

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

IN THE MATTER
OF
ALEXANDER CHUN, M.D.

CONSENT
ORDER

BPMC No. #08-211

Upon the application of ALEXANDER CHUN, 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 Consent 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.

DATE: 10-30-2008

Redacted Signature

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
ALEXANDER CHUN, M.D.

CONSENT
AGREEMENT
AND
ORDER

ALEXANDER CHUN, M.D. represents that all of the following statements are true:

That on or about June 16, 1993, I was licensed to practice as a physician in the State of New York, and issued License No. 193689 by the New York State Education Department.

My current address is 132 East 76th Street, New York, NY, 10029, 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 (Board) has charged me with six 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 assert that I cannot successfully defend against at least one of the acts of misconduct alleged, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a(1), I shall be subject to a Censure and Reprimand.

Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall be subject to a fine in the amount of \$10,000.00, to be paid in full within 30 days of the effective date of this Order.

Payments must be submitted to:

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

I agree that for a period of three years I shall be subject to the conditions set forth in the attached Exhibit "B"

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

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee 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 Consent 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 Consent 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 Consent Order shall constitute misconduct as defined by N.Y. Educ. 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 N.Y. Pub. 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 Consent 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 Consent Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC 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 I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE OCTOBER 17, 2008

Redacted Signature

ALEXANDER CHUN, M.D.
RESPONDENT

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

DATE: 10/17/08

Redacted Signature

~~ANTHONY Z. SCHER~~
Attorney for Respondent

DATE: 10/20/08

Redacted Signature

~~JEAN BRESLER~~
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 10/28/08

Redacted Signature

~~KEITH W. SERVIS~~
Director
Office of Professional Medical Conduct

Exhibit A

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

IN THE MATTER
OF
ALEXANDER CHUN, M.D.

STATEMENT
OF
CHARGES

ALEXANDER CHUN, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 16, 1993, by the issuance of license number 103689 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about March 9, 2002 Respondent treated Patient A in the Emergency Department of Lenox Hill Hospital, New York, NY. Patient A was an 86 year old man who had fallen in the street. Patient A presented with a history of cardiovascular disease, congestive heart failure and anticoagulant use. Patient A sustained a head injury which required seven sutures. Respondent admitted the patient with a diagnosis of coagulopathy and scalp laceration. A CT scan performed after Patient A was admitted revealed a large subdural hematoma. Patient A died on March 16, 2002. Respondent's care and treatment of Patient A deviated from acceptable medical standards in that:
1. Respondent failed to obtain and / or record an adequate history
 2. Respondent failed to perform and / or record an adequate neurological examination
 3. Respondent failed to order adequate tests including but not limited to a CT scan of the head.
 4. Respondent failed to provide adequate treatment given Patient

A's elevated clotting factors.

- B. Patient B, a 75 year old woman, was first treated by Respondent at his private office 132 East 76th Street, New York, NY 10029, on August 9, 2005. Patient B underwent an Endoscopic Retrograde Cholangio Pancreatography, (ERCP) at Lenox Hill Hospital on August 16, 2005. At Respondent's request the procedure was begun by another physician who during the procedure was joined by Dr. Chun. Respondent's care and treatment of Patient B deviated from acceptable medical practice in that:
1. He failed to perform and / or record an adequate pre-procedure evaluation of Patient B
 2. Respondent failed to obtain and / or record an appropriate history.
 3. Respondent failed to perform and / or record an appropriate physical examination or ensure that one was performed.
 4. Respondent inappropriately made the decision to alter the mode of sedation based upon the momentary unavailability of personnel.
 5. Respondent failed to obtain Patient A's informed consent before transferring her care to another physician to perform the ERCP
 6. Respondent failed to provide adequate sedation and or analgesia to Patient A during the ERCP or terminate the procedure if he was not able to provide adequate pain control..
 7. Respondent's failure to insure adequate pain control exposed Patient A, an elderly women with other medical complications, to unnecessary risk.
 8. In or around October 19, 2005, Respondent sent a letter to the Department of Health, Office of Professional Medical Conduct

which stated "I am writing to inform you that the patient J. H. underwent a procedure at Lenox Hill Hospital with another physician. I saw her in my office for a consult only on August 9, 2005, and have not seen her since. ..." This statement was false and was made with the intent to deceive. In fact Respondent attended to the patient prior to the procedure and during the procedure performed at Lenox Hill Hospital on August 16, 2005.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

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 in Paragraph A and any of its sub paragraphs

SECOND 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:

2. The facts in paragraph A and any of its sub-paragraphs and the facts in paragraph B and it's sub paragraph.

THIRD 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:

3. The facts in paragraph A and any of its sub-paragraphs and the facts in paragraph B and its sub paragraph.

FOURTH AND FIFTH 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:

4. The facts in paragraph A and sub paragraph A1, and / or A2
5. The facts in paragraph B and B1, B2 and / or B3

SIXTH SPECIFICATION

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

6. The facts in paragraph B and B8

DATED: August / , 2008
New York, New York

Redacted Signature

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

APPENDIX A

EXHIBIT "B"

Conditions

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of this condition and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230.
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. 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 this 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; all current and past affiliations and/or privileges, with hospitals, institutions, facilities, medical practices, managed care organizations, and/or applications for such affiliations and/or privileges; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. 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.
5. 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 § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32], and shall also constitute a violation of these conditions.
6. The three year period of the conditions set forth in this exhibit shall toll when Respondent is not engaged in active medical practice in New York State for a period of 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, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the period shall resume and Respondent shall fulfill any unfulfilled terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.

7. 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, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.
9. Respondent shall maintain complete and 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 risks and complications of anti-coagulation therapy. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the first six months of the period of conditions, unless otherwise agreed upon by OPMC.
11. Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may pursue such proceeding as authorized by law, against Respondent.