

NEW YORK
state department of
HEALTH

Public

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

Sue Kelly
Executive Deputy Commissioner

May 13, 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Young K. Paik, M.D.
REDACTED

Re: License No. 130075

Dear Dr. Paik:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 11-119. This order and any penalty provided therein goes into effect May 20, 2011.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to: Office of Professional Medical Conduct, c/o Physician Monitoring Unit, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Please direct any questions to: Board for Professional Medical Conduct, 433 River Street, Suite 303, Troy, NY 12180, telephone # (518)402-0863.

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Michael J. Roach, Esq.
Connors & Vilardo, LLP
1000 Liberty Building
Buffalo, NY 14202

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

IN THE MATTER
OF
YOUNG PAIK, M.D.

SURRENDER
ORDER

BPMC No. 11-119

Upon the application of (Respondent) YOUNG PAIK, M.D. to Surrender his license as a physician in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further

ORDERED, that Respondent's name 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, either

- by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

Whichever is first.

SO ORDERED.

DATE: 5/12/11

REDACTED

KENDRICK A. SEARS, 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
YOUNG PAIK, M.D.**

**SURRENDER
of
LICENSE**

YOUNG PAIK, M.D., represents that all of the following statements are true:

That on or about February 25, 1977, I was licensed to practice as a physician in the State of New York and issued License No. 130075 by the New York State Education Department.

My current address is REDACTED and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with Three specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Surrender of License.

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 admit the First Specification [Failure to Follow Infection Control Practices], to the extent of Factual Allegation A.1, in full satisfaction of the charges against me. I deny the other factual allegations.

I ask the Board to accept my Surrender of License, and I agree to be bound by all of the terms set forth in attached Exhibit "B".

I understand that, if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged; this application shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts my Surrender of License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender Order, this agreement, and all attached exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website(s).

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

REDACTED

DATE 4-27-11

~~YOUNG PAIK, M.D.~~
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and to its proposed penalty, terms and conditions.

DATE: 4/27/11

REDACTED

MICHAEL J. ROACH, ESQ.
Attorney for Respondent

DATE: 4/28/11

REDACTED

MICHAEL G. BASS, ESQ.
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: May 12, 2011

REDACTED

 KEITH W. SERVIS
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
YOUNG PAIK, M.D.

STATEMENT
OF
CHARGES

YOUNG PAIK, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 25, 1977, by the issuance of license number 130075 by the New York State Education Department.

FACTUAL ALLEGATIONS

Respondent provided medical care to various patients at various times from on or about December 2007, to on or about March 2010, at his office at 65 Grant Street, Buffalo, New York 14213 [hereinafter "Grant Street Office"]. Respondent, from on or about December 2007 to on or about March 2010, had no running water in his Grant Street Office listed above. Respondent's care of such patients failed to accord with accepted standards of practice in that:

1. Respondent, from on or about December 2007 to on or about March 2010 at his Grant Street office, had no supply of running water supplied to his office generally, examination rooms, laboratory sinks, or toilets; did not use water for hand washing or medically related purposes; and utilized towlettes in lieu of running water to provide hand sanitation in his Grant Street office.
2. Respondent, from on or about December 2007 to on or about March 2010, disposed of used needles and syringes that contained biohazardous waste in an open bucket and/or a plastic trash bag, thereby creating a risk for the transmission of HIV, hepatitis C, and hepatitis B.
3. Respondent, from on or about December 2007 to on or about March 2010, failed to utilize an appropriate service for the disposal of biohazardous waste, including used needles and syringes that contained biologic waste, in violation of Article 27, Title 15 of the Environmental Conservation Law, specifically Section 27-1507.

4. Respondent, from on or about December 2007 to on or about March 2010, personally transported biohazardous waste, including used needles and syringes that contained biologic waste, from one site to another, without arranging for the proper storage of such transported waste, thereby creating a risk for the transmission of HIV, hepatitis C, and hepatitis B.

B. Respondent provided medical care to Patient A (patients are identified in the attached appendix), a 65 year old female, from on or about August 22, 2008 to on or about to on or about September 5, 2008, at Sisters of Charity Hospital, 2157 Main Street, Buffalo, New York, 14214. Respondent's care of Patient A failed to accord with accepted standards of practice in that:

1. Respondent, on or about August 26, 2008, ordered an unnecessary computed tomography scan of Patient A's abdomen and pelvis with contrast, due to Patient A's declining renal function.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

FAILURE TO FOLLOW INFECTION CONTROL PRACTICES

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(47) by failing to use scientifically accepted barrier precautions and infection control practices, as alleged in the facts of:

1. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or A and A.4.

SECOND SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

2. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, and/or B and B.1.

THIRD SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) 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:

3. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.3, A and A and A.4, and/or B and B.1.

DATED: *April 28*, 2011

REDACTED

Peter D. Van Buren
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Requirements for Closing a Medical Practice Following a Revocation, Surrender, Limitation or Suspension of a Medical License

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Hedley Park Place, 433 River Street 4th Floor, Troy, NY 12180-2299.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact persons who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent 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 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.
5. In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges for New York State to the DEA. Licensee shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.

6. Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Licensee shall destroy all prescription pads bearing Licensee's name. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.
7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.
8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.
10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges of which the Licensee is found guilty, and may include revocation of a suspended license.