



***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*

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*Office of Professional Medical Conduct*

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*Vice Chair*

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

*Public*

July 14, 2005

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

Jong Sung Lee, M.D.  
82 Summer Hill Lane  
Williamsville, NY 14221

Re: License No. 110219

Dear Dr. Lee:

Enclosed is a copy of Order #BPMC 05-142 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect July 21, 2005.

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 the 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: Brian J. Weidner, Esq.  
Brown & Tarantino, LLC  
1500 Rand Building  
14 Lafayette Square  
Buffalo, NY 14203

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

IN THE MATTER  
OF  
JONG SUNG LEE, M.D.

CONSENT  
ORDER

BPMC No. 05-142

Upon the application of (Respondent) Jong Sung Lee, 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 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: 7-13-2005

  
KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional Medical Conduct

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

IN THE MATTER  
OF  
JONG SUNG LEE, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER

Jong Sung Lee, M.D., representing that all of the following statements are true, deposes and says:

That on or about September 22, 1971, I was licensed to practice as a physician in the State of New York, and issued License No. 110219 by the New York State Education Department.

My current address is ~~8040 Old Post Road, E. Amherst, New York 14051,~~ *82 Summer Hill Lane, Williamsville, NY 14221* 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 12 specifications of professional misconduct.

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

I plead no contest to the first specification, in full satisfaction of the charges against me, and agree to the following penalty:

My license to practice medicine shall be limited, pursuant to §230-a of the Public Health Law, to preclude patient contact and any practice of medicine, clinical or otherwise. I shall be precluded from diagnosing, treating, operating, or prescribing for any human disease, pain, injury, deformity, or physical condition.

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

- That Respondent shall, within 30 days of the issuance of the Consent Order, notify the New York State Education Department, Division of Professional Licensing Services, that Respondent's license status is "inactive," and shall provide proof of such notification to the Director of OPMC within 30 days thereafter; and
- That Respondent shall return any and all official New York State prescriptions to the Bureau of Narcotic Enforcement, and shall surrender Respondent's Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within 15 days of the effective date of this Order. Further, within 30 days of returning said prescriptions and surrendering said registration, Respondent shall provide documentary proof of such transaction(s) to the Director or OPMC; and

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

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.

Respondent shall comply with all conditions set forth in attached Exhibit "B" ("Guidelines for Closing a Medical Practice") which is attached.

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. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

I stipulate that the proposed sanction and Order are authorized by Public Health Law Sections 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. 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

*June 28<sup>th</sup> 2005*


  
\_\_\_\_\_  
JONG SUNG LEE, M.D.  
RESPONDENT

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

DATE: JUNE 28, 2005

  
BRIAN J. WEIDNER, ESQ.  
of counsel to Brown & Tarantino, LLC  
Attorney for Respondent

DATE: July 1, 2005

  
TIMOTHY J. MAHAR  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: July 11, 2005

  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

IN THE MATTER  
OF  
JONG SUNG LEE, M.D.

STATEMENT  
OF  
CHARGES

JONG SUNG LEE, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 22, 1971, by the issuance of license number 110219 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Respondent provided psychiatric care to Patient A (all patients are identified by name in Appendix A hereto), during the period from July 16, 2001 through July 18, 2001 at the Niagara Falls Memorial Medical Center, Niagara Falls, New York for depressive symptoms and suicidal ideation. Respondent's medical care of Patient A deviated from accepted standards of medical care as follows:
1. Respondent inappropriately and/or prematurely discharged Patient A from the Niagara Falls Memorial Medical Center on July 18, 2001.
  2. Respondent failed to adequately evaluate Patient A.
  3. Respondent failed to maintain an adequate and/or accurate medical record for Patient A.
- B. Respondent provided psychiatric care to Patient B during the period from January 20, 2002 through January 22, 2002 at the Niagara Falls Memorial Medical Center, Niagara Falls, New York for depressive symptoms and self-destructive conduct. Respondents medical care of Patient B deviated from accepted standards of care as follows:



1. Respondent inappropriately and/or prematurely discharged Patient B from the Niagara Falls Memorial Medical Center on January 22, 2002.
2. Respondent failed to perform an adequate evaluation of Patient B.
3. Respondent failed to maintain an adequate and/or accurate medical record for Patient B.

## **SPECIFICATION OF CHARGES**

### **FIRST THROUGH FOURTH SPECIFICATIONS**

#### **GROSS NEGLIGENCE**

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

1. The facts set forth in the following paragraphs: A and A.1.
2. The facts set forth in the following paragraphs: A and A.2.
3. The facts set forth in the following paragraphs: B and B.1.
4. The facts set forth in the following paragraphs: B and B.2.

### **FIFTH THROUGH EIGHTH SPECIFICATIONS**

#### **GROSS INCOMPETENCE**

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

5. The facts set forth in the following paragraphs: A and A.1.
6. The facts set forth in the following paragraphs: A and A.2.
7. The facts set forth in the following paragraphs: B and B.1.

8. The facts set forth in the following paragraphs: B and B.2.

#### **NINTH SPECIFICATION**

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

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3) by reason of his having practiced medicine with negligence on more than one occasion, in that Petitioner charges:

9. The facts set forth in two or more of the following paragraphs: A and A.1, A and A.2, B and B.1, and/or B and B.2.

#### **TENTH SPECIFICATION**

##### **INCOMPETENCE OF MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5) by reason of his having practiced medicine with incompetence on more than one occasion in that Petitioner charges:

10. The facts set forth in two or more of the following paragraphs: A and A.1, A and A.2, B and B.1, and/or B and B.2.


#### **ELEVENTH AND TWELFTH SPECIFICATIONS**

##### **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:

11. The facts set forth in paragraphs A and A.3.
12. The facts set forth in paragraphs B and B.3.

DATED: July /, 2005  
Albany, New York

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

## EXHIBIT "B"

### **GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more) OF A MEDICAL LICENSE**

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Consent Order. Respondent shall not represent himself or herself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within fifteen (15) days of the Consent Order's effective date, Respondent shall notify all patients that he or she has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty (30) days of the Consent Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six (6) years after the last date of service, and, for minors, at least six (6) years after the last date of service or three (3) years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
4. Within fifteen (15) days of the Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
5. Within fifteen (15) days of the Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.
6. Within fifteen (15) days of the Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.

7. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by himself or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
8. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six (6) months or more pursuant to this Order, Respondent shall, within ninety (90) days of the Order's effective date, divest himself/herself of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the Order's effective date.
9. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four (4) years, under Section 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under Section 230-a of the Public Health Law.