



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

July 25, 1997

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Yang E. Lee, M.D.  
82 Dartmouth Street  
Forest Hills, New York 11375

Arnold J. Goldstein, Esq.  
Goldstein & Goldstein  
26 Court Street - 20th Floor  
Brooklyn, New York 11242

David W. Smith, Esq.  
NYS Department of Health  
5 Penn Plaza-Sixth Floor  
New York, New York 10001

**RE: In the Matter of Yang E. Lee, M.D.**

Dear Dr. Lee, Mr. Goldstein and Mr. Smith:

Enclosed please find the Supplemental Determination and Order (No. 94-139S) of the Hearing Committee in the above referenced matter. This Supplemental Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct  
New York State Department of Health  
Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties **other than suspension or revocation** until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

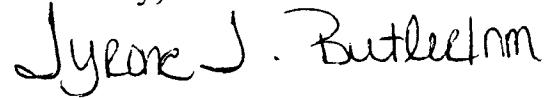
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's  
Determination and Order.

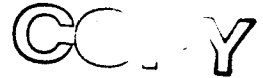
Sincerely,

Handwritten signature of Tyrone T. Butler in black ink.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

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



IN THE MATTER  
OF  
YANG E. LEE, M.D.

SUPPLEMENTAL  
DETERMINATION  
AND  
ORDER

BPMC - 94-139S

CONRAD ROSENBERG, M.D., (Chair), RUFUS A. NICHOLS, M.D. and MORTON M. KLEINMAN, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to §230(10) of the Public Health Law ("P.H.L.")

EUGENE A. GAER, ESQ., served as the Administrative Officer.

The Department of Health appeared by DAVID W. SMITH, ESQ., Associate Counsel.

YANG E. LEE, M.D., appeared at the Hearing and was represented by GOLDSTEIN & GOLDSTEIN, ARNOLD J. GOLDSTEIN, ESQ., of counsel.

The Hearing Committee issued the Determination and Order in this matter on August 3, 1994 ("August 1994 Order") (BPMC NO-94-139 [mailed August 10, 1994]). The Office of Professional Medical Conduct ("Petitioner") appealed the August 1994 Order to the Administrative Review Board ("ARB"). The ARB issued a Decision and Order on January 31, 1995 ("January 1995 Order"). The January 1995 Order modified the August 1994 Order by requiring that Respondent undergo a Phase I Physician Prescribed Educational Program ("PPEP") Evaluation.

Respondent complied with the ARB's January 1995 Order and the ARB received a PPEP Evaluation, dated November 16, 1995. The ARB was unsatisfied with the PPEP Evaluation and issued a Remand Order on December 20, 1995 ("**December 1995 Order**" [mailed December 27, 1995]). The December 1995 Order directed that the Hearing Committee conduct additional deliberations and issue a Supplemental Determination. The Hearing Committee requested to be informed of Respondent's employment and professional practice subsequent to the conclusion of the original Hearing. Respondent submitted the requested information.

After consideration of the above, together with the entire record and proceedings, the Hearing Committee issues this Supplemental Determination and Order, pursuant to the Public Health Law, the Education Law of the State of New York and the December 1995 Order of the ARB<sup>1</sup>.

The Hearing Committee unanimously determines that Respondent should be **CENSURED** and **REPRIMANDED** for practicing the profession with negligence on more than one occasion and for ordering excessive tests and/or treatments not warranted by the condition of his patients. In addition, Respondent should be placed on **PROBATION** for a period of two (2) years and shall comply with the terms and conditions of probation contained in Appendix I attached to this Order and made a part hereof. One of the condition and terms of probation should be that Respondent's **PRACTICE** be **MONITORED** for a period of two (2) years by a practice monitor.

This supplemental determination is reached after due and careful consideration of the requests by the ARB and a review of the full spectrum of penalties available pursuant to P.H.L. § 230-a, including:

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<sup>1</sup> **MARC P. ZYLBERBERG, ESQ., ADMINISTRATIVE LAW JUDGE**, served as the Administrative Officer for the issuance, by the Hearing Committee, of this Supplemental Determination and Order.

(1) Censure and reprimand; (2) Suspension of the license, wholly or partially; (3) Limitations of the license; (4) Revocation of license; (5) Annulment of license or registration; (6) Limitations; (7) the imposition of monetary penalties; (8) a course of education or training; (9) performance of public service; and (10) probation.

The Hearing Committee believes that at this time, a practice monitor will be sufficient to correct or deal with Respondent's deficiencies. Respondent has been working as a House Physician on the Ward of an AIDS Unit and has been under direct supervision for the past seven (7) years (all Charges were for conduct which occurred prior to his present employment situation). According to his supervisor, Respondent has delivered satisfactory and effective care.

The Hearing Committee recognizes that it can not force Respondent to testify. The Hearing Committee can not conclude from the record whether Respondent's conduct in 1988 was due to a lack of skill and knowledge or from the demands of an inner-city practice. The Hearing Committee does conclude and determine that as of today, any lack of skill or knowledge, (if ever present) has been addressed and corrected. This is clearly shown by Respondent's satisfactory employment performance since 1989.

The Hearing Committee includes a period of probation and monitoring in order to verify the above belief and conclusion. The Hearing Committee unanimously concludes that the sanctions imposed strike the appropriate balance between the need to punish Respondent, deter future misconduct and protect the public.

With a concern for the health and welfare of patients in New York State, the Hearing Committee determines that the sanctions set forth above on Respondent and his license are the appropriate sanctions to impose under the totality of the circumstances present in this case.


By execution of this Determination and Order, all members of the Hearing Committee certify that they have read and considered the complete record of this proceeding.

## ORDER

Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

1. Respondent is hereby **CENSURED AND REPRIMANDED**; and
2. Respondent shall be immediately placed on probation for a period of two (2) years and shall comply with the terms of probation contained in Appendix I; and
3. The complete terms of probation are attached to this Determination and Order in Appendix I and are incorporated herein; and
4. Respondent's probation shall be supervised by the Office of Professional Medical Conduct; and
5. Respondent shall be required to obtain as a practice monitor a licensed physician acceptable to the Office of Professional Medical Conduct; and
6. In the event that Respondent leaves New York to practice outside the State, the above period of probation shall be tolled until Respondent returns to practice in New York State

**DATED:** New York, New York  
July 22, 1997

  
**CONRAD ROSENBERG, M.D., (Chair),**  
**RUFUS A. NICHOLS, M.D.**  
**MORTON M. KLEINMAN**

Yang E. Lee, M.D.  
82 Dartmouth Street  
Forest Hills, NY 11375

Arnold J. Goldstein, Esq.  
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26 Court Street, 20th Floor  
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David W. Smith, Esq.  
Associate Counsel,  
New York State Department of Health  
Bureau of Professional Medical Conduct  
5 Penn Plaza, 6th Floor  
New York, New York 10001

Robert M. Briber, (ARB Member).  
Winston S. Price, M.D., (ARB Member).  
Sumner Shapiro, (ARB Member).  
Edward C. Sinnott, M.D., (ARB Member).  
William A. Stewart, M.D., (ARB Member).  
C/O James F. Horan, Esq.  
Administrative Law Judge  
Hedley Park Place  
433 River Street, 5th Floor South  
Troy, NY 12180-2299



# APPENDIX I

## APPENDIX I

### TERMS AND CONDITIONS OF PROBATION

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.
2. Respondent shall comply with all federal, state and local laws, rules and regulations governing the practice of medicine in New York State.
3. Respondent shall submit prompt (within 30 days) written notification to the Board, addressed to the Director, Office of Professional Medical Conduct, Hedley Park Place, 433 River Street - Fourth Floor, Troy, New York 12180, regarding any change in employment, practice, residence or telephone number, within or without New York State.
4. In the event that Respondent leaves New York to reside or practice outside the State, Respondent shall notify the Director of the Office of Professional Medical Conduct ("OPMC") in writing at the address indicated above, by registered or certified mail, return receipt requested, of the dates of his departure and return. Periods of residency or practice outside New York State shall toll the probationary period, which shall be extended by the length of residency or practice outside New York State.
5. Respondent shall have quarterly meetings with an employee or designee of the OPMC during the period of probation. During these quarterly meetings Respondent's professional performance may be reviewed by having a random selection of office records, patient records and hospital charts reviewed.
6. Respondent shall submit written notification to OPMC of any and all investigations, charges, convictions or disciplinary actions taken by any local, state or federal agency, institution or facility, within 30 days of each charge or action.
7. Respondent shall submit semi-annual declarations, under penalty of perjury, stating whether or not there has been compliance with all terms and conditions of probation and, if not, the specifics of such non-compliance. These shall be sent to the Director of the OPMC at the address indicated above.
8. Respondent shall submit written proof to the Director of the OPMC at the address indicated above that he has paid all registration fees due and is currently registered to practice medicine as a physician with the New York State Education Department. If Respondent elects not to practice medicine as a physician in New York State, then he shall submit written proof that he has notified the New York State Education Department of that fact.

9. Respondent shall comply with all terms, conditions, restrictions and penalties contained in these terms and conditions of probation and the Determination and Order of the Board for professional Medical Conduct. A violation of any of these terms and conditions of probation shall be considered professional misconduct. On receipt of evidence of non-compliance or any other violation of the term(s) and condition(s) of probation, a violation of probation proceeding and/or such other proceeding as may be warranted, may be initiated against Respondent pursuant to New York Public Health Law § 230 or § 230(19) or any other applicable laws.

10. Respondent shall maintain legible medical records which accurately reflect evaluation and treatment of patients. These records will contain, at least, a comprehensive history, physical examination findings, chief complaint, present illness, diagnosis and treatment.

11. All expenses, including but not limited to those, of complying with these terms and conditions of probation and the Determination and Order, including monitoring and monitoring fees, if any, shall be the sole responsibility of Respondent.

12. 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.

13. Respondent shall make available to the 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 medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no less than 10) of records maintained by Respondent, including patient records, prescribing information and office records. 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 monitor shall be reported within 24 hours to OPMC.

14. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC at the address indicated above..

15. 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 P.H.L. § 230(18)(b). Proof of coverage shall be submitted to the Director of OPMC on the effective date of this Order.