

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

BRD 17-364

IN THE MATTER
OF
POKMANG YU, D.O.

COMMISSIONER'S
ORDER OF
SUMMARY
ACTION

TO: POKMANG YU, D.O.


The undersigned, Sally R. Dreslin, M.S., R.N., Executive Deputy Commissioner, pursuant to N.Y. Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, State of Florida, Department of Health, has made a finding substantially equivalent to a finding that the practice of medicine by POKMANG YU, D.O. (the Respondent) in that jurisdiction constitutes an imminent danger to the health of its people, as is more fully set forth in the State of Florida, Department of Health, Order of Emergency Restriction of License, (henceforth: "predicate action"), attached hereto as Appendix "A" and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York.

Any practice of medicine in the State of New York in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty days after the final conclusion of the disciplinary proceeding in the predicate action. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional

Medical Conduct on a date and at a location to be set forth in a written Notice of Summary Hearing to be provided to the Respondent after the final conclusion of the proceeding in the predicate action. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719 via Certified Mail, Return Receipt Requested, of the final conclusion of the proceeding in the predicate action, immediately upon such conclusion.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
December 26, 2017


Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner of Health
New York State Health Department

Inquiries should be directed to:

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Appendix A

STATE OF FLORIDA
DEPARTMENT OF HEALTH

Final Order No. DOH-17-1720-~~ER~~MQA

FILED DATE: SEP 15 2017

Department of Health

By: Amber Greene

Deputy Agency Clerk

In Re: The Emergency Restriction of the Registration of
Pokmang Daren Yu, O.R.R.
Registration Number UO 4056
Case Number 2017-08998

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Celeste Philip, M.D., M.P.H., State Surgeon General, ORDERS the emergency restriction of the registration of Pokmang Daren Yu, O.R.R., (Dr. Yu) to practice osteopathic medicine in the State of Florida. Dr. Yu holds registration number UO 4056. His address of record is [REDACTED]

[REDACTED] The following Findings of Fact and Conclusions of Law support the emergency restriction of Dr. Yu's registration to as an osteopathic resident in the State of Florida.

FINDINGS OF FACT

1. The Department of Health (Department) is the state agency charged with regulating the practice of osteopathic medicine pursuant to Chapters 20, 456 and 459, Florida Statutes (2017). Section 456.073(8), Florida Statutes (2017, authorizes the State Surgeon General to summarily restrict Dr. Yu's registration to practice as an osteopathic resident in the state of Florida, in accordance with Section 120.60(6), Florida Statutes (2016).

2. On or about January 29, 2017, Dr. Yu was employed as an osteopathic resident at Largo Medical Center, and self-reported to the Professional Resources Network (PRN).

3. PRN is the impaired practitioner program for the Board of Osteopathic Medicine, pursuant to Section 456.076, Florida Statutes (2016). PRN monitors the evaluation, care, and treatment of impaired osteopaths. PRN oversees random drug screens and provides for the exchange of information between treatment providers, evaluators, and the Department for the protection of the public.

4. Dr. Yu self-reported to PRN due to experiencing significant stress due to work and the death of a close friend. Dr. Yu reported self-medicating with cannabis.

5. According to Section 893.03(1), Florida Statutes (2016), marijuana, or cannabis, is a Schedule I controlled substance that has a high potential for abuse. The term does not include medical use of marijuana, "low-THC cannabis," or "medical cannabis," as defined in Article X, Section 29 of the Florida Constitution or Section 381.986, Florida Statutes (2016), if acquired, manufactured, ordered, possessed, sold, purchased, transferred, delivered, distributed, used, or dispensed, in conformance with Article X, Section 29 of the Florida Constitution and Section 381.986, Florida Statutes (2016).

6. Dr. Yu did not have a legitimate medical reason to use cannabis or a lawful order for cannabis pursuant to Article X, Section 29 of the Florida Constitution or Section 381.986, Florida Statutes (2016).

7. Dr. Michael P. Strolla, M.D., a physician specializing in Psychiatry and Addiction Medicine, evaluated Dr. Yu on February 9, 2017.

8. Dr. Yu reported using cannabis three to five times per week since October of 2016 and drinking one or two beers per week.

9. During his evaluation, Dr. Yu provided a blood sample for Phosphatidylethanol (PEth) testing.

10. PEth is an abnormal phospholipid found in red blood cells after they are exposed to alcohol. The detection of PEth in a blood sample is indicative of prolonged alcohol consumption or binge drinking.

11. Dr. Yu's PEth level was 71 ng/mL, which is inconsistent with his report of consuming one or two beers per week.

12. Dr. Strolla opined that Dr. Yu was not able to practice osteopathic medicine with reasonable skill and safety to patients.

13. Dr. Strolla diagnosed Dr. Yu with Alcohol Use Disorder and Moderate Cannabis Use Disorder.

14. Dr. Strolla recommended that Dr. Yu should engage in a partial hospitalization treatment facility followed by intensive outpatient treatment.

15. Dr. Yu disputed Dr. Strolla's diagnoses and recommendation, and requested a second evaluation.

16. Dr. Mark Sylvester, M.D., a physician specializing in Psychiatry and Addiction Medicine, evaluated Dr. Yu on March 27, 2017.

17. Dr. Sylvester opined that Dr. Yu was not able to practice osteopathic medicine with reasonable skill and safety to patients.

18. Dr. Sylvester diagnosed Dr. Yu with Moderate Alcohol Use Disorder and Moderate Cannabis Use Disorder.

19. Dr. Sylvester recommended that Dr. Yu should engage in a partial hospitalization treatment facility followed by monitoring by PRN.

20. As of the date of this order, Dr. Yu has not complied with the recommendations of Dr. Strolla or Dr. Sylvester.

21. In the course of their practice, osteopathic residents must possess good judgment and be able to provide appropriate care and treatment to patients. Because Dr. Yu is impaired by his Cannabis Use Disorder and Alcohol Use Disorder, and may not be able to effectively monitor, treat, or care for his patients, his continued unrestricted practice as an osteopath presents an immediate serious danger to the health, welfare, and safety of the public. Dr. Yu's failure to complete treatment for his condition indicates that this danger is likely to continue.

22. Two independent medical experts have determined that Dr. Yu is unable to practice medicine with reasonable skill and safety to patients. Based on those opinions and Dr. Yu's Cannabis Use Disorder and Alcohol Use Disorder, there are no less-restrictive means than the terms outlined in this Order that will adequately protect the public.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2016), and Chapter 459, Florida Statutes (2016).
2. Section 120.60(6), Florida Statutes (2016), authorizes the Department to restrict an osteopathic resident's registration if the Department finds that the osteopathic resident presents an immediate, serious danger to the public health, safety, or welfare.
3. Section 459.015(1)(w), Florida Statutes (2016), subjects an osteopath to discipline, including restriction, for "[b]eing unable to practice osteopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition."

4. Dr. Yu violated Section 459.015(1)(w), Florida Statutes (2016), by being unable to practice as an osteopathic resident with reasonable skill and safety due one or more of the following:

- a. Alcohol Use Disorder; and
- b. Cannabis Use Disorder.

5. Dr. Yu's continued unrestricted practice of osteopathy constitutes an immediate, serious danger to the health, safety, and welfare of the public, and this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with Section 120.60(6), Florida Statutes (2016), it is **ORDERED THAT:**

1. The license of Pokmang Daren Yu, O.R.R., registration number UO 4056, is hereby immediately restricted to prohibit him from practicing osteopathic medicine until such time as PRN or a PRN-approved evaluator notifies the Department that Dr. Yu is safe to resume the practice of osteopathic medicine.

2. A proceeding seeking formal discipline of the license of Pokmang Daren Yu, O.R.R., to practice osteopathic medicine will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2016).

DONE and ORDERED this 14 day of Sept, 2017.



CP Celeste Philip, M.D., M.P.H.
Surgeon General and Secretary

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes (2017), this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of this Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.