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**THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK**

OFFICE OF PROFESSIONAL DISCIPLINE  
(718) 246-3060,3061

195 Montague Street – Fourth Floor  
Brooklyn, New York 11201

July 2, 2008

Jhong Young Jhun, Physician

25 Longview Drive  
Redacted Address City 07733

Re: Application for Restoration


Dear Dr. Jhun:

Enclosed please find the Commissioner's Order regarding Case No. CP-08-01 which is in reference to Calendar No. 21348. This order and any decision contained therein goes into effect five (5) days after the date of this letter.

Very truly yours,

Daniel J. Kelleher  
Director of Investigations

Redacted Signature

 Ariana Miller  
Supervisor

DJK/AM/er

cc: Jeffrey Sherrin, Esq.  
O'Connell and Aronowitz  
100 State Street  
Albany, New York 12207



The  
University of the  
Education  State of New York  
Department

IN THE MATTER

of the

Application of JHONG YOUNG  
JHUN, for restoration of his license  
to practice as a physician in the State  
of New York.

Case No. CP-08-01

It appearing that the license of JHONG YOUNG JHUN, Redacted Address, Holmdel, New Jersey, to practice as a physician in the State of New York, was surrendered by Order of the State Board for Professional Medical Conduct, effective December 25, 1992, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition and having agreed with and accepted the recommendations of the Peer Committee and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on February 12, 2008, it is hereby

ORDERED that the petition for restoration of License No. 139455, authorizing JHONG YOUNG JHUN to practice as a physician in the State of New York, is granted, and his license to practice as a physician in the State of New York shall be fully restored.



IN WITNESS WHEREOF, I, Richard P. Mills,  
Commissioner of Education of the State of New York for  
and on behalf of the State Education Department, do  
hereunto set my hand and affix the seal of the State  
Education Department, at the City of Albany, this 27<sup>th</sup>  
day of June, 2008.

Redacted Signature

Commissioner of Education

Case No. CP-08-01

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of the Peer Committee and the Committee on the Professions, now, pursuant to action taken by  
the Board of Regents on February 12, 2008, it is hereby

VOTED that the petition for restoration of License No. 139455, authorizing JHONG  
YOUNG JHUN to practice as a physician in the State of New York, is granted, and his license to  
practice as a physician in the State of New York shall be fully restored.

THE UNIVERSITY OF THE STATE OF NEW YORK  
The State Education Department

Report of the Committee on the Professions  
Application for Restoration of Physician License

Re: Jhong Young Jhun

Attorney: Jeffrey Sherrin

Jhong Young Jhun, <sup>Redacted Address</sup>, petitioned for restoration of his physician license. The chronology of events is as follows:

- 08/24/79 Issued license number 139455 to practice medicine in New York State.
- 03/01/81 Issued license number MA38749 to practice medicine in New Jersey.
- 11/15/89 New Jersey State Board of Medical Examiners commenced administrative action alleging professional misconduct, use of deception for altering a medical record, and perjury regarding the alteration.
- 06/12/90 Entered into consent order with New Jersey Board of Medical Examiners, stipulating a suspension of his physician license for six months, suspension stayed, a fine of \$500.00 and enrollment in an ethics course.
- 10/22/92 Charged with professional misconduct by New York State Department of Health.
- 11/30/92 Submitted application to surrender New York physician license.
- 12/22/92 Board of Professional Medical Conduct (BPMC) adopted the application to surrender New York license.
- 12/25/92 Effective date of surrender of physician license and Order No. BPMC 92-114.
- 12/14/02 Application for restoration submitted.

- 06/18/04 Peer Committee restoration review.
- 01/26/05 Report and Recommendation of Peer Committee. (See "Recommendation of the Peer Committee.")
- 05/25/05 Committee on the Professions restoration review.
- 01/24/08 Report and Recommendation of Committee on the Professions. (See Report of the Committee on Professions.)

**Disciplinary History.** (See attached disciplinary documents.) In 1992, the Department of Health charged Dr. Jhun with professional medical misconduct under New York Education Law section 6530(9)(d), because he had had disciplinary action taken against him in New Jersey, for actions which would have constituted professional misconduct under the laws of New York State. That charge was based on a consent order issued by the New Jersey Board of Medical Examiners on June 12, 1990, which had suspended Dr. Jhun's medical license in that state for six months, had stayed that suspension, and had ordered Dr. Jhun to pay a \$500.00 penalty and take an ethics course. The New Jersey order resulted from charges in that state that Dr. Jhun had altered a patient's medical record, and had thereafter perjured himself in testimony regarding the alteration. At no time did the State of New Jersey order an actual suspension of Dr. Jhun's license. When served with the New York charges, Dr. Jhun agreed to surrender his license, and Consent Agreement and Order No. BPMC 92-114 went into effect December 25, 1992.

On December 14, 2002, Dr. Jhun submitted an application for restoration of his New York physician license.

**Recommendation of Peer Committee.** (See attached Report of the Peer Committee.) The Peer Committee (Kavaler, Lerner, Holtzapfle) convened on June 18, 2004. In its report dated January 26, 2005, the Committee voted unanimously to recommend that Dr. Jhun's application for restoration be granted without condition.

**Recommendation of the Committee on the Professions.** On May 25, 2005, the Committee on the Professions (Duncan-Poitier, Templeman, Earle) met with Dr. Jhun to consider his application for restoration. Jeffrey Sherrin, an attorney, accompanied him.

The Committee asked Dr. Jhun to explain the events that brought him to his present situation of having to seek restoration of his license. He explained that while on call at Bayshore Hospital in New Jersey in 1987, he was asked to come to the emergency room (ER) to see a construction worker who had been diagnosed as suffering from an acute heart attack by the ER physician. Dr. Jhun reported that when he arrived in the emergency room, the patient was verbally abusive to him, apparently mistaking him for another Asian doctor who had treated his father in the same

emergency room about a month earlier. The man's father had died. The construction worker was admitted to Bayshore Hospital but signed himself out after a few days, against medical advice. He then walked into Dr. Jhun's private office 10 days later without an appointment seeking a free cardiac test, because he had no money. Dr. Jhun arranged for a free EKG stress test, which came out normal. That patient then sent a letter to the New Jersey State Board of Medical Examiners insisting that his prior admission to Bayshore Hospital, for which he claimed to have been billed in the area of \$8,000, had been unnecessary. An investigator for the New Jersey Board thereafter went to Dr. Jhun's office to look into the matter and asked for the patient's records. Dr. Jhun indicated that he had made very sketchy records about the patient in question because he had come in off the street without an appointment. In an attempt to make a more formal and complete record, he said that he added notes to the record before giving them to the investigator. The New Jersey Board accused him of altering the patient's medical record. With the assistance of an attorney, who spoke with the New Jersey Medical Board, a final penalty was agreed upon that required Dr. Jhun to pay a fine of \$500.00, take an ethics class, and be placed on probation for six months. A six-month suspension of his license was stayed.

Dr. Jhun explained that two years after the action was taken against him in New Jersey, the New York State Department of Health asked him to appear at a hearing to explain the charges in New Jersey. He told the Committee that at that time he did not have the money to secure an attorney and present a defense, so he simply agreed to consent to an order wherein he surrendered his New York physician license.

Regarding his present application for restoration, Dr. Jhun stated that he realizes that he was wrong in altering the medical records of the patient back in 1987 and that he would not repeat that mistake. He has since taken an ethics course, as required by the New Jersey Board of Medical Examiners, as well as numerous continuing medical education courses. Subsequent to that one recordkeeping offense back in 1987, Dr. Jhun has maintained his New Jersey medical license and has had no further disciplinary action taken against him. He indicated that he presently works in an office in New Jersey with seven other doctors where patient records are constantly being reviewed. He reported that there have been no problems with the charts he maintained for his patients. In addition, Dr. Jhun said that he has published some medical books and written numerous articles in the Korean language.

Dr. Jhun told the Committee that he works in a clinic every Wednesday to provide free health care to underprivileged Koreans, many of whom do not speak English. He indicated that he also gives health lectures for senior citizens. Dr. Jhun explained that he wants to get his New York physician license back at the present time because he has family members working in New York State, and he would like to practice in New York State to be near family.

The overarching concern in all restoration cases is the protection of the public. Education Law §6511 gives the Board of Regents discretionary authority to make the final decision regarding applications for the restoration of a professional license. Section

24.7 of the Rules of the Board of Regents charges the Committee on the Professions (COP) with submitting a recommendation to the Board of Regents on restoration applications. Although not mandated by law or regulation, the Board of Regents has instituted a process whereby a Peer Committee first meets with an applicant for restoration and provides a recommendation to the COP. A former licensee petitioning for restoration has the significant burden of satisfying the Board of Regents that there is a compelling reason that licensure should be granted in the face of misconduct that resulted in the loss of licensure. There must be clear and convincing evidence that the petitioner is fit to practice safely, that the misconduct will not recur, and that the root causes of the misconduct have been addressed and satisfactorily dealt with by the petitioner. It is not the role of the COP to merely accept, without question, the arguments presented by the petitioner, but to weigh and evaluate all of the evidence submitted and to render a determination based upon the entire record.

The COP agrees with the findings and recommendations of the Peer Committee. We believe that Dr. Jhun has presented a compelling case for the restoration of his license and that he understands the nature of his misconduct and has taken action to remedy it. He satisfactorily complied with the terms established by the New Jersey Board of Medical Examiners, and has practiced in the field of cardiology in that state without further incident since 1987. He has maintained hospital privileges at several facilities in New Jersey and has kept abreast of his profession by taking substantial CME credits over the years, as well as publishing books and articles. COP finds it laudable that Dr. Jhun provides free medical assistance to underprivileged Koreans in a weekly clinic. We believe, as did the Peer Committee, that Dr. Jhun would not repeat the misconduct which led to the surrender of his license in this State.

Based on all the forgoing, a complete review of the record, and its meeting with him, the Committee on the Professions voted unanimously to recommend that Dr. Jhun's application for restoration of his license to practice as a physician in the State of New York be granted.

Johanna Duncan-Poitier

Leslie Templeman

Steven Earle



# The University of the State of New York

NEW YORK STATE EDUCATION DEPARTMENT  
OFFICE OF PROFESSIONAL RESPONSIBILITY  
STATE BOARD FOR MEDICINE

-----X  
In the Matter of the Application of

JHONG YOUNG JHUN

for the restoration of his license to  
practice as a physician in the State of  
New York.

REPORT OF  
THE PEER  
COMMITTEE  
CAL. NO. 21348

-----X  
JHONG YOUNG JHUN, hereinafter known as the applicant, was previously licensed to practice as a physician on or about August 24, 1979 in the State of New York by the New York State Education Department. Said license was surrendered to the Office of Professional Medical Conduct (OPMC), New York State Department of Health (DOH), in disposition of a professional misconduct proceeding. The surrender of the applicant's license became effective on December 25, 1992.

The applicant has applied for restoration of his license.

## BACKGROUND INFORMATION

The written application, supporting papers provided by the applicant and papers resulting from the investigation conducted by the Office of Professional Discipline (OPD) have been compiled by the prosecutor from OPD into a packet that has been



distributed to this Peer Committee in advance of its meeting and also provided to the applicant.

PRIOR DISCIPLINE PROCEEDINGS

Action by the State Board for Professional Medical Conduct: The order of OPMC accepting and enforcing the surrender of the applicant's license was served by mail upon the applicant, effective December 25, 1992. The surrender of licensure was based upon on the grounds that he did not contest the specification of professional misconduct with which he was charged. This specification consisted of the applicant's having had disciplinary action taken against him by the State of New Jersey and which would constitute misconduct under the laws of New York.

Nature of the misconduct and other states' proceedings: On June 12, 1990 the applicant entered into a consent order with the New Jersey Board of Medical Examiners after having been charged, among other things, with having altered a patient record and having perjured himself about the alteration in violation of various New Jersey statutes. Said consent order suspended the applicant's license to practice medicine for a period of six months; stayed the suspension; ordered that the applicant pay a penalty of \$500 and enroll in a medical ethics course.

APPLICATION FOR RESTORATION

On December 14, 2002, the applicant executed the State Education Department's standard form for applying for restoration of licensure. The application contained information and attachments as referred to, below:

Entries in the basic application form:

Continuing Medical Education (CME): The applicant lists a number of courses taken by him as well as articles and books he authored. There is also a separate attachment which sets forth the CME courses taken by the applicant.

Professional Rehabilitation Activities: The applicant completed a medical course in medical ethics at New Jersey Medical College, as required by the terms of his consent order in that state.

Submissions of Affidavits: The applicant submitted six affidavits, four of which were from physicians.

Additional attachments to the application: Other items in the packet included the applicant's listing of affiliations with various New Jersey hospitals, including Bayshore Community Hospital in Holmdel and the Meridian Health System, in which he is a member in good standing of its Department of Medicine/Cardiology section.

The applicant also provided evidence of current New Jersey licensure and registration.

INVESTIGATIVE INFORMATION

- The packet provided by OPD contains the following additional information from the investigation that resulted from the filing of the application for restoration: two reports dated October 16, 2003 and November 16, 2003, respectively from the investigator assigned to the case.
- August 19, 2003 letter from Dennis J. Graziano, Director,

OPMC, stating his office's position on the current application as follows: Since the applicant "has been practicing medicine in New Jersey since (1987), without blemish...if the Board of Regents determines that this medical license warrants restoration, we recommend that the applicant be placed on probation for a minimum of three years with terms requiring practice monitoring."

PEER COMMITTEE MEETING

On June 18, 2004 this Peer Committee met to consider this matter. The applicant appeared before us personally and chose to proceed without an attorney after being apprised of his right to be represented by counsel. Also present was Joan Handler, Esq., an attorney from the Division of Prosecutions, OPD. The record was closed on July 31, 2004 with the receipt of certain material from the applicant and OPD's response thereto, which was cumulatively marked as Applicant's Exhibit "A".

After opening remarks by both parties the applicant presented himself as a witness. The applicant began his testimony with a recapping of his personal and professional history up to the point of his disciplinary actions. The incident in question which led to the disciplinary proceedings involved a patient for whom the applicant had scant or non-existent office records. Pursuant to a complaint by the patient regarding the applicant's alleged medical maltreatment of the patient's father (in fact, due to a case of mistaken identity, the applicant had not actually treated the father), the New Jersey Board of Medical Examiners sent an

investigator to the applicant's office. Additionally, a subpoena was issued for his records.

When called before the New Jersey Board of Medical Examiners to testify about the patient and his records for the patient, he admitted that he altered the patient's record and lied about it under oath. The applicant attributed his doing so to his poor English skills and his terrible anxiety at the time.

The applicant testified that he has since instituted safeguards regarding recordkeeping at the office which now include a computer system and other methods to ensure the integrity of his medical records.

The Department in its closing remarks left the decision to the Panel as to whether the applicant should be relicensed, but asserted that if he is then he should be on monitored probation for a period of three years.

The applicant in his closing statement urged the panel not to impose any term of probation, saying that to do so would cause him to lose HMO and Medicare coverage as well as hospital privileges.

#### RECOMMENDATION

We have reviewed the entire record in this matter, including the written materials received before and after our meeting. In arriving at our recommendation, we note that, in a licensure restoration proceeding, the burden is on the applicant to demonstrate that which would compel the return of the license. Greenberg v. Board of Regents of University of New York, 176 A.D. 2d, 1168, 575 N.Y.S. 2d 608, 609. In reaching our recommendation,

we consider whether the applicant demonstrates sufficient remorse, rehabilitation and reeducation. However, we are not necessarily limited to such formulaic criteria but may consider other factors, particularly the seriousness of the original offense and, ultimately, our judgment as to whether the health and safety of the public would be in jeopardy should the application be granted.

Upon our consideration of the record and the above-stated factors, it is the unanimous recommendation of this Peer Committee that the application before us be granted.

The applicant is deserving of relicensure in New York for many reasons. He has satisfactorily complied with all of New Jersey's terms any years ago and has been incident-free since 1987; additionally he has obtained hospital privileges at several New Jersey facilities, most recently being reappointed at Bayshore Community Hospital in Holmdel, New Jersey and being a member in good standing of the Department of Medicine/Cardiology of the Meridian Health System since December of 1998.

Although there is no question of the applicant's competence to practice or any issue of his having kept abreast of the profession, we note that he has completed a substantial number of CME credits over the years and has practiced uninterruptedly in New Jersey since the 1980's.

The applicant understands that what he did was wrong and is remorseful for it. His testimony shows that he has changed his record-keeping practice and is aware now of how to properly make changes to patient records if necessary.

We strongly believe that a language barrier, which we observed here and which prevented him from communicating as effectively as he might have with this panel, possibly contributed to the difficulties he experienced before New York's disciplinary board in explaining the New Jersey action, which resulted in a relatively minor penalty.

The applicant would probably be better served in his dealings with government agencies and other official bodies by requesting the assistance of a translator, friend or family member who can help him navigate their rules and requirements. He noted that his experience with the respective licensing bodies in New York and New Jersey led him to encourage his children to pursue the study of law and that three of them are now so licensed to practice.

There is an almost zero possibility that the applicant would repeat his misconduct given both the clean record that he has maintained since this single incident and his awareness of the repercussions upon his life and the practice of medicine from such an error.

Therefore, for the foregoing reasons, it is our unanimous recommendation that the applicant's petition for relicensure be granted and that he be restored to the practice of medicine in the State of New York without condition.

Respectfully submitted,

Florence Kavalier, M.D. Chairperson

Robert G. Lerner, M.D.

Philip G. Holtzapple, M.D.

Redacted Signature

Chairperson

1/26/05  
Dated