



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

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

Antonia C. Novello, M.D., M.P.H., Dr. P.H.  
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NYS Department of Health*

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*Executive Deputy Commissioner  
NYS Department of Health*

Dennis J. Graziano, Director  
*Office of Professional Medical Conduct*

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*Vice Chair*

Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

**PUBLIC**

November 25, 2002

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Bing Tsung Yu, M.D.  
10 Carol Place  
Staten Island, NY 10303

RE: License No. 155717

Dear Dr. Yu:

Enclosed please find Order #BPMC 02-354 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect November 25, 2002.

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: Anthony Scher, Esq.  
Wood and Scher, Esqs  
14 Harwood Court  
Scarsdale, New York 10583

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

**IN THE MATTER  
OF  
BING TSUNG YU, M.D.**

**CONSENT  
ORDER**

02-354

Upon the application of Respondent ,BING TSUNG YU, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

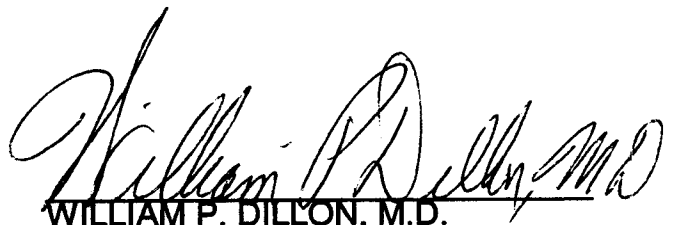
**ORDERED**, that the Consent Agreement, and its terms, are adopted and **SO ORDERED**, and it is further

**ORDERED**, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, Whichever is first.

**SO ORDERED.**

DATED: 11/21/02



WILLIAM P. DILLON, M.D.

Chair

State Board for Professional Medical Conduct

**IN THE MATTER  
OF  
BING TSUNG YU, M.D.**

**CONSENT  
AGREEMENT  
AND  
ORDER**

BING TSUNG YU, M.D., representing that all of the following statements are true, deposes and says:

That in or about 1983, I was licensed to practice as a physician in the State of New York, and issued License No. 155717 by the New York State Education Department.

My current residence address is 10 Carol Place, Staten Island, N.Y. 10303., and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with one specification of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I admit guilt to the Third and Fourth Specifications, in full satisfaction of the charges against me, and agree to the following penalty:

That a Censure and Reprimand shall be imposed upon my license and that I be subject to the conditions set forth in Exhibit "B" for a period of three years from the effective date of this Order.

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall maintain current registration of

licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to

the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

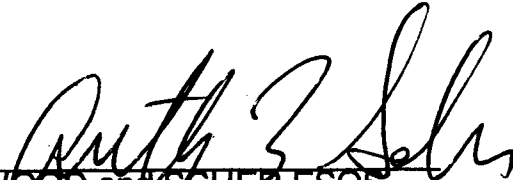
DATED

10/2/02

  
\_\_\_\_\_  
BING TSUNG YU, M.D.  
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 10/23/02

  
WOOD and SCHER, ESQS.  
Attorney for Respondent

DATE: 11/1/02

  
TERRENCE SHEEHAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 11/19/02

  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

## **EXHIBIT "B"**

### **CONDITIONS**

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any acts of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of the conditions imposed pursuant to this Order and an action may be taken against Respondent's license pursuant to New York State Public Health Law §230.
2. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
3. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
4. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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. Within thirty days of the effective date of the order, 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 fewer 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.
6. The monitoring conditions shall toll during periods in which Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. 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 consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the period of conditions will resume and Respondent shall fulfill any unfulfilled terms of conditions.
7. Respondent shall take and pass the next three annual re-certification tests given by the American Board of Obstetrics and Gynecology.
8. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and Respondent's staff at practice locations or OPMC offices.
9. Respondent shall maintain complete, legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
10. Respondent shall enroll in and complete a continuing education program in the areas of recordkeeping and shall take 20 Category 1 hours in high risk obstetrics, subject to the Director of OPMC's prior written approval, to be completed within one year of the effective date of this order.
11. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate such proceedings against Respondent as authorized by New York State Public Health Law §230 and governing law.



IN THE MATTER  
OF  
BING TSUNG YU, M.D.

STATEMENT  
OF  
CHARGES

BING TSUNG YU, M.D., the Respondent, was authorized to practice medicine in New York State in 1983, by the issuance of license number 155717 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Between on or about June 14, 1999 and on or about February 5, 2000 Respondent rendered antepartum/obstetrical care to Patient A at Respondent's medical office, 10 Carol Place, Staten Island, New York and at Maimonides Medical Center, 4802 Tenth Avenue, Brooklyn, New York (the Hospital). (The names of Patients are contained in the attached Appendix.) Respondent's treatment of Patient A deviated from accepted standards of medical practice in the following respects:
1. Respondent failed to adequately evaluate Patient A's glucose tolerance.
  2. Respondent failed to order a structured diet and , in the face of Patient A's continued excessive weight gain, to obtain a consultation with a nutritionist.
  3. After Patient A's admission to the Hospital, Respondent failed to

Exhibit A

personally assess her intra-partum course in a timely manner.

4. Respondent failed to maintain a record for Patient A which accurately reflects the evaluation and treatment he provided including accurate patient history, diagnostic tests, diagnoses, treatment plan, and recommended diets.

B. Between on or about February 1, 1999 and on or about September 27, 1999 Respondent rendered antepartum/obstetrical care to Patient B at his office and at the Hospital. Respondent's treatment of Patient A deviated from accepted standards of medical practice in the following respects:

1. Respondent failed to perform and document adequate physical examinations including accurate documentation of blood pressure readings.
2. A fetal sonogram dated September 20, 1999 revealed an evolving asymmetrical intrauterine growth retardation. Respondent failed to recognize or diagnose this condition.
3. Respondent failed to undertake further surveillance of the intrauterine growth retardation by, for instance, ordering a non stress tests and biophysical profiles.
4. Early fetal sonograms showed a right kidney fullness and a later

sonogram, dated September 20, 1999, showed hydrophrenosis of the right kidney. Respondent failed to follow-up these abnormal findings.

5. Given the abnormal renal findings and the evidence of intrauterine growth retardation, Respondent should have but failed to obtain a consultation with a perinatologist.
  
6. Respondent failed to maintain a record for Patient B which accurately reflects the evaluation and treatment he provided including accurate patient history, physical exam findings, accurate interpretations of diagnostic tests, diagnoses, and treatment plans.

## **SPECIFICATION OF CHARGES**

### **FIRST SPECIFICATION**

#### **NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following paragraphs:

1. A and A(1) - A(3) and B and B(1) - B(5).

### **SECOND SPECIFICATION**

#### **INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following paragraphs:

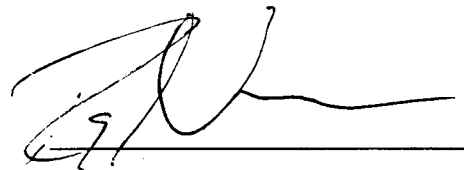
2. A and A(1) - A(3) and B and B(1) - B(5).

**THIRD AND FOURTH SPECIFICATION**  
**FAILURE TO MAINTAIN RECORDS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of the following paragraphs:

3. A and A(4)
4. B and B(1) and B(6)

DATED: <sup>Nov 1</sup> September , 2002  
New York, New York



**ROY NEMERSON**  
Deputy Counsel  
Bureau of Professional  
Medical Conduct