



**Department
of Health**

Public

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

August 11, 2015

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Michael Yang Li, M.D.
c/o Edward S. Kornreich, Esq.
Proskauer Rose LLP
Eleven Times Square
New York, New York 10036-8299

RE: License No. 214851

Dear Dr. Li:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 15-195. This Order and any penalty provided therein goes into effect August 18, 2015.

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 2784
Empire State Plaza
Albany, New York 12237

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

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

Enclosure

IN THE MATTER
OF
MICHAEL YANG LI, M.D.

CONSENT
ORDER

Upon the application of (Respondent) MICHAEL YANG LI, M.D. in the attached Consent Agreement, which is made a part of this Consent Order, it is

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

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

SO ORDERED.

DATE: 8/11/15


Carmela Torrelli
Vice Chair
State Board for Professional
Medical Conduct

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

**IN THE MATTER
OF
MICHAEL YANG LI, M.D.**

CONSENT
AGREEMENT

Michael Yang Li, M.D., represents that all of the following statements are true:

That on or about July 15, 1999, I was licensed to practice as a physician in the State of New York, and issued License No. 214851 by the New York State Education Department.

My current address is 136-20 38th Avenue, Suite 6F, Flushing, NY 11354, 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 (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement.

I assert that I cannot successfully defend against ~~at least~~ one of the acts of misconduct alleged, in full satisfaction of the charges against me, and agree to the following penalty:

- Pursuant to N.Y. Pub. Health Law § 230-a(1), I shall be subject to a Censure and Reprimand.
- Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for a period of 36 months, subject to the terms set forth in attached Exhibit "B."
- Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall be subject to a fine in the amount of \$10,000 to be paid in full within 30 days of the effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 2784
Empire State Plaza
Albany, New York 12237

In making such payment, Respondent shall indicate the order number of this Order both on the payment check submitted and on the cover letter accompanying payment. Additionally, Respondent shall simultaneously mail a photocopy of the check and cover letter to:

Physician Monitoring Program
Office of Professional Medical Conduct
Riverview Center
150 Broadway, Suite 355
Albany, New York 12204-2719.

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall report adverse events and/or any suspected health care disease transmission originating in his practices to the Director of the Office of Professional Medical Conduct within one business day of the occurrence of such adverse event or disease transmission. ["For purposes of this order, "adverse event" and "suspected health care disease transmission" shall have the meanings provided in Public Health Law subsections 230-d(1)(b) and 230-d(4), respectively.]

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall: report to the department all information required by the Department to develop a public physician profile for the licensee; continue to notify the department of

any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his or her profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his or her physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent remains a licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(21) and N.Y. Educ. Law § 6530(29). Potential penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law §230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand, probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355,

Albany, New York 12204-2719, with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent Order and in any subsequent investigations of matters concerning Respondent. This Consent Order resolves the investigation of all issues currently known to OPMC. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all

documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement 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 N.Y. Pub. Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

The Consent 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. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, 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 Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent 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.

DATE 7/22/2015

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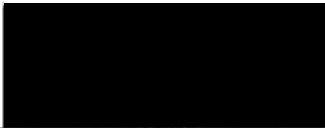
MICHAEL YANG LI, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 7/28/15


EDWARD S. KORNREICH, ESQ.
Attorney for Respondent

DATE. 8/3/15


LESLIE EISENBERG
Associate Counsel
Bureau of Professional Medical Conduct

DATE 8/10/15


KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "B"

Terms of Probation

- 1) Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
- 2) Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
- 3) Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
- 4) The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
- 5) The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices
- 6) Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.
- 7) Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required

by State rules and regulations concerning controlled substances records and, in addition, shall within 90 days of the Consent Order's effective date, participate in and utilize the GIQuIC Registry of the GI Quality Improvement Consortium, ("GIQuIC") or such other Qualified Clinical Data Registry as Respondent may propose, subject to the approval of the Director. Respondent shall ensure that all relevant data points on the respective data collection forms are entered into the GIQuIC Registry for every endoscopic procedure patient, to wit:

a) Colonoscopy:

- i) History and physical documentation
- ii) Informed consent documentation
- iii) Adequacy of bowel prep
- iv) Written discharge instructions- outpatient
- v) ASA category documentation
- vi) Indication documentation
 - (1) Cecal intubation rate with photo documentation
 - (2) All colonoscopies – screening, surveillance and diagnostic
- vii) Screening
- viii) Adenoma detection rate – screening
 - (1) Female
 - (2) Male
- ix) Withdrawal time
- x) Immediate adverse events

b) Esophagogastroduodenoscopy ("EGD")

- i) Appropriate specimen acquisition in Barrett's esophagus
- ii) Appropriate management of new diagnoses of bleeding esophageal varices
- iii) Appropriate endoscopic therapy for stigmata of peptic ulcer disease bleeding
- iv) Appropriate anticoagulation management
- v) Appropriate antibiotic prophylaxis
- vi) *Helicobacter pylori* status
- vii) Immediate adverse events
- viii) Indication documentation
- ix) Written discharge instructions – outpatient
- x) Informed consent documentation
- xi) History and physical documentation
- xii) ASA category documentation

- 8) Respondent may, in each calendar quarter, perform no more than 30% of his colonoscopy procedures and no more than 30% of his EGD procedures in his or

any private medical practice office. The balance of such procedures, in each calendar quarter, shall be done in the setting of a facility licensed pursuant to Article 28 of the Public Health Law. Any calendar quarter in which more than 30% of such procedures are performed in other than an Article 28 facility shall be a violation of probation.

- a) Respondent shall maintain, in a format that is acceptable to OPMC, a comprehensive log of all colonoscopy and esophagogastroduodenoscopy procedures Respondent performs. The log shall include the following information: the nature, setting, and date of procedure, patient's name, diagnosis, and such other information related to as may be requested by OPMC. This log shall be subject to review by the practice monitor (see paragraph 9 below) and Respondent shall make this log, and the records of any patient referenced in this log, immediately available to OPMC, upon demand.

9) Within thirty days of the Consent Order's effective date, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.

- a) Respondent shall make available to the practice monitor any and all records or access to the practice requested by the monitor, including on-site observation. Respondent shall provide the practice monitor with GIQuIC reports covering every procedure. Subject to the provisions of paragraph 10, the practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least quarterly. During each visit, the practice monitor shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. Respondent shall permit the practice monitor to randomly select medical records (including medical charts and billing records) to review and to observe Respondent in his performance procedures. The practice monitor and OPMC shall determine the number of procedures and records to review, in addition to the minima set forth above. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the practice monitor shall be reported within 24 hours to OPMC.

- b) The practice monitor shall verify that GIQuIC reports are being made as required.
 - c) The practice monitor shall examine the log referred to in paragraph 8 above, and shall ascertain Respondent's compliance with the requirements of that paragraph.
 - d) Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - e) Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - f) Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
- 10) Within thirty days of the Consent Order's effective date, Respondent's billing practices shall be monitored by a certified billing and coding specialist proposed by Respondent and subject to the written approval of the Director of OPMC. The billing monitor shall visit the site or sites where billing for Dr. Li's professional services occur, on a random unannounced basis at least quarterly and shall examine a selection (no fewer than 20) of records maintained by Respondent. The review will determine whether the Respondent's billing practices are conducted in accordance with generally accepted billing standards and practices and whether Respondent and Respondent's billing staff receive or have received medical coding training including ICD guidelines in effect at the time of billing.
- a) Any perceived deviation of accepted billing standards and practices or failure to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b) Respondent shall cause the billing monitor to report quarterly, in writing, to the Director of OPMC regarding the results of the billing monitoring.
 - c) Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the billing monitor.
- 11) Payment of the fine imposed is also a term of probation. The fine is payable in full within 30 days of the effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 2784
Albany, New York 12237.

Respondent shall indicate the order number of this Order both on the payment check submitted and on the cover letter accompanying payment. Additionally, Respondent shall simultaneously mail a photocopy of the check and cover letter to

Physician Monitoring Program
Office of Professional Medical Conduct
Riverview Center
150 Broadway, Suite 355
Albany, New York 12204-2719.

- 12) Respondent shall enroll in and successfully complete a continuing education program in areas as directed by the Director of OPMC. This continuing education program is subject to the Director's prior written approval and shall be successfully completed within the first 90 days of the probation period.
- 13) Respondent shall ensure that he provides full and effective informed consent and discharge instructions to his patients.
- 14) Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

Exhibit "A"

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

IN THE MATTER

OF

MICHAEL YANG LI, M.D.

STATEMENT
OF
CHARGES

Michael Yang Li, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 15, 1999, by the issuance of license number 214851 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. With regard to one or more of the colonoscopy and esophagogastroduodenoscopy patients whose names are set forth in Appendix "A" Respondent:
1. Failed to appropriately perform, and/or failed to appropriately or accurately note, a requisite history, physical examination and/or evaluation; and/or
 2. Failed to perform an endoscopic procedure in an appropriate manner and/or accurately note the same; and/or
 3. Failed to appropriately follow up upon the results and/or outcome of such procedure and/or accurately note the same.

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) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of:

1. Paragraphs A and A1-3.

SECOND SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

2. Paragraphs A and A1-3.

DATE: August 5, 2015
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct