



**New York State Board for Professional Medical Conduct**

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

Dennis P. Whalen  
*Executive Deputy Commissioner of Health*  
Anne F. Salle, Director  
*Office of Professional Medical Conduct*  
William J. Comiskey, Chief Counsel  
*Bureau of Professional Medical Conduct*

William P. Dillon, M.D.  
*Chair*  
Denise M. Bolan, R.P.A.  
*Vice Chair*  
Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

December 9, 1998

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Ben Mau Lian Hwang, M.D.  
2092 Rio Drive  
Allegany, New York 14706

RE: License No. 126510

Dear Dr. Hwang:

Enclosed please find Order #BPMC 98-292 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 9, 1998.**

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

Sincerely,

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

Enclosure

cc: Edward Cosgrove, Esq.  
Suite 1000, Main-Seneca Building  
237 Main Street  
Buffalo, New York 14203

Bradley Mohr, Esq.

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

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IN THE MATTER : CONSENT  
OF : AGREEMENT  
BEN MAU LIAN HWANG, M.D. : AND ORDER  
: BPMC # 98-292

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STATE OF NEW YORK )  
                          ) ss.:  
COUNTY OF ERIE )

BEN MAU LIAN HWANG, M.D., being duly sworn, deposes and says:

That on or about March 5, 1976, I was licensed to practice as a physician in the State of New York, having been issued license number 126510 by the New York State Education Department.

My current address is 52 Rio Drive, Allegany, New York 14706, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me 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 agree not to contest the Specification.

I hereby agree to the following penalty: TWO (2) year suspension of my license to practice medicine in the New York State, which suspension shall be stayed in its entirety,

conditioned on my full compliance with the Terms of Probation attached hereto as Exhibit B for a period of TWO (2) years, of in full satisfaction of the charges against me.

I further agree that the Consent Order for which I hereby apply shall impose a condition that, except during periods of actual suspension, I 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 shall be in effect beginning thirty days after the effective date of the Consent Order and continuing 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 hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29).

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 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 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 agree that such order shall be effective as of the date of the personal service of this order upon me, upon mailing of this order to me at the address set forth in this agreement or to my attorney by certified mail, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED: November 12  
DATE: July, 1998


Ben Mau Lian Hwang  
BEN MAU LIAN HWANG, M.D.  
RESPONDENT

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


DATE: ~~July~~ <sup>November 12</sup>, 1998

  
EDWARD C. COSGROVE, ESQ.  
Attorney for Respondent

DATE: ~~July 23~~ <sup>November</sup>, 1998

  
BRADLEY MOHR  
SENIOR ATTORNEY  
Bureau of Professional  
Medical Conduct

DATE: ~~November 30~~ <sup>November 30</sup>, 1998

  
ANNE F. SAILE  
DIRECTOR  
Office of Professional  
Medical Conduct

NEW YORK STATE  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

DEPARTMENT OF HEALTH

**IN THE MATTER  
OF  
BEN MAU LIAN HWANG, M.D.**

CONSENT  
ORDER

Upon the proposed agreement of Ben Mau Lian Hwang, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

Date

12/2/98



WILLIAM P. DILLON, M.D.  
Chair  
State Board for Professional  
Medical Conduct

EXHIBIT A

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

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IN THE MATTER : STATEMENT  
OF : OF  
BEN MAU LIAN HWANG, M.D. : CHARGES

-----X

BEN MAU LIAN HWANG, M.D., the Respondent, was authorized to practice medicine in New York State on MARCH 5, 1976 by the issuance of license number 126510 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine with a registration address of 52 Rio Drive, Allegany, New York 14706.

**FACTUAL ALLEGATIONS**

A. Respondent treated Patient A (patients are identified in the attached appendix) from on or about September 23, 1992 to on or about September 25, 1992, at the Olean General Hospital in Olean, New York. Respondent's care and treatment of Patient A failed to meet acceptable standards of care, in that:

1. Respondent failed to adequately diagnose and/or monitor and/or treat the patient's medical condition.
2. Respondent failed to adequately document the patient's medical condition.

B. Respondent treated Patient B from on or about August 25, 1994 to on or about August 30, 1994, at the Olean General Hospital in Olean, New York. Respondent's care and treatment of Patient B failed to meet acceptable standards of care, in that:

1. Respondent failed to adequately diagnose and/or monitor and/or treat the patient's medical condition.
2. Respondent failed to adequately document the patient's medical condition.

C. Respondent treated Patient C from on or about February 26, 1992 to on or about February 28, 1992, at the Olean General Hospital in Olean, New York. Respondent's care and treatment of Patient C failed to meet acceptable standards of care, in that:

1. Respondent failed to adequately diagnose and/or monitor and/or treat the patient's medical condition.
2. Respondent failed to adequately document the patient's medical condition.

#### SPECIFICATION

##### FIRST SPECIFICATION NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of New York Education Law section §6530(2) in that, Petitioner charges two or more of the following:

1. The facts in paragraphs A and A.1; A and A.2; B and B.1; B and B.2; C and C.1, C and/or C.2.

DATED: ~~APRIL~~ *November 25*, 1998  
Albany, New York

*Peter D. Van Buren*  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct



EXHIBIT "B"

TERMS OF PROBATION

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession;
2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct (OPMC), New York State Department of Health, Hedley Park Place, 4th Floor, 433 River Street, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action;
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is 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 section 171(27); State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.

6. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
8. 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.
  - a. 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 20%) 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.
  - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
  - d. 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.

9. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he/she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.