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FILED

~~November 18, 2009~~
**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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STATE OF NEW JERSEY
Department of Law & Public Safety
Division of Consumer Affairs
State Board of Medical Examiners
OAL Docket No.: BDS05631-09

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :
: Administrative Action
Kye Chun, D.O. :
License No. MB64114 : Consent Order
:
TO PRACTICE MEDICINE AND SURGERY:
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Medical Examiners (the "Board") upon receipt of two complaints by patients alleging sexual harassment and sexual misconduct by Respondent Kye Chun, D.O. Dr. Chun, an internist, holds New Jersey license No. MB64114 from the Board and has been licensed to practice medicine and surgery at all time relevant hereto.

On or about March 31, 2009 an Administrative Complaint was filed alleging that Respondent's medical care of patient D.I. deviated from accepted standards of medical practice, evidencing repeated acts of negligence in violation of N.J.S.A. 45:1-21(d).

CERTIFIED TRUE COPY

The Complaint further alleges that Respondent's sexual harassment of patient D.I. is contrary to Board regulation N.J.A.C. 13:35-6.3, which constitutes a violation of Board statute N.J.S.A. 45:1-21(h). Further Respondent's sexual contact and sexual harassment of patient A.M. constitutes gross negligence, repeated acts of negligence and professional misconduct, in violation of N.J.S.A. 45:1-21(c) (d) (e) and (h). Respondent Chun filed an Answer through counsel JoAnn Pietro, Esq. The matter was transferred to the OAL and assigned to The Honorable Jesse H. Strauss, ALJ.

The parties desiring to resolve this matter without recourse to formal proceedings, and Respondent having agreed to the below listed terms, and the Board finding that the entry of this Order is adequately protective of the public health, safety and welfare, for good cause shown.

IT IS, therefore, on this 18th day of Nov of 2009

ORDERED THAT:

1. Respondent Kye Chun, D.O.'s license to practice medicine shall be suspended for a period of five (5) years for the statutory violations set forth above. The first two (2) years of the suspension shall be active, the remainder stayed to be served as a period of probation.

2. During the period of active suspension, Respondent shall surrender his federal Drug Enforcement Registration and his State Controlled Drug Registration for the State of New Jersey.

Respondent shall comply with the attached Directives for Disciplined Licensees and shall not receive any professional fees for the treatment of patients during his active suspension.

3. Respondent shall have sixty (60) days for wind down of his practice. Respondent may appeal to the President of the Medical Board for an extension of the wind down time frame should he deem it necessary.

4. During the sixty (60) days "wind down" period of the practice, Respondent shall accept no new patients and shall immediately employ at his own expense a licensee of the Board of Nursing, approved by the Board, who will be present during all examinations of female patients. This licensee shall be responsible for reporting in writing to the Board of Medical Examiners within 48 hours any and all violations of the Board's regulations by Respondent, which the licensee observes. Respondent agrees he will limit his interactions with his patients to his practice setting and he will not see patients outside the confines of his office.

5. Respondent having undergone at his own expense a psychological evaluation conducted by Philip H. Witt, Ph.D., agrees to deliver all recommendations and evaluations to the Board and to the Professional Assistance Program of New Jersey (PAP). Respondent agrees to abide by any recommendations that the evaluating psychologist, and PAP may make, including any recommendations as to treatment, monitoring or practice restrictions. Respondent's

enrollment in the PAP and said treatment, monitoring or practice restrictions shall continue for so long Dr. Chun is licensed to practice medicine and surgery in New Jersey.

6. During the period of active suspension, Respondent shall enroll in and successfully complete a Board-approved course in ethics. For the purpose of this Consent Order, "successful completion" of a course shall mean that Dr. Chun attended all sessions of the course, fully participated in the course, and received a final evaluation of an unconditional pass.

7. During the period of active suspension, Respondent shall enroll in and successfully complete a Board-approved course in the prescribing of controlled dangerous substances and psychotropic medications. For the purpose of this Consent Order, "successful completion" of a course shall mean that Dr. Chun attended all sessions of the course, fully participated in the course, and received a final evaluation of an unconditional pass.

8. During the period of active suspension, Respondent shall enroll in and successfully complete a Board-approved course in medical recordkeeping. For the purpose of this Consent Order, "successful completion" of a course shall mean that Dr. Chun attended all sessions of the course, fully participated in the course, and received a final evaluation of an unconditional pass.

9. Respondent is assessed a civil penalty in the amount of \$20,000 for the violations of N.J.S.A. 45:1-21, pursuant to N.J.S.A. 45:1-25. Said penalty shall be paid as follows: \$10,000 upon the filing of this Consent Order; \$10,000 on the one year anniversary of the filing of this Consent Order. Said penalty shall be submitted by certified check or money order made payable to the State of New Jersey and forwarded to the Board of Medical Examiners c/o William V. Roeder, Executive Director, State Board of Medical Examiners, 140 East Front Street, P.O. Box 183, Trenton, New Jersey 08625-0183.

10. Respondent is assessed costs in the amount of \$65,000.00 including the Board's investigative costs, expert fees, costs of appearance before the Board and all attorney fees incurred by the State, as provided by N.J.S.A. 45:1-~~25~~(d). Payment of said costs shall commence when Respondent concludes the period of active suspension, and shall extend over the three year period of probation, to be paid in equal quarterly amounts, with interest to be paid according to the Court Rule. Said costs shall be submitted by certified check or money order made payable to the State of New Jersey and forwarded to the Board of Medical Examiners c/o William V. Roeder, Executive Director, State Board of Medical Examiners, 140 East Front Street, P.O. Box 183, Trenton, New Jersey 08625-0183.

11. The Board shall file a Certificate of Debt for the entire amount due and owing upon entry of this Consent Order. Upon satisfaction of the full amount of costs and penalty, the Board will file a Warrant of Satisfaction.

12. The Board shall retain jurisdiction to enforce the terms of this Order.

13. The Board reserves the right to bring further disciplinary action upon receipt of any reliable information indicating that Respondent has violated any term of this Order.

14. Respondent shall be ineligible to resume practice following the period of active suspension until he appears before the Board or a Committee thereof and demonstrated his fitness to resume practice of medicine in New Jersey. The Board reserves the right to extend the period of active suspension, or to place restrictions on Respondent's practice should his license be reinstated. Said restrictions shall include, but not be limited to a chaperone requirement. Any practice in this State prior to said appearance shall constitute grounds for the charge of unlicensed practice.

15. This Consent Order shall be the full and final resolution of the Complaint docketed in the Office of Administrative Law under BDS 05631-09.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: _____
Paul Mendelowitz, M.D.
President

Dated

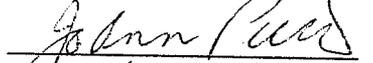
I have read and I understand the terms of this Order and agree to be bound by it. I consent to the entry of this Order



Kye Chun, D.O.

Date 11/2/09

Consent as to form and entry



Joanna Pietro, Esq.
Attorney for Kye Chun, D.O.

Date 11/2/09

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED¹**

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Confidential Information page enclosed with these directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings.

¹APPROVED BY THE BOARD ON MAY 10, 2000

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If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The 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 the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of an Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct: (1) Which revokes or suspends (or otherwise restricts) a license; (2) Which censures, reprimands or places on probation; (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis. Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy. Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy. On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board. From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.

CONFIDENTIAL INFORMATION TO BE SUBMITTED TO THE STATE BOARD

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations, but does not become part of the public record:

Name _____ Social Security Number²: _____

List the name and address of any and all Health Care Facilities with which you are affiliated:

List the names and addresses of any and all Health Maintenance Organizations with which you are affiliated:

Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

² Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.