



New York State Board for Professional Medical Conduct

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

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

Charles J. Vacanti, M.D.
Chair

June 28, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joo-Sock Yang, M.D.
3905 Sacramento Street
San Francisco, California 94118

License No. 136692

Dear Dr. Yang:

Effective Date: 07/05/96

Enclosed please find Order #BPMC 96-151 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.

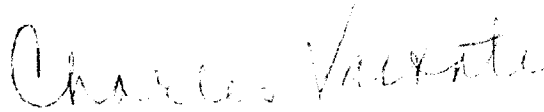
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Tower Building-Room 1245
Albany, New York 12237

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles Vacanti".

Charles Vacanti, M.D.
Chair
Board for Professional Medical Conduct

Enclosure

cc: Robert Adams, Esq.
Adams & Dayter
39 N. Pearl Street
Albany, New York 12207

Cindy Fascia, Esq.

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

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IN THE MATTER :
OF : ORDER
JOO-SOCK YANG, M.D. : BPMC #96-151

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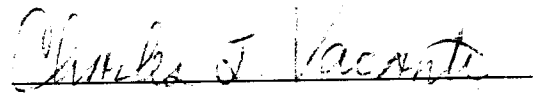
Upon the application of JOO-SOCK YANG, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

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: 26 June 1996


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 : APPLICATION
OF : FOR
JOO-SOCK YANG, M.D. : CONSENT
: ORDER

-----X

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO) SS.:

JOO-SOCK YANG, M.D., being duly sworn, deposes and says:

I was licensed to practice as a physician in the State of New York on November 3, 1978, having been issued License No. 136692 by the New York State Education Department.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

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 is annexed hereto, made a part hereof, and marked as Exhibit A.

I do not contest the charges brought against me by the New York State Board for Professional Medical Conduct, in that I was disciplined by the Medical Board of California, as set forth in Paragraph 1 of the Factual Allegations in Exhibit A. A copy of the Stipulation and Waiver that I entered into with the Medical Board of California is attached as Exhibit B. In said Stipulation, which was accepted by the Medical Board of California, I admitted to general unprofessional conduct, and denied all allegations of gross negligence, repeated negligent acts, incompetence, dishonesty, and sexual abuse or misconduct. In this Application for Consent Order with the New York State Board, I make no admission of any additional conduct which may have been set forth either in the original charges brought by the Medical Board of California or set forth in the Statement of Charges by the New York State Board (Exhibit A). I understand that the New York Board's action against me is based solely on the Medical Board of California's action, and that no additional conduct has been charged or alleged in New York State.

I hereby agree to the following penalties:

- 1) A censure and reprimand
- 2) A fine of one thousand dollars (\$1,000.00)

I understand that I must pay said fine in full within thirty days of the effective date of the final Order in this matter. I further understand that any fine or civil penalty not paid by the required date shall be subject to all provisions of law relating to debt collection by the State of New York, 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.

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.

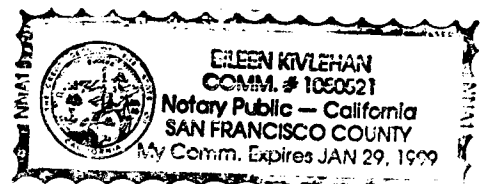

JOO-SOCK YANG, M.D.
RESPONDENT

Sworn to before me this

day of

, 1996.

NOTARY PUBLIC



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

-----X

IN THE MATTER : APPLICATION
OF : FOR
JOO-SOCK YANG, 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: 6/19/96

Joo Sock Yang
JOO-SOCK YANG, M.D.
Respondent

DATE: 6/20/96

Robert Adams
ROBERT ADAMS, ESQ.
Attorney for Respondent

DATE: 6/21/96

Peter D. Van Buren
PETER D. VAN BUREN - DEPUTY COUNSEL
CINDY M. FASCIA
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE:

June 21, 1996

Anne Saile

ANNE F. SAILE
ACTING DIRECTOR
Office of Professional Medical
Conduct

DATE:

26 June 1996

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 : STATEMENT
OF : OF
JOO-SOCK YANG, M.D. : CHARGES

-----X

JOO-SOCK YANG, M.D., the Respondent, was authorized to practice medicine in New York State on November 3, 1978, by the issuance of license number 136692 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department.

FACTUAL ALLEGATIONS

1. The Medical Board of California on or about June 20, 1994, filed an Accusation against Respondent. Thereafter, on or about March 28, 1995, Respondent and the Board executed a Stipulation and Waiver, whereby the parties agreed that Respondent would be publicly reprimanded for general unprofessional conduct. Respondent admitted to general unprofessional conduct pursuant to California Business and Professions Code §2234 as set forth in Accusation No.12-92-22196, and acknowledged that this was grounds for discipline under California law. The Board issued a Decision on or about June 20, 1995 adopting the Stipulation, and a Public Letter of Reprimand was issued to Respondent on July 20, 1995. Respondent also agreed to pay the Board one thousand dollars (\$1,000.00) for

costs of the investigation.

2. The conduct resulting in the California Board's disciplinary action against Respondent, as set forth in Accusation No.12-92-22196, included failure to refer Patient K.W., a minor, to a surgeon with knowledge of pediatric development issues or to a pediatrician to consider developmental and pathophysiological issues prior to performing a biopsy of a lump in the patient's breast; failure to obtain written informed consent; failure to obtain a mammogram prior to the biopsy; failure to perform a preoperative physical, failure to obtain a preoperative blood count; failure to perform the biopsy in a proper setting with adequate personnel available in case of emergency; failure to note in the medical record an examination he performed of the patient's inguinal area; after the finishing the biopsy, telling K.W., who was still lying on the table, to put her knees up, and putting his right hand into her panties, with his finger to her vulva; laughing at K.W. when she turned away from him and toward the wall after he touched her vulva.

3. The conduct resulting in the California Board's disciplinary action against Respondent would, if committed in New York State, constitute professional misconduct under the laws of New York State, including but not limited to N.Y. Educ. Law §6530(4) [gross negligence]; and/or N.Y. Educ. Law §6530 (3) [negligence on more than one occasion]; and/or N.Y. Educ. Law §6530(31) [willfully abusing a patient]; and/or N.Y. Educ. Law §6530(20) [moral unfitness]; and/or N.Y. Educ. §6530(32) [failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient].

SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Education Law §6530(9)(d) (McKinney Supp. 1996), by reason of having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having his application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or the refusal, revocation or surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in paragraphs 1 through 3.

DATED: *April 8*, 1996
Albany, New York

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

ORIGINAL

DANIEL E. LUNGREN, Attorney General
of the State of California
ISA R. RODRIGUEZ
Deputy Attorney General
STATE BAR NO. 104838
2101 Webster Street, 12th Floor
Oakland, CA 94612-3049
Telephone: (510) 286-4042

Attorneys for Complainant

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JOO-SOCK YANG, M.D.
3905 Sacramento Street, No. 203
San Francisco, CA 94118

Physician and Surgeon Certificate No. A33778

Respondent.

No. 12-92-22196
OAH No. N9408180

STIPULATION AND WAIVER

IT IS HEREBY STIPULATED by and between the respondent

JOO-SOCK YANG, M.D., by and through his attorney, Ronald G. Sproat, and the
Executive Director of the Medical Board of California, by and through its attorney, Isa
R. Rodriguez, Deputy Attorney General, as follows:

1. That Accusation No. 12-92-22196 is presently pending against
respondent JOO-SOCK YANG, M.D., (hereinafter referred to as "respondent") in the
above-entitled matter.

2. That respondent was served by registered mail with the Accusation,
Statement to Respondent, and Notice of Defense in the above-entitled matter.

3. That respondent understands the nature of the charges alleged in
the above-mentioned pending Accusation as constituting possible grounds for

1 disciplinary action against his certificate.

2 4. That respondent is fully aware of his right to a hearing on the
3 charges and allegations contained in the above-mentioned pending accusation.

4 5. That respondent fully and voluntarily waives his right to a hearing
5 on the charges and allegations contained in the above-mentioned pending accusation
6 and that he further agrees to waive his right to reconsideration, judicial review, and any
7 and all other rights which may be accorded him by the Administrative Procedure Act
8 and the law of the State of California with regard to Accusation No. 12-92-22196.

9 6. That it is acknowledged by the parties hereto that this Stipulation
10 constitutes an offer in settlement to the Medical Board of California (hereinafter
11 referred to as "Board") and that it, and the recitals therein, are not effective until
12 adoption by said agency.

13 7. That in the event this Stipulation is not adopted by the Board,
14 nothing herein recited shall be construed as a waiver of respondent's right to a hearing
15 or as an admission of the truth of any of the matters charged in the Accusation.

16 8. That all admissions of fact and conclusions of law contained in this
17 Stipulation are made exclusively for this proceeding and any further proceedings
18 between the Board and the respondent and shall not be deemed to be admissions for
19 any purpose in any other administrative, civil or criminal action, forum, or proceeding.

20 9. That respondent denies all allegations of gross negligence, repeated
21 negligent acts, incompetence, dishonesty, and sexual abuse or misconduct, but admits to
22 general unprofessional conduct pursuant to Business and Professions Code section 2234
23 as set forth in Accusation No. 12-92-22196 (hereinafter attached as Exhibit A), and
24 acknowledges that this would be grounds for discipline.

25 10. That respondent asserts that had this matter proceeded to hearing he
26 would have introduced rebuttal and mitigatory evidence as to the allegations, but has
27 chosen to forego this right for purposes of these negotiations and in order to avoid the

1 time, expense, and uncertainty of trial.

2 11. That respondent agrees to reimburse the Board one thousand dollars
3 (\$1,000.00) for the cost of investigation resulting in the filing of this Accusation.

4 12. That, based on the foregoing recitals, the statutory provisions
5 concerning public reproof contained in Business and Professions Code sections 2227
6 and 2233, and the policy favoring settlements which further the efficient administration
7 of the Board as enunciated in the case of Rich Vision Centers, Inc v. Board of Medical
8 Examiners (1983) 144 Cal.App.3d 110, **IT IS HEREBY STIPULATED AND AGREED**
9 that the Medical Board of California may issue the following Order:

10 Certificate No. A33778 heretofore issued to respondent
11 Joo-Sock Yang, M.D., shall be publicly reprimanded for general
12 unprofessional conduct. Such public reprimand shall be in the form of a
13 letter from the President of the Division of Medical Quality.

14 13. Respondent's decision to waive his right to a hearing and to waive
15 his right to reconsideration, judicial review, and all other rights accorded by the laws of
16 the State of California with regard to the above-entitled Accusation is made freely and
17 voluntarily and is not the result of coercion or undue influence by any persons or
18 parties.

19 Dated: 3/28/95

DANIEL E. LUNGREN, Attorney General of
the State of California

21 ISA R. RODRIGUEZ
22 Deputy Attorney General

23 Attorneys for Complainant

24 Dated: 3.23.95

25 RONALD G. SPROAT

26 Attorney for Respondent
27

1 I hereby certify that I have read this Stipulation and Waiver in its
2 entirety, that my attorney of record has fully explained the legal significance and
3 consequences thereof, that I fully understand all of same, and in witness thereof I affix
4 my signature.

5 Dated: 3/17/95


JOO-SOCK YANG, M.D.
Respondent

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NO. 12-92-22196

A C C U S A T I O N

PARTIES

1.

1 relevant to the charges herein brought, said license has been in
2 full force and effect.

3 JURISDICTION

4 3. Business and Professions Code ^{1/}Sections 2004 and
5 2220 provide that the Division of the Medical Quality
6 ("Division") of the Board has authority to enforce and administer
7 the disciplinary provisions of the Medical Practice Act (Bus. &
8 Prof. Code Section 2000, et. seq.) as they apply to physicians
9 and surgeons.

10 4. Section 2227 provides that the Board may revoke,
11 suspend for a period not to exceed one year or place on probation
12 the license of any licensee, or publicly reprimand a licensee who
13 has been found guilty under the Medical Practice Act.

14 5. Section 726 provides in pertinent part :

15 " The commission of any act of sexual abuse, misconduct, or
16 relations with a patient, client, or customer constitutes
17 unprofessional conduct and grounds for disciplinary action
18 for any person licensed under this division..."

19 6. Section 2234 provides in pertinent part:

20 " The Division of Medical Quality shall take action against
21 any licensee who is charged with unprofessional conduct. In
22 addition to other provisions of this article, unprofessional
23 conduct includes, but is not limited to, the following:

24 "(a) Violating or attempting to violate, directly or
25

26 1. All statutory references in this accusation shall be
27 to the Business and Professions Code, unless expressly stated
otherwise.

1 indirectly, or assisting in or abetting the violation of, or
2 conspiring to violate, any provision of this chapter.

3 "(b) Gross negligence.

4 "(c) Repeated negligent acts.

5 "(d) Incompetence.

6 "(e) The commission of any act involving dishonesty or
7 corruption which is substantially related to the
8 qualifications, functions, or duties of a physician and
9 surgeon...."

10 FIRST CAUSE FOR DISCIPLINE

11 7. Respondent's certificate is subject to disciplinary
12 action under section 726 in that he committed an act of sexual
13 abuse, misconduct, or had relations with a patient, which
14 constitutes unprofessional conduct and grounds for disciplinary
15 action as follows:

16 A. On or about June 20, 1991, K. W.,^{2/} a minor (D.O.B.
17 8/1/77), and her mother went to respondent's office seeking
18 medical treatment for a painful lump in minor's breast. The lump
19 was a small bump located under the skin on the aureole of her
20 right breast near the nipple. Respondent checked the lump and it
21 was agreed that respondent would perform a biopsy immediately.

22 B. Prior to performing the biopsy, respondent did not
23 refer patient to a surgeon with knowledge of pediatric
24 development issues or to a pediatrician to consider
25

26 2. For privacy reasons the full name of the patient is
27 not set forth in the Accusation but will be provided in discovery
to respondent.

1 developmental and pathophysiological issues. It is questionable
2 whether any surgery was necessary as either a breast bud or
3 fibroadenoma are benign and breast cancer at the age of 13 is
4 rare. Removal of a breast bud could prevent development of the
5 breast.

6 C. Prior to the biopsy, no mammogram was done.
7 Respondent failed to get written informed consent; respondent
8 failed to get a preoperative blood count and perform a
9 preoperative physical. The biopsy was not done in a proper
10 setting, a hospital operating room or qualified surgical center,
11 with adequate personnel available in case some emergency arose.
12 Respondent examined the patient's inguinal area where no masses
13 were found; this negative finding was not noted in K.W.'s chart.

14 D. During the biopsy, there was no nurse present to
15 assist the respondent. K.W. was not draped for the biopsy
16 procedure. Blood ran over her right shoulder and down her back
17 during the procedure.

18 E. K.W.'s mother was with her during the appointment
19 and at the beginning of the procedure. Her mother began to watch
20 the procedure, but she became sick in seeing the blood and left
21 the room in the middle of the procedure. Respondent failed to
22 have a chaperon present during the inguinal area examination.

23 F. After respondent finished the biopsy, while K.W.
24 was still lying on the table, the respondent told K.W. to put her
25 knees up. Then respondent stuck his right hand down into her
26 panties, with his finger to the vulva, not penetrating the
27 vaginal canal. K.W. turned away toward the wall and respondent

1 took his hand away and laughed at her.

2 SECOND CAUSE OF DISCIPLINE

3 8. Respondent's certificate is subject to
4 disciplinary action under section 2234(e) in that he committed
5 dishonest or corrupt acts in that he used the guise of a medical
6 examination to commit acts of sexual abuse or misconduct with a
7 patient as set forth in paragraphs 7.E and 7.F, above.

8 THIRD CAUSE FOR DISCIPLINE

9 9. Respondent's certificate is subject to disciplinary
10 action for gross negligence and/or repeated negligent acts and/or
11 incompetence under section 2234(b) and/or (c) and/or (d) in that
12 he performed the biopsy without obtaining a preoperative blood
13 count or a preoperative physical and without obtaining a written
14 informed consent. Moreover, the biopsy was performed in an
15 improper setting and without a nurse to assist or a chaperon to
16 observe. Such information is set forth in paragraphs 7.C, 7.D.,
17 and 7.E, above.

18 FOURTH CAUSE FOR DISCIPLINE

19 10. Respondent's certificate is subject to
20 disciplinary action for gross negligence and/or repeated
21 negligent acts and/or incompetence under section 2234(b) and/or
22 (c) in that he performed the biopsy without referring the patient
23 to a surgeon with knowledge of pediatric development issues or to
24 a pediatrician as is set forth in paragraph 7.B., above.

25 COSTS AND OTHER MATTERS

26 11. Section 125.3 provides in pertinent part that:

27 "(a) Except as provided by law, in any order issued in

1 resolution of a disciplinary proceeding before any board
2 within the department ... the board may request the
3 administrative law judge to direct a licentiate found to
4 have committed a violation or violations of the licensing
5 act to pay a sum not to exceed the reasonable costs of the
6 investigation and enforcement of the case.

7 ...

8 "(c) A certified copy of the actual costs, or a good
9 faith estimate of costs where actual costs are not
10 available, signed by the entity bringing the proceeding or
11 its designated representative shall be prima facie evidence
12 of reasonable costs of investigation and prosecution of the
13 case. The costs shall include the amount of investigative
14 and enforcement costs up to the date of the hearing,
15 including, but not limited to, charges imposed by the
16 Attorney General.

17 "(d) The administrative law judge shall make a proposed
18 finding of the amount of reasonable costs of investigation
19 and prosecution of the case when requested pursuant to
20 subdivision (a). The finding of the administrative law
21 judge with regard to costs shall not be reviewable by the
22 board to increase the cost award. The board may reduce or
23 eliminate the cost award, or remand to the administrative
24 law judge where the proposed decision fails to make a
25 finding on costs requested pursuant to subdivision (a)...."

26 PRAYER

27 12. For the reasons set forth in paragraphs 1 through

1 11, inclusive, of this accusation, good cause exists to impose
2 discipline on the physician's and surgeon's certificate issued to
3 respondent.

4 WHEREFORE, the complainant requests that a hearing be
5 held on the matters herein alleged, and that following said
6 hearing, the Board issue a decision:

7 1. Revoking or suspending Physician's and Surgeon's
8 Certificate Number A33778, heretofore issued to respondent
9 Joo-Sock Yang, M.D.;

10 2. Ordering respondent Joo-Sock Yang, M.D. to pay the
11 actual and reasonable costs for the investigation, prosecution
12 and enforcement of this matter, as such costs may be determined
13 by the administrative law judge;

14 3. Taking such other and further action as the Board
15 deems appropriate to protect the public health, safety and
16 welfare.

17 DATED: June 20, 1994.

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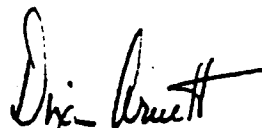
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Dixon Arnett
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

DEPT

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