



**Board for Professional Medical Conduct**

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

C. Maynard Guest, M.D.  
Executive Secretary

14

July 27, 1993

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Kong The, M.D.  
131 Fulton Avenue  
Hempstead, New York 11550

RE: License No. 117923  
Effective Date: 8/3/93

Dear Dr. The:

Enclosed please find Order #BPMC 93-111 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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  
Empire State Plaza  
Tower Building-Room 438  
Albany, New York 12237-0756

Sincerely,

C. Maynard Guest, M.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

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

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IN THE MATTER :  
OF : ORDER  
KONG THE, M.D. : BPMC # 93-111

-----X

Upon the application of KONG THE, 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: 23 July 93

Charles J. Vacanti  
Charles J. Vacanti, M.D.  
Chairperson  
State Board for Professional  
Medical Conduct



I admit guilt to the Second Specification in the Statement of Charges with respect to the facts in paragraphs A and A1, in full satisfaction of the charges against me.


I hereby agree to the penalty of a censure and reprimand and probation beginning immediately upon service of this order and ending only after providing documentary proof, in the manner specified in the Terms of Probation attached hereto as Exhibit B, of the successful completion of the training program referred to therein.

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.



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KONG THE, M.D.  
RESPONDENT

Sworn to before me this  
8th day of July, 1973.



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NOTARY PUBLIC

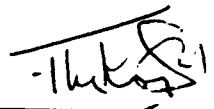
GEORGE M. PORTALATIN, JR.  
NOTARY PUBLIC, State of New York  
No. 41-4930858  
Qualified in Queens County  
Commission Expires July 10, 1994

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

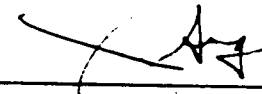
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IN THE MATTER : APPLICATION  
OF : FOR  
KONG THE, M.D. : CONSENT  
: ORDER  
-----X

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

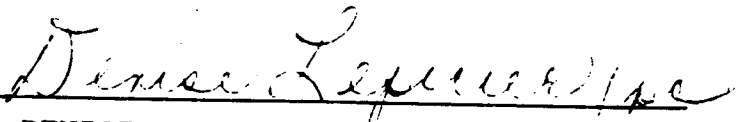
Date: 7/8/93

  
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KONG THE, M.D.  
RESPONDENT

Date: 7-13-93

  
\_\_\_\_\_  
JEROME SAGER, ESQ.  
ATTORNEY FOR RESPONDENT

Date: 7-26-93

  
\_\_\_\_\_  
DENISE LEPICIER  
ASSISTANT COUNSEL  
BUREAU OF PROFESSIONAL  
MEDICAL CONDUCT

Date: July 27, 1993

Kathleen M. Tanner

KATHLEEN M. TANNER  
DIRECTOR  
OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT

Date: 23 July 93

Charles J. Vacanti

CHARLES J. VACANTI, M.D.  
CHAIRPERSON  
STATE BOARD FOR  
PROFESSIONAL MEDICAL CONDUCT

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

-----X

IN THE MATTER :  
OF : STATEMENT  
KONG THE, M.D. : OF CHARGES

-----X

KONG THE, M.D., the Respondent, was authorized to practice medicine in New York State on September 6, 1973, by the issuance of license number 117923 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1991, to December 31, 1992. He is registered from 131 Fulton Avenue, Hempstead, New York and 6 Woodbine Court, Floral Park, New York.

FACTUAL ALLEGATIONS

PATIENT A

- A. Respondent treated Patient A, a two year old girl, in his office at 131 Fulton Avenue, Hempstead, New York. (All patients are identified in the attached appendix.)



1. On or about May 1, 1991, Respondent gave Patient A a Diphtheria, Pertussis and Tetanus inoculation with a needle and syringe that Respondent had previously used to inoculate her brother. Respondent's care and treatment of Patient A deviated from acceptable medical standards.
  
2. On or about February 6, 1991, and again, on or about May 1, 1991, Respondent administered inoculations to Patient A and failed to record the lot or serial numbers of the vaccines in Patient A's medical record. Respondent's care and treatment of Patient A deviated from acceptable medical standards and is a failure to comply with a duty imposed by law.

PATIENT B

- B. Respondent treated Patient B, a 28 month old boy, in his office at 131 Fulton Avenue, Hempstead, New York.

1. On or about February 6, 1991, and again, on or about May 1, 1991, Respondent administered inoculations to Patient B and failed to record the lot or serial numbers of the vaccines in Patient B's medical record. Respondent's care and treatment of Patient B deviated from acceptable medical standards and is a failure to comply with a duty imposed by law.

### SPECIFICATIONS

#### FIRST SPECIFICATION

##### PRACTICING THE PROFESSION WITH NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct by reason of practicing the profession with negligence on more than one occasion, within the meaning of N.Y. Educ. Law Section 6530(3) (McKinney Supp. 1993), in that Petitioner charges two or more of the following:

1. The facts in paragraphs A, A1 and A2; B and B1.

**SECOND SPECIFICATION**

**PRACTICING THE PROFESSION WITH GROSS NEGLIGENCE  
ON A PARTICULAR OCCASION**

Respondent is charged with professional misconduct by reason of practicing the profession with gross negligence on a particular occasion, within the meaning of N.Y. Educ. Law Section 6530(4) (McKinney Supp. 1993), in that Petitioner charges:

2. The facts in paragraphs A, A1 and A2 and B and B1.

**THIRD SPECIFICATION**

**PRACTICING THE PROFESSION WITH INCOMPETENCE  
ON MORE THAN ONE OCCASION**

Respondent is charged with practicing the profession with incompetence on more than one occasion, within the meaning of N.Y. Educ. Law Section 6530(5) (McKinney Supp. 1993), in that Petitioner charges two or more of the following:

3. The facts in paragraphs A, A1 and A2; B and B1.

FOURTH AND FIFTH SPECIFICATION

FAILURE TO COMPLY WITH A PROVISION OF FEDERAL LAW

Respondent is charged with professional misconduct by reason of his willful or grossly negligent failure to comply with a substantial provision of federal law, within the meaning of N.Y. Educ. Law Section 6530(16) (McKinney Supp. 1993), in that Petitioner charges:

4. The facts in paragraphs A and A2;
5. The facts in paragraphs B and B1.

DATED: New York, New York

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Chris Stern Hyman  
Counsel  
Bureau of Professional Medical  
Conduct

## EXHIBIT "B"

### TERMS OF PROBATION

1. KONG THE, M.D., during the period of probation, 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 submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Health Department, Corning Tower Building, 4th Floor, Empire State Plaza Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. Respondent shall, before July 1st, 1994, complete course work or training, preapproved by and satisfactory to the Director of the Office of Professional Medical Conduct, in infection control practices as mandated by Public Health Law Section 238 (McKinney Supp. 1993), and shall submit to the Director of the Office of Professional Medical Conduct documentary proof, satisfactory to the Director of the

Office of Professional Medical Conduct, of having completed said course work or training within one month of having completed it. Respondent shall not request an exemption from such course work or training.

6. Respondent shall assume and bear all costs related to compliance with the Terms of Probation.
7. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board;
8. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. 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).
9. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.