



New York State Board for Professional Medical Conduct

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

Richard F. Daines, M.D.
Commissioner
NYS Department of Health
James W. Clyne, Jr.
Executive Deputy Commissioner
Keith W. Servis, Director
Office of Professional Medical Conduct

Public

Kendrick A. Sears, M.D.
Chair
Carmela Torrelli
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary

August 28, 2009

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Ho Young Kim, M.D.
Redacted Address

Re: License No. 156769

Dear Dr. Kim:

Enclosed is a copy of Modification BPMC #98-20 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect September 4, 2009.

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 and return it to the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,
Redacted Signature

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

Enclosure

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

IN THE MATTER
OF
HO YOUNG KIM, M.D.

MODIFICATION
ORDER
BPMC No. #98-20

Upon the proposed Application for a Modification Order of **HO YOUNG KIM, M.D.**,
(Respondent), that is made a part of this Modification Order, it is agreed and

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

ORDERED, that this Modification Order shall be effective upon issuance by the Board,
either by mailing, by first class mail, a copy of the Modification Order to Respondent at the
address in the attached Application or by certified mail to Respondent's attorney or upon
transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 8-27-2009

Redacted Signature

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
HO YOUNG KIM, M.D.

APPLICATION FOR
MODIFICATION ORDER

HO YOUNG KIM, M.D., (Respondent) being duly sworn deposes and says:

That on or about November 21, 1983, I was licensed to practice as a physician in the State of New York, having been issued license number 156769 by the New York State Education Department.

My current address is Redacted Address

I am currently subject to Consent Agreement and Order BPMC # 98-20, (hereinafter "Original Order"), annexed hereto, made a part, hereof, and marked as Exhibit 1, that was issued on January 24, 1998.

I apply, hereby, to the State Board for Professional Medical Conduct for a Modification Order (hereinafter "Modification Order"), modifying the Original Order, as follows: to delete the paragraphs in the Original Order that state:

"As provided by New York Public Health Law §230-a(2), my license to practice medicine in the State of New York shall be suspended wholly until I prove to the satisfaction of a Committee on Professional Conduct of the Board for Professional Medical Conduct that I am no longer incapacitated for the active practice of medicine and that I am both fit and competent to practice medicine. I understand that I have the burden of proof on these issues. I understand and agree that the Committee's exercise of such discretion shall not be reviewable through recourse to the Administrative Review Board."

"The Board will make reasonable attempts to convene a Committee not later than 90 days after my request, which shall not be deemed to have been perfected until receipt, by the Director of the Office of Professional Medical Conduct, of all that is required to be provided by me pursuant to Exhibit B. I understand and agree that proceedings before said Committee shall not be in the nature of a hearing pursuant to New York Public

Health Law §230, but shall, instead, be informed and intended only for the purpose of addressing any and all facts, evidence, circumstances, and/or issues which do or may relate to the advisability of terminating the suspension of my license. I understand and agree that the procedural nature of said proceedings shall be determined by the State Board for Professional Medical Conduct."

"I agree that, as a condition of this Order, I will maintain current registration of my license with the New York State Education Department, Division of Professional Licensing Services, and pay all registration fees. This condition will remain in effect except during periods of actual suspension, if any, imposed by this Order. This condition shall be in effect beginning thirty days after the effective date of this Order and will continue until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I understand that any failure by me to comply with this condition shall constitute misconduct as defined by New York State Education Law §6530(29)."

substituting therefor:

" Respondent shall never practice medicine in New York state as a physician, activate his registration to practice medicine as a physician in New York state or seek to reapply for a license to practice medicine as a physician in New York state."

The Modification Order to be issued will not constitute a new disciplinary action against me, but will substitute the proposed language for the above described language in the Original Order.

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance of the Board of this Application, I knowingly waive the right to contest the Original Order or the Modification Order for which I apply, both administratively and judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Bureau of Professional Medical Conduct, the Director of the Office of Professional Medical Conduct, and the Chair of the State Board for Professional Medical Conduct each retain complete discretion to either enter into the proposed Agreement and Modification 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.

AFFIRMED:

DATED: AUGUST 24, 2009

Redacted Signature

HO YOUNG KIM, M.D.
Respondent

The undersigned agree to the attached Application of Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 25 August 2009

Redacted Signature

ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 8/27/09

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT 1



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

January 28, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Ho Young Kim, M.D.
Redacted Address

RE: License No. 156769

Dear Dr. Kim:

Enclosed please find Order #BPMC 98-20 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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.

Board for Professional Medical Conduct
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

Sincerely,

Redacted Signature

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Robert Bogan, Esq.

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

-----X

IN THE MATTER : CONSENT
OF : AGREEMENT
HO YOUNG KIM, M.D. : AND ORDER
: BPMC # 98-20

-----X

HO YOUNG KIM, M.D., says:

On or about November 21, 1983, I was licensed to practice as a physician in the State of New York, having been issued license number 156769 by the New York State Education Department.

My current address is Redacted Address

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 one Specification of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit A.

I plead no contest to the Specification in full satisfaction of the charges against me.

I hereby agree to the following penalty:

As provided by New York Public Health Law §230-a(2), my license to practice medicine in the State of New York shall be suspended wholly until I prove to the satisfaction of a Committee on Professional Conduct of the Board for Professional Medical Conduct that I am no longer incapacitated for the active practice

of medicine and that I am both fit and competent to practice medicine. I understand that I have the burden of proof on these issues. I understand and agree that the Committee's exercise of such discretion shall not be reviewable through recourse to the Administrative Review Board.

The Board will make reasonable attempts to convene a Committee not later than 90 days after my request, which shall not be deemed to have been perfected until receipt, by the Director of the Office of Professional Medical Conduct, of all that is required to be provided by me pursuant to Exhibit B. I understand and agree that proceedings before said Committee shall not be in the nature of a hearing pursuant to New York Public Health Law §230, but shall, instead, be informal and intended only for the purpose of addressing any and all facts, evidence, circumstances, and/or issues which do or may relate to the advisability of terminating the suspension of my license. I understand and agree that the procedural nature of said proceedings shall be determined by the State Board for Professional Medical Conduct.

I agree that in the event that I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I agree that, as a condition of this Order, I will maintain current registration of my license with the New York State Education Department, Division of Professional Licensing Services, and pay all registration fees. This condition will remain in effect except during periods of actual suspension, if any, imposed by this Order. This condition shall be in effect

beginning thirty days after the effective date of this Order and will continue until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I understand that any failure by me to comply with this condition shall constitute misconduct as defined by New York State Education Law §6530(29).

I understand that in the event that the Board does not grant this application, 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 Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board 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 of the Chairperson of the Board shall be issued in accordance with same.

I make this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

Redacted Signature

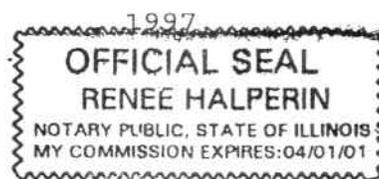
HO YOUNG KIM, M.D.
RESPONDENT

Subscribed before me this 6th

JANUARY day of

Redacted Signature

NOTARY PUBLIC



AGREED TO:

DATE: 21 January 1998

Redacted Signature

ROBERT BOZAN
ASSISTANT COUNSEL
Bureau of Professional
Medical Conduct

DATE: Jan 20, 1998

Redacted Signature

ANNE F. SAILE
DIRECTOR
Office of Professional
Medical Conduct

ORDER

Upon the proposed agreement of HO YOUNG KIM, M.D. for Consent Order, which proposed agreement is made a part hereof, it is AGREED TO and

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

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

DATED: 11/24/98

Redacted Signature

PATRICK F. CARONE, M.D., M.P.H.
Chair
State Board for Professional
Medical Conduct

BY: THEA GRAVES PELLMAN
Board Member

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

-----X

IN THE MATTER : STATEMENT
OF : OF
HO YOUNG KIM, M.D. : CHARGES

-----X

HO YOUNG KIM, M.D., the Respondent, was authorized to practice medicine in New York State on November 21, 1983, by the issuance of license number 156769 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. By an Order dated June 20, 1997, The State of Illinois, Department of Professional Regulation (hereinafter "Illinois Department") placed the Respondent's License to practice medicine on Probation for a period of four (4) years in accordance with a Stipulation and Recommendation for Settlement dated June 4, 1997 (hereinafter Stipulation).

B. By the Stipulation (referred to in paragraph A above), entered into by the Respondent and the Department, it was stipulated, among other things, that:

1. On August 30, 1995, the Department filed a complaint against Respondent, alleging gross negligence regarding the perforation of a uterus during an elective abortion and that on June 25, 1996 the Department received an additional allegation regarding the perforation of a uterus and colon during an elective abortion;

2. Respondent admits that the Department may be able to prove a violation of the Medical Practice Act;
3. Respondent neither admits nor denies any wrongdoing; and
4. Respondent acknowledges that a violation of the Medical Practice Act of 1987 may be found by the Medical Disciplinary Board following review of the Stipulation.

C. In the Stipulation (referred to in paragraphs A and B above) it was agreed by the Department and the Respondent that: Respondent's license to practice medicine be placed on Probation for a period of four (4) years with conditions of Probation to include:

1. Respondent successfully complete one hundred (100) hours of Remedial Education;
2. Respondent not practice medicine in any surgicenter not affiliated with a hospital;
3. Respondent perform abortions on patients who are twelve (12) or more weeks pregnant only in a hospital setting; and
4. Respondent file quarterly reports.

D. The conduct resulting in the Order of the Illinois Department would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law: N.Y. Education Law Section 6530(3) - [practicing the profession with negligence on more than one occasion], and/or N.Y. Education Law Section 6530(4) - [practice the profession with gross negligence on a particular occasion], and/or N.Y. Education Law Section 6530(5) - [practicing the profession with incompetence on more than one occasion], and/or N.Y. Education Law Section 6530(6) - [practicing the profession with gross incompetence].

SPECIFICATION

Respondent is guilty of violating N.Y. Education Law §6530(9)(d) by reason having disciplinary action taken by a duly authorized professional disciplinary agency of another state after a disciplinary action was instituted by the duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that the Petitioner charges the following:

1. The facts in paragraphs A, B, C, and/or D.

DATED: *January 7*, 1997
Albany, New York

Redacted Signature

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

EXHIBIT "B"

TERMS OF CONSIDERATION FOR REINSTATEMENT

1. I request, agree, and understand that the suspension of my license shall be terminated only upon a showing to the satisfaction of a Committee on Professional Conduct of the State Board for Professional Medical Conduct (hereinafter "Committee") that I am no longer incapacitated for the active practice of medicine and that I am both fit and competent to practice medicine. I understand that the determination that I am no longer incapacitated for the active practice of medicine shall be made solely by the Committee.

2. I request, agree, and understand that at the time that I request that a meeting of a Committee be scheduled, pursuant to paragraph 1, I will provide the Director of the Office of Professional Medical Conduct (OPMC), New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York 12180-2299, with the following:

- a. Certified true and complete copies of records of all evaluation and treatment relating to my impairment, whether that evaluation and treatment occurred prior to or during the time this surrender is in effect.
- b. Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records.
- c. An independent current physical examination.
- d. My attendance at, participation in, and cooperation with an interview conducted by personnel of OPMC, upon request of the Director thereof.
- e. Proof of compliance with and successful completion of the terms of my agreement with the State of Illinois, Department of Professional Regulation as set forth in Order # 94-4945-LEG and 95-840-LEG dated June 20, 1997, and any other orders.

Provision of the aforesaid documents does not constitute a showing that I am no longer incapacitated for the active practice of medicine.

3. At the proceeding referred to in paragraph 1, I will provide the Committee, at a minimum, with the following:

- a. Certified, true and complete and current records of all health treatment, evaluation, and/or testing, whether in an out-patient, in-patient, office, and/or consultation setting with regard to my impairment.

- b. Evidence of compliance with the terms of a continuing after care out-patient treatment plan that addresses the major problems associated with my illness, if applicable.
- c. Evidence that I have maintained adequate knowledge and competence to practice as a physician. Such evidence shall include documentation of continuing medical education and, if so requested by the Director of OPMC, a report of an independent evaluation of my medical knowledge and competence.

Submission of the aforesaid evidence does not constitute a showing that I am no longer incapacitated for the active practice of medicine.