

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
SOO YUN KIM, M.D.,	:	LS9604031MED
RESPONDENT.	:	

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 27th day of June 1996.

Walter R. Schumacher

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	PROPOSED DECISION
	:	
SOO YUN KIM, M.D.,	:	(Case No. LS 9604031 MED)
RESPONDENT.	:	

The parties to this proceeding for the purposes of sec. 227.53, Stats., are:

Soo Yun Kim, M.D.
16 Steeplechase Drive
Racine, WI 53402

State of Wisconsin
Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

State of Wisconsin
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

A hearing was held in the above-captioned matter on April 24, 1996. The complainant appeared by Attorney John R. Zwieg, Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, Madison, Wisconsin. The respondent, Soo Yun Kim, M.D., did not appear nor was anyone present to represent him. The transcript of the hearing was received on May 14, 1996.

On the basis of the entire record, the administrative law judge recommends that the Medical Examining Board adopt as its final decision in this proceeding the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Soo Yun Kim, M.D., Respondent, DOB April 4, 1932, is licensed by the Wisconsin Medical Examining Board as a physician to practice medicine and surgery in the state of Wisconsin, pursuant to license #20293, which was first granted on August 24, 1976.
2. Respondent's last address reported to the Department of Regulation and Licensing is 16 Steeplechase Drive, Racine, Wisconsin 53402.
3. Respondent did not renew his registration with the Medical Examining Board and his registration expired on November 1, 1995. Pursuant to sec. 448.07(1), Stats., Respondent currently may not exercise the rights or privileges conferred by his license to practice medicine and surgery.
4. Pursuant to sec. 440.08(3), Stats., and sec. Med 14.06(2)(a), Wis. Adm. Code, Respondent may renew his registration at any time until November 1, 2000, by merely paying a late fee and providing evidence that he has obtained the required continuing medical education credits.
5. Respondent specializes in the area of pathology.
6. In 1977 Respondent provided professional services to Patient 1, when Respondent's wife asked Respondent to assist Patient 1 with symptoms of depression. The services included prescribing an anti-depressant to Patient 1.
7. During the period of time in 1977 when Respondent was providing professional medical services to Patient 1, Respondent and Patient 1 engaged in sexual contact in Respondent's medical office.
8. Respondent and Patient 1 discontinued the professional relationship for a period of time, but the professional medical relationship began again in 1980, after Patient 1 was diagnosed as being manic-depressive. The professional medical relationship continued until 1992.
9. From 1980 to 1992, Respondent prescribed or dispensed Lithobid to Patient 1 on numerous occasions.
10. Lithobid is a brand of slow release tablets of lithium carbonate, and is indicated for use in treatment of manic episodes of manic-depressive illness.
11. The toxic levels for lithium carbonate are close to the therapeutic levels and therefore periodic serum lithium levels are required to monitor the level.

12. From 1980 through 1992, Respondent drew blood from Patient 1 on several occasions and submitted the samples to laboratories to determine Patient 1's serum lithium level.

13. From approximately December 1980 through 1992, Respondent and Patient 1 had sexual contact including sexual intercourse frequently. All sexual contact between Patient 1 and Respondent took place in Respondent's medical office until 1988 when they began to have their sexual contacts away from Respondent's office.

14. A physician who engages in sexual conduct with a patient exposes the patient to an unreasonable risk of harm.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this proceeding pursuant to Ch. 448, Stats.

2. Because it exposes the patient to an unreasonable risk of harm, it is below the minimal standards of the medical profession for a physician to engage in sexual conduct with a patient.

3. The act of Soo Yun Kim, M.D., in engaging in sexual conduct with his patient, Patient 1, constituted a danger to the health, welfare and safety of the patient within the meaning of sec. Med 10.02(2)(h), Wis. Adm. Code, thereby engaging in unprofessional conduct as defined by sec. Med 10.02(2)(h), Wis. Adm. Code, and sec. 448.02(3), Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of the respondent, Soo Yun Kim, M.D., to practice medicine and surgery in the State of Wisconsin shall be, and hereby is revoked, effective on the date of the Final Decision and Order of the Medical Examining Board.

FURTHERMORE, IT IS ORDERED that the assessable costs of this proceeding be imposed upon the respondent, Soo Yun Kim, M.D., pursuant to sec. 440.22, Stats.

OPINION

The respondent, Soo Yun Kim, M.D., is charged with having engaged in sexual conduct with a patient for a period in excess of 10 years, during which Dr. Kim was providing the patient with medical services. The record indicates that sexual intercourse took

place on more than 50 occasions in Dr. Kim's office, as well as at other locations on other occasions.

The Complaint, Notice of Hearing and other documents were sent by certified mail (as well as by regular mail) to Dr. Kim's last known address on file with the department and board. Accordingly, jurisdiction in this proceeding attaches. The Division of Enforcement made additional extraordinary efforts to locate Dr. Kim. This included contacting the American Medical Association, as well as the South Korean Consulate in Chicago, Illinois. These efforts were not successful.

It appears that Dr. Kim has essentially chosen not to participate in this proceeding, nor to attempt to retain his privilege to practice medicine and surgery in this state. During the investigation of the allegations, the Division of Enforcement investigator was able to discuss the claims with Dr. Kim, who, according to the testimony at hearing, admitted to having engaged in sexual conduct with Patient 1. Since that admission, Dr. Kim has not renewed his license registration. Accordingly, since November 1, 1995, Dr. Kim has not been authorized to practice medicine and surgery in this state, pursuant to the prohibition contained in sec. 448.07(1)(a), Stats. The inability to locate Dr. Kim is clearly the result of his intent.

The only issue here is the appropriate discipline, if any, to be imposed against respondent. In this regard, it must be recognized that the interrelated purposes for applying disciplinary measures are: 1) to promote the rehabilitation of the licensee, 2) to protect the public, and 3) to deter other licensees from engaging in similar misconduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. MacIntyre*, 41 Wis. 2d 481, 485 (1969).

It is recommended that the respondent's license be revoked, as requested by the state's attorney. This case involves egregious and continuous conduct over a substantial period of time. The proposition that engaging in sexual conduct with a patient constitutes unprofessional conduct is a professionally accepted principle. For example, the American Medical Association has recognized since at least 1989 that sexual misconduct clearly "violates the trust the patient reposes in the physician and is unethical." (Exhibit 5). Past disciplinary decisions of the Medical Examining Board have driven that point home for a number of years.

It is my opinion that Dr. Kim's license to practice medicine and surgery must be revoked in order to protect the public from future unprofessional conduct should he decide to attempt renewal of his registration. It also will send a clear message to other licensees that such conduct will continue to be dealt with strongly in order to deter others from similar misconduct. Neither a reprimand or a suspension are adequate for serving those purposes, given the circumstances of this case.

Dated this 29th day of May, 1996.

Respectfully submitted,

Donald R. Rittel

Donald R. Rittel

(ph)

Administrative Law Judge

alj\propdec\kim

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

July 1, 1996

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

BEFORE THE STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

SOO YUN KIM, M.D.,
RESPONDENT.

AFFIDAVIT OF SERVICE

Katie Rotenberg, being first duly sworn on oath deposes and states that she is in the employ of the Department of Regulation and Licensing, and that on July 16, 1996, she served the following upon the respondent:

Affidavit of Costs of Office of Board Legal Services dated May 27, 1996,
LS9604031MED

by mailing a true and accurate copy of the above-described document, which is attached hereto, by certified mail with a return receipt requested in an envelope properly addressed to the above-named respondent at:

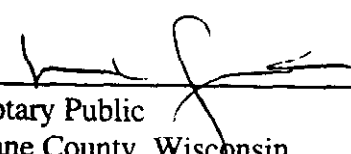
16 Steeplechase Drive
Racine, WI 53402
Certified Z 429 753 658

an address which appears in the files and records of the Medical Examining Board as the respondent's last known address.


Katie Rotenberg
Department of Regulation and Licensing

Subscribed and sworn to before me

this 16th day of July, 1996.


Notary Public
Dane County, Wisconsin
My Commission is Permanent

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	AFFIDAVIT OF COSTS OF
PROCEEDINGS AGAINST	:	OFFICE OF BOARD LEGAL SERVICES
	:	
SOO YUN KIM, M.D.,	:	[Case No. LS 9604031 MED]
RESPONDENT.	:	

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Donald R. Rittel, being first duly sworn on oath, deposes and states as follows:

1. Your affiant is an attorney licensed to practice law in the state of Wisconsin, and is employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services.
2. In the course of his employment, your affiant was assigned as the administrative law judge in the above-captioned matter.
3. Set out below are the actual costs of this proceeding for the Office of Board Legal Services in this matter:

ADMINISTRATIVE LAW JUDGE EXPENSE

Donald R. Rittel

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME SPENT</u>
4/24/96	Preparing for and presiding over Hearing	1.00 hours
5/24/96	Reviewing Record; Preparing Proposed Decision	2.50 hours
<hr/> TOTAL TIME SPENT		<hr/> 3.50 hours

Total administrative law judge expense for Donald R. Rittel,
3.50 hours @ \$ 43.958 per hour, salary and benefits:

\$ 153.85

REPORTER EXPENSE

Magne-Script

ACTIVITY

COST

Transcribing 4/24/96 Hearing

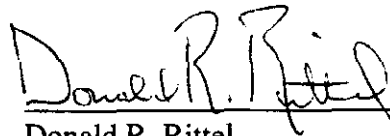
\$ 92.40

Total reporter expense for Magne-Script:

\$ 92.40

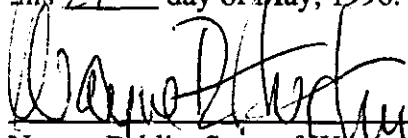
**TOTAL ASSESSABLE COSTS FOR OFFICE OF
BOARD LEGAL SERVICES**

\$ 246.25



Donald R. Rittel
Administrative Law Judge

Sworn to and subscribed before me
this 27th day of May, 1996.



Notary Public, State of Wisconsin
My Commission is Permanent

alj\costs\kim

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

SOO YUN KIM, M.D.,
RESPONDENT

AFFIDAVIT OF COSTS
LS 9604031 MED

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

John R. Zwieg, being duly sworn, deposes and states as follows:

1 That I am an attorney licensed in the state of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement.

2. That in the course of those duties I was assigned as a prosecutor in the above captioned matter.

3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above captioned matter.

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
6/19/92	Draft inv. subpoena	30 min
8/11/92	Discussion w/ inv. re: pharmacist to identify of drugs	30 min.
9/08/92	Conv w/ atty Grady	30 min.
11/20/92	Review of completion of primary investigation and entire file	6 hours 45 min.
2/04/94	Tel Conv. w/ atty Grady	15 min
2/09/94	Ltr to atty Grady	15 min.
7/25/94	Review of materials provided by Hinshaw & Culbertson	1 hour
8/03/94	Ltr to Hinshaw & Culbertson	15 min.
8/16/94	Review of Respondent's deposition in civil matter	1 hour 15 min.
9/15/95	Review of deposition of Dr. Treffert taken in civil matter	2 hours 15 min.

9/25/95	Review of deposition of pt. taken in civil matter	4 hours 45 min
12/04/95	Conv w/ Bd. Advisor	30 min
2/09/96	Review of license status	30 min.
2/21/96	Conv. w/ Bd. Advisor	15 min.
3/07/96	Review of file and draft complaint. Research on service Ltr to Res	6 hours 45 min
3/14/96	Ltr to Bd. Advisor	30 min.
3/29/96	Obtain hearing date and ALJ. Draft Notice of Hearing	45 min.
4/24/96	Prepare for hearing and attend hearing	2 hours 30 min.
5/29/96	Review Proposed Decision	30 min.
6/12/96	Letter to Board	15 min.
7/02/96	Review Final Decision	15 min

TOTAL HOURS

31 Hours 0 Min.

Total attorney expense for 31 hours 0 minutes at
\$41.00 per hour (based upon average salary and benefits
for Division of Enforcement attorneys) equals:

\$1,271.00

INVESTIGATOR EXPENSE FOR Dale Nash

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
7/21/92	Received and Reviewed case.	1 hour
7/22/92	Consultation w/ Bd. Advisor	1 hour
7/31/92	Tele conv. w/atty Grady and memo	1 hour
8/21/92	Attempts to ID medications	2 hours
8/25/92	Ltr to Res. and atty Grady	15 min.
9/08/92	2 calls to atty Grady meeting w/ atty Zwieg	1 hour
9/11/92	Document review. Atty Grady ltr.	30 min.
10/08/92	Determination of violations of code	3 hour 30 min.
11/16/92	PIC Summary and ltr to Bd.	9 hours 30 min
11/18/92	Advisor	
11/20/92	Provided copies to Bd. Advisor	30 min.
11/25/92	Meeting w/ atty Zwieg	45 min.

TOTAL HOURS

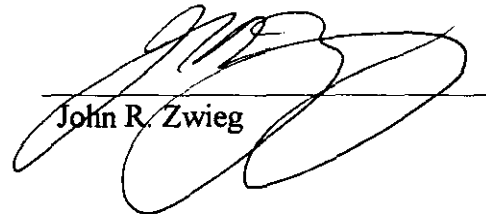
21 Hours 0 Min.

Total investigator expense for 21 hours and 0 minutes at
\$20.00 per hour (based upon average salary and benefits
for Division of Enforcement investigators) equals:

\$420.00

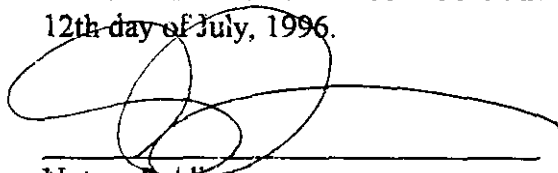
TOTAL ASSESSABLE COSTS

\$1,691 00



John R. Zwieg

Subscribed and sworn to before me this
12th day of July, 1996.



Notary Public
My Commission is permanent

I:\Legal\kimcost