



New York State Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

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

Charles J. Vacanti, M.D.
Chair

November 26, 1996

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Young Man Kim, M.D.
609 Central Avenue
Dunkirk, New York 14048

RE: License No. 117586

Dear Dr. Kim:

EFFECTIVE DATE DECEMBER 3, 1996

Enclosed please find Order #BPMC 96-279 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
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

Charles Vacanti, M.D.
Chair
Board for Professional Medical Conduct

Enclosure

cc: Kevin A. Ricotta, Esq.
Connors & Vilardo
1020 Liberty Building
420 Main Street
Buffalo, New York 14202

Cindy Fascia, Esq.

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

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IN THE MATTER :
OF : ORDER
YOUNG MAN KIM, M.D. : BPMC #96-279

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Upon the Application of YOUNG MAN KIM, M.D. (Respondent) for Consent Order, which Application is made a part hereof, it is

ORDERED, that the Application and the provisions thereof are hereby adopted and so ORDERED, 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.

SO ORDERED,

DATED: 21 November 1996

Charles J. Vacanti

Charles J. Vacanti, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

-----X
IN THE MATTER : APPLICATION
OF : FOR
YOUNG MAN KIM, M.D. : CONSENT
: ORDER
-----X

STATE OF NEW YORK)
COUNTY OF *CHAUTAUQUA*) SS.:

YOUNG MAN KIM, M.D., being duly sworn, deposes and says:

That on or about September 6, 1973, I was licensed to practice as a physician in the State of New York, having been issued License No. 117586 by the New York State Education Department.

I am currently registered with the New York State Education Department to practice as a physician in the State of New York for the period January 1, 1995 through June 30, 1997.

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

A copy of the statement of charges is annexed hereto, made a part hereof, and marked as Exhibit A.

I admit guilt to paragraphs A, A.1, A.2, A.3, B, B.1, and B.2 of the Fifth Specification; and C, C.1 and C.2 of the Ninth Specification, in full satisfaction of the charges against me.

I hereby agree to a penalty of a five year suspension of my

license to practice medicine in New York, with the suspension stayed in its entirety, conditioned on my full compliance for a probationary period of five years with the Terms of Probation attached hereto as Exhibit B.

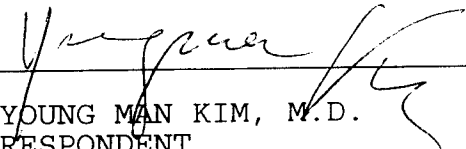
I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, 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 understand that if I am charged with professional misconduct and/or a violation of the terms of my probation in the future, that this Application for Consent Order, including Exhibits A and B, will be admitted into evidence in any such misconduct or violation of probation proceeding.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

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



YOUNG MAN KIM, M.D.
RESPONDENT

Sworn to before me this 10th
day of October, 1996.



NOTARY PUBLIC

Notary Public, State of New York
Qualified in Chautauque County
My Commission Expires Nov. 30, 1997

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

-----X
IN THE MATTER : APPLICATION
OF : FOR
YOUNG MAN KIM, M.D. : CONSENT
: ORDER
-----X

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

DATE: 10/10/96

Young Man Kim
YOUNG MAN KIM, M.D.
Respondent

DATE: 10/17/96

Kevin Ricotta
KEVIN RICOTTA, Esq.
Attorney for Respondent

DATE: November 18, 1996

Cindy M. Fascia
CINDY M. FASCIA
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: Nov 18, 1996

Anne Saile
ANNE F. SAILE
ACTING DIRECTOR
Office of Professional Medical
Conduct

DATE: 21 November 1996

Charles J. Vacanti
CHARLES J. VACANTI, M.D.
CHAIRPERSON
State Board for Professional
Medical Conduct

EXHIBIT B

TERMS OF PROBATION

1. Respondent, during the period of probation, will personally meet with a member of the Office of Professional Medical Conduct staff at the discretion of the Director of the Office of Professional Medical Conduct or her designee, at dates, times, and locations to be determined by OPMC.
2. Respondent will conform fully:
 - a. to the professional standards of conduct imposed by law and by his profession
 - b. with all civil and criminal laws, rules and regulations.
3. Respondent will notify the Office of Professional Medical Conduct of:
 - a. any and all investigations, charges, convictions or disciplinary actions taken by any local, state or federal agency, institution or facility, within thirty days of each action;
 - b. any and all changes in personal and professional addresses and telephone numbers and facility affiliations, within 30 days of such changes. This will include any change in practice location, within or outside of the State of New York. The date of departure from the State of New York, and the date of return, if any, must be reported in writing.

Failure to notify the Office of Professional Medical Conduct of any of the above will be considered a violation of probation.

4. Respondent will maintain legible and complete medical records which accurately reflect evaluation and treatment of patients. Records will contain a comprehensive history, physical examination findings, chief complaint, present illness, diagnosis and treatment, including any medications prescribed, dispensed or administered. In cases of prescribing, dispensing, or administering of controlled substances, the medical record will contain all information required by state rules and regulations regarding controlled substances.
5. If the Respondent does not practice medicine in the State of New York, the probation period shall be tolled and the period will then be extended by the length of the period outside of New York. Any terms of probation which were not fulfilled while Respondent was in New York State, must be

fulfilled upon return to New York State.

6. Respondent's practice of medicine during the period of probation shall be monitored by a licensed physician, board certified in internal medicine, approved in advance, in writing, by the Director of the Office of Professional Medical Conduct or her designee. It shall be Respondent's responsibility to locate a physician willing to serve in such a capacity and who is approved by the Director of the Office of Professional Medical Conduct. Respondent may not practice medicine until an approved practice monitor and monitoring program are in place. Any practice of medicine prior to the submission and approval of a proposed monitor will be a violation of probation.
 - 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. The practice monitor shall visit Respondent's office on a monthly basis and shall review no less than twenty (20) patient records maintained by Respondent, including but not limited to Respondent's notes of office visits and prescribing information. The practice monitor shall select these twenty records from a list of all patients treated by Respondent in his office and/or at Brooks Memorial Hospital. Patients seen by Respondent solely for the purpose of disability determinations, and who have not otherwise been examined or treated by Respondent, shall not be included. The practice monitor may select the records to be reviewed at random, or may request the records of specific named patients, at the discretion of the monitor and/or at the request of OPMC. The monitor's review shall be to determine whether Respondent's medical practice is being conducted in accordance with accepted standards of medical care. If any of the records indicate, or if the monitor otherwise ascertains or perceives Respondent to have deviated from accepted standards of medical care or to have otherwise committed professional misconduct of any kind, or if Respondent fails to cooperate with or obstructs the monitor in any way, the monitor shall report said deviation and/or misconduct to OPMC within twenty-four (24) hours of the monitor's learning of said deviation and/or misconduct and/or failure to cooperate.
 - b. Respondent shall cause the practice monitor to submit written monthly reports to OPMC regarding the patient charts reviewed by the monitor and any other means by which the monitor has evaluated Respondent's practice. The monthly reports must include the patient's name, medical record number, and assessment of the quality of care provided by Respondent for each record reviewed. If the monthly reports for the first year of probation indicate that Respondent is in compliance, the reports

may, at the discretion of OPMC, be thereafter submitted on a quarterly, rather than a monthly basis. Failure of the practice monitor to submit required reports on a timely basis will constitute a violation of probation.

- c. If, at any time during the probation period, Respondent's practice monitor is no longer willing, able, or qualified to serve, Respondent must submit the name of a proposed successor monitor to OPMC within seven days of Respondent learning that his monitor is no longer willing, able or qualified to serve. Any proposed successor monitor is subject to approval by OPMC.
 - d. All expenses associated with practice monitoring, including the fees, if any, of the monitoring physician, shall be the sole responsibility of Respondent.
 - e. Respondent must 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 or designee prior to the placement of a practice monitor.
7. Respondent, during each year of the period of probation, commencing with the year in which this Consent Order is issued, shall successfully complete one hundred (100) hours of Category I Continuing Medical Education (CME), for a total of five hundred (500) hours during the five year probation period. At least one CME course per year shall address issues pertaining to medical record keeping and/or the importance of maintaining complete and accurate patient records. The remainder of the CME shall address issues in primary care and/or internal medicine. All CME courses that Respondent intends to take in fulfillment of his required hours under this Consent Order are subject to the prior approval of OPMC.
8. Respondent shall bear all costs related to his compliance with the terms of probation.
9. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her profession in accordance with the terms of probation. Upon receipt of evidence of non compliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or any other proceeding against Respondent as may be authorized by law.

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

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

-----X

YOUNG MAN KIM, M.D., the Respondent, was authorized to practice medicine in New York State on September 6, 1973 by the issuance of license number 117586 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine through June 31, 1997, with a registration address of 609 Central Avenue, Dunkirk, New York 14048.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A (patients are identified in Appendix) on various occasions from on or about March 1976 through on or about April 25, 1989, at Respondent's office and at Brooks Memorial Hospital, Dunkirk, New York. [hereinafter Brooks Memorial Hospital].

1. Respondent, on or about April 17, 1989 wrote a prescription for Patient A for Micronase when, in fact, Respondent intended to prescribe Micro-K for Patient A.
2. Respondent, when contacted by a pharmacist who asked whether Respondent in fact wanted Patient A to receive Micronase, confirmed to the pharmacist that he had prescribed Micronase and that Patient A should receive it.

3. Respondent, following his telephone conversation with the pharmacist regarding the prescription, failed to check Patient A's medical record and/or take other appropriate measures to verify what medication Patient A should receive and/or to prevent Patient A from receiving the wrong medication.
4. Respondent failed to maintain adequate medical records for Patient A, including but not limited to Respondent failing to document Patient A's medications.

B. Respondent provided medical care to Patient B on various occasions, including from on or about December 17, 1982, through on or about February 21, 1986, at Respondent's office and at Brooks Memorial Hospital.

1. Respondent, following a barium enema performed on Patient B on or about December 28, 1982, failed to adequately treat and/or refer Patient B for surgical consultation for a colonic polyp.
2. Respondent failed to adequately follow up and/or document a plan of follow up care for Patient B.
3. Respondent failed to maintain adequate medical records for Patient B.

C. Respondent provided medical care to Patient C on various occasions from on or about October 1981 through on or about December 17, 1984.

1. Respondent, following an incision and attempted drainage of Patient C's left neck mass by a surgeon in October 1983, failed to appropriately treat and/or follow up and/or timely refer Patient C to a specialist and/or to document such referral.
2. Respondent failed to maintain adequate medical records for Patient C.

SPECIFICATION OF CHARGES

FIRST AND SECOND SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(4), by reason of practicing medicine with gross negligence on a particular occasion, in that Petitioner charges:

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

THIRD AND FOURTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(6), by reason of practicing medicine with gross incompetence, in that Petitioner charges:

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

FIFTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Education Law §6530(3), by reason of practicing medicine with negligence on more than one occasion, in that Petitioner charges Respondent with two or more of the following:

5. The facts in Paragraphs A and A.1, and/or A.2, and/or A.3; and/or B and B.1, and/or B.2; and/or C and C.1.

SIXTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Education Law §6530(5) by reason of practicing medicine with incompetence on more than one occasion, in that Petitioner charges Respondent with two or more of the following:

6. The facts in Paragraphs A and A.1, and/or A.2, and/or A.3; and/or B and B.1 and/or B.2; and/or C and C.1.

