



Richard F. Daines, M.D.
Commissioner
NYS Department of Health
James W. Clyne, Jr.
Executive Deputy Commissioner
Keith W. Servis, Director
Office of Professional Medical Conduct

Public
New York State Board for Professional Medical Conduct
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Kendrick A. Sears, M.D.
Chair
Carmela Torrelli
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary

March 16, 2010

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Duk Hee Lee, M.D.

Redacted Address

Re: License No. 147598

Dear Dr. Lee:

Enclosed is a copy of BPMC #10-39 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect March 23, 2010.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order and return it to the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,

Redacted Signature

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: George F. Mould, Esq.
Martin, Ganotis, Brown, Mould & Currie, P.C.
5790 Widewaters Parkway
Dewitt, NY 13214

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

**IN THE MATTER
OF
DUK HEE LEE, M.D.**

**CONSENT
ORDER**

BPMC No. 10-39

Upon the application of Duk Hee 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 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: 3-12-2010

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
DUK HEE LEE, M.D.**

CONSENT
AGREEMENT
AND
ORDER

DUK HEE LEE, M.D., represents that all of the following statements are true:

That on or about September 4, 1981, I was licensed to practice as a physician in the State of New York, and issued License No. 147598 by the New York State Education Department.

My current address is *Redacted Address* and I will advise the Director of the Office of Professional Medical Conduct ("OPMC") of any change of address.

I understand that the New York State Board for Professional Medical Conduct ("Board") has charged me with two specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and made 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:

Immediately upon issuance of the Consent Order for which I apply, my license to practice medicine shall be limited, pursuant to N.Y. Pub. Health Law § 230-a, to preclude patient contact and any practice of medicine, clinical or otherwise, and will become inactive.

I shall be precluded from diagnosing, treating, operating, or prescribing for any human disease, pain, injury, deformity, or physical condition. I shall be precluded from further reliance upon my license to practice medicine to exempt me from the licensure, certification or other requirements set forth in statute or regulation for the practice of any other profession licensed, regulated or certified by the Board of Regents, Department of Education, Department of Health or the Department of State.

I further agree that the Consent Order for which I apply 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 immediately upon having done so; 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 Order's effective date. Further, within 30 days of returning these prescriptions and surrendering the registration, Respondent shall provide documentary proof of these transaction(s) to the Director of OPMC; 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 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; and

- That Respondent shall comply with all conditions set forth in attached Exhibit "B" ("Requirements for Closing a Medical Practice").

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in the 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. 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 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. 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 am aware and agree that, regardless of prior communication, the attorney for the Department, the Director of the Office of Professional Medical Conduct 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: 2/26/10

Redacted Signature

DUK HEE LEE, M.D.
RESPONDENT

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

DATE: 2/18/10

Redacted Signature

GEORGE F. MOULD, ESQ.
Attorney for Respondent

DATE: 3/5/10

Redacted Signature

MICHAEL A. HISER, ESQ.
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/11/10

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
DUK HEE LEE, M.D.

STATEMENT
OF
CHARGES

DUK HEE LEE, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 4, 1981, by the issuance of license number 147598 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care to Patient A (Patient names are listed in Appendix A) at A.L. Lee Memorial Hospital, located in Fulton, New York by interpreting various diagnostic imaging studies on February 26, 2007, including pelvic and abdominal CT scans of Patient A. Respondent's care of Patient A failed to meet accepted standards of medical care in the following respects:
1. Respondent failed to accurately note, identify, and/or diagnose evidence of diverticulitis, including sigmoid colon wall thickening and inflammatory changes.
 2. Respondent erroneously noted diverticulosis.
 3. Respondent failed to note, identify and/or diagnose the presence of extra luminal air, colon perforation, and possible abscess.
- B. Respondent provided medical care and treatment to Patient B at Oswego Hospital, located in Oswego, New York, by interpreting various diagnostic imaging studies, including CT scans of Patient B's chest and abdomen, on or about April 7, 2005. Respondent's care of Patient B failed to meet accepted standards of medical care in the following respects:

1. Respondent failed to note the presence of apical lung scarring (minimal), 3mm subpleural left lower lobe nodule, and a 7mm hypodense indeterminate left renal lesion.

SPECIFICATION OF CHARGES
NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of §6530(3), in that Petitioner charges two or more of the following:

1. The facts set forth in Paragraphs A and A.1, A and A.2, A and A.3, B and B.1.

DATE:

March
~~February~~ 5, 2010
Albany, New York

Redacted Signature

PETER VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Requirements for Closing a Medical Practice Following a Revocation, Surrender, Limitation or Suspension of a Medical License

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York State license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Hedley Park Place, 433 River Street 4th Floor, Troy, New York 12180-2299.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact persons who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for a least 6 years after the last date of service or 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 include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's 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 forwarded at a

reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.

5. If Licensee holds a Drug Enforcement Administration (DEA) certificate, within fifteen (15) days of the Order's effective date, Licensee shall advise the DEA in writing of the licensure action and shall surrender to the DEA any DEA controlled substance privileges issued pursuant to Licensee's New York license. Licensee shall promptly surrender to the DEA any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2.
6. Within fifteen (15) days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Licensee shall destroy all prescription pads bearing Licensee's name. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.
7. Within 15 days of the Consent Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories, internet or otherwise, professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.
8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.
9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Licensee shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230 a1. of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Licensee is found guilty and may include revocation of a suspended license.