G1, H, H1, and/or H2.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 2000) by practicing the

profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. A, A1, A2, A3, B, B1, B1(a), B1 (b), B1 (c), B1 (d), B2, B2 (a), B2 (b), C, C1, C2, C2, C3, D, D1, D2, E, E1, E2, F, F1, F2, G, G1, H, H1, and/or H2.

THIRD THROUGH NINTH SPECIFICATION

UNWARRANTED TESTS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(35)(McKinney Supp. 2000) by ordering of excessive tests not warranted by the condition of the patient, as alleged in the facts of:

3. C and C3.
4. D and D2.
5. E and E1.
6. E and E2.
7. F and F1.
8. G and G1.
9. H and H1.

TENTH THROUGH TWELFTH SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32)(McKinney Supp. 2000) by failing to maintain a record for each patient which accurately reflects the care and

treatment of the patient, as alleged in the facts of:

10. B and B2.
11. F and F2.
12. H and H2.

THIRTEENTH AND FOURTEENTH SPECIFICATIONS
FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 2000) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

13. I and I 1.
14. I and I 2.

DATED: October , 2000
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct