



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

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

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

Patrick F. Carone, M.D., M.P.H.  
Chair  
Ansel R. Marks, M.D., J.D.  
Executive Secretary

March 16, 1998

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Kyu Sun Lee, M.D.  
154-27 Riverside Drive  
Beechurst, New York 11357

RE: License No. 129292

Dear Dr. Lee:

Enclosed please find a corrected copy of Order #BPMC 98-50 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **March 20, 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.

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 Larkin, Esq.  
Winston & Strawn  
200 Park Avenue  
New York, New York 10166-4193

David W. Smith, Esq.

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

IN THE MATTER  
OF  
KYU SUN LEE, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER  
BPMC #98-50

STATE OF NEW YORK )  
COUNTY OF ) ss.:

KYU SUN LEE, M.D., being duly sworn, deposes and says:

That on or about November 12, 1976, I was licensed to practice as a physician in the State of New York, having been issued License No. 129292 by the New York State Education Department.

My current address is 154-27 Riverside Drive, Beechurst, New York 11357, 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 two specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I agree not to contest the allegations, in full satisfaction of the charges against me.

I hereby agree to the following penalty:

- a. Three-year stayed suspension.
- b. Three-year probation with monitoring,

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)(McKinney Supp 1997).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

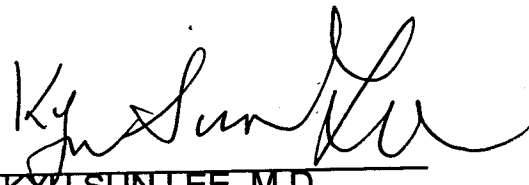
I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

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 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.



KYU SUN LEE, M.D.  
RESPONDENT

Sworn to before me this

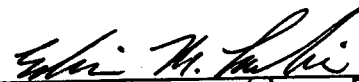
8<sup>th</sup> day of February, 1998.

  
NOTARY PUBLIC


**EDWIN M. LARKIN III**  
Notary Public, State of New York  
No. 31-5011584  
Qualified in New York County  
Commission Expires May 15, 1999

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

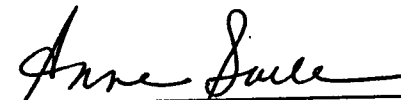
DATE: 2/12/98

  
Edwin M. Larkin ESQ.  
Attorney for Respondent

DATE: 2/26/98

  
DAVID W. SMITH  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: March 5, 1998

  
ANNE F. SAILE  
Director  
Office of Professional  
Medical Conduct

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

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IN THE MATTER :  
OF : ORDER  
KYU SUN LEE, M.D. :

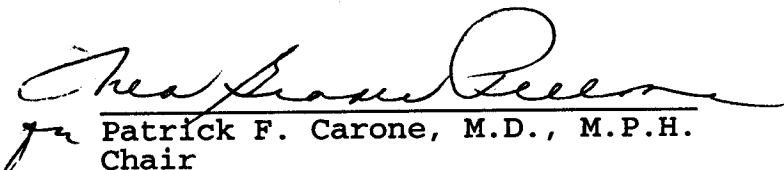
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Upon the Application of KYU SUN LEE, M.D. (Respondent) for Consent Order, which Application is made a part hereof, it is ORDERED, that the Application and the provisions thereof are hereby adopted and so ORDERED, and it is further

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: 3-9-98

  
Patrick F. Carone, M.D., M.P.H.  
Chair  
State Board for Professional  
Medical Conduct

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

IN THE MATTER  
OF  
KYU SUN LEE, M.D.

STATEMENT  
OF  
CHARGES

KYU SUN LEE, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 12, 1976, by the issuance of license number 129292 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about August 3, 1994, Respondent, as anesthesiologist, examined Patient A, a 27 year old male with myelodysplasia, in preparation for an elective tonsillectomy. Patient A had a history of anemia and thrombocytopenia and pre-operative blood tests revealed serious abnormalities, including anemia, low white blood count and extremely low platelet count.
1. Despite the prior medical history of Patient A and his abnormal blood condition, Respondent failed to obtain a hematological consult prior to surgery.
  2. Respondent inappropriately cleared Patient A for the operation on August 5, 1994.

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**GROSS NEGLIGENCE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 1998) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

- 1. Paragraphs A and A1-2.

**SECOND SPECIFICATION**

**GROSS INCOMPETENCE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6)(McKinney Supp. 1998) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

- 2. Paragraphs A and A1-2.

DATED: March , 1998  
New York, New York

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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct



## EXHIBIT "B"

### Terms 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 and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 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 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 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, limitations and penalties to which he or 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.