

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
KIM Y. CHUNG, MD, : LS0304223MED
RESPONDENT :

Division of Enforcement Case File No. 99 MED 333

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Kim Y. Chung, MD
1134 Main Street
Oconto, WI 54153

Medical Examining Board
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Kim Y. Chung, MD, (D.O.B. 10/07/1934) is duly licensed in the state of Wisconsin to practice medicine and surgery (license #20502). This license was first granted on 11/15/1976.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 1134 Main Street, Oconto, WI 54153.

3. On or about July 18, 2001, the Social Security Administration Office of Hearing and Appeals, following a hearing on respondent's appeal of a HCFA audit, issued an Order relative to a Medicare audit covering claims submitted by Respondent between October 1, 1996 and March 31, 1998. The July 18, 2001 Order found that during the period in question, Respondent performed multiple trigger point injections on some patients where there was "no logical nexus between the beneficiary's complaints, the diagnosis, and the site injected." A true and correct copy of the July 18, 2001 Order is attached to this document as Exhibit A.

4. On or about July 24, 2002, the Social Security Administration Office of Hearing and Appeals issued an Order relative to a contemporaneous Medicare audit covering claims submitted by Respondent between April 1, 1998 and October 31, 1999. The July 24, 2002 Order found that during the period in question, Respondent performed multiple trigger point injections on some patients where there was "no logical nexus between the beneficiary's complaints, the diagnosis, and the site injected." A true and correct copy of the July 24, 2002 Order is attached to this document as Exhibit B.

5. Respondent provided the trigger point injections referred to above to patients suffering from chronic pain. Trigger point injection treatment is medically acceptable and may be indicated for chronic pain.

6. The office of hearing and appeals granted respondent's appeals in part and ordered that payment for one trigger point injection per day per patient was appropriate, where a logical nexus was shown. Respondent was reimbursed by HCFA for such treatments.

7. Medicare allows reimbursement for one trigger point injection per patient per date of service for billing purposes, for trigger point injection therapy where there exists a logical nexus between the beneficiary's complaints, the diagnosis, and the sites injected. Medicare has continued after 1999 to reimburse Respondent for injection therapy treatments on this basis.

8. Following issuance of the orders referred to in paragraphs 3 and 4 above, respondent was audited by an insurer-sponsored peer review organization (Metastar). Metastar based their audit on an independent random selection of respondent's case files and recommended that respondent participate and successfully complete a fellowship to include at least twenty-four [24] hours of continuing medical education in the areas of diabetic management, the use of corticosteroid medications, and management of medications (such as monitoring electrolytes for patients receiving diuretics).. Respondent is currently enrolled in a fellowship in satisfaction of that recommendation with UW-CME.

9. Respondent consents to the issuance of the following Conclusions of Law and Order in resolution of this matter.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter, pursuant to ch. 448, Stats.

2. The Wisconsin Medical Examining Board is authorized to enter into the attached stipulation, pursuant to sec. 227.44(5), Stats.

3. The conduct described above constitutes a basis for discipline under sec. 448.02(3), Stats, and Wis. Admin. Code § Med 10.02(2)(a) and (q).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Kim Y. Chung (#20502) to practice medicine and surgery in the State of Wisconsin SHALL BE LIMITED AS FOLLOWS:

Assessment/ Continuing education

1. Respondent shall timely and successfully complete her current fellowship with UW-CME and make arrangement for MetaStar to forward a copy of its follow-up record review relevant to respondent's completion of the training referred to in Finding of Fact No. 8, above. A copy of the report shall be mailed to the Department Monitor upon its completion.
2. Within thirty (30) days of the date of this order Respondent shall initiate arrangements to undergo an assessment to evaluate Respondent's current abilities to practice medicine at her current practice, given her current patient population and the facts of this case. The assessment shall be performed under the direction of the University of Wisconsin Continuing Medical Education Program (UW-CME) or another assessment provider acceptable to the Board, and may include peer interview, oral or written examination, and (if deemed necessary by the assessors) a physical examination. The UW-CME shall notify the Board if and to what extent Respondent's participation in the fellowship referred to in Finding of Fact No. 8, above can be utilized in satisfaction of this paragraph.
3. Respondent shall initiate the assessment process and shall timely complete all portions of the process for which she is responsible (including payment of all required fees), as requested by the assessment provider.
4. If recommended by the assessment referred to in ¶3, above, Respondent shall participate in and successfully complete an educational program (in addition to the fellowship referred to above) established through the assessment provider to address any shortcomings found in the assessment process. If an educational program is recommended, the following shall apply:
 - a. The educational program shall include a post-intervention assessment which may be six [6] to twelve [12] months following the completion of the didactic portion of the program.
 - b. Respondent shall complete this program within the time parameters established by the assessment provider, but no later than two years from the effective date of this Order.
 - c. In the event that the assessment provider states that it is unable to develop an educational program which adequately addresses the issues identified in the assessment, the program shall notify the Board of this fact, and the matter shall be returned to the Division of Enforcement for further consideration and action. The results of the assessment shall be admissible as evidence in any subsequent proceedings in this action.
5. Respondent shall be responsible for all costs incurred for the UW-CME and assessment(s) and all training under the terms of this Order, and shall timely pay all fees when due.
6. The assessment provider shall certify to the Board the results of the assessments and educational programs upon their completion. The didactic portion of the program(s) and the post-intervention assessment(s) shall be separately certified.

Practice limitations

7. Until otherwise ordered by the Board, respondent shall REFRAIN from any and all trigger point treatments or steroid injection therapy to the spine or other parts of the body, which are unnecessary, not related to the treatment of the patient, or where no logical nexus exists between the patient complaint, the diagnosis, and the site injected.

a. Respondent may utilize trigger point injection therapy in her practice, provided that injections are in accord with generally accepted medical practice; and

b. Injections conform to the guidelines set out in the Social Security Administration Office of Hearing and Appeals Decisions Exhibits A and B.

i. Respondent may billing for only one trigger point injection per patient per date of service, even if the injection therapy involves administration of several low doses of corticosteroids at different sites for relief of myofascial pain and dysfunction;

ii. Injections are generally, but not exclusively, limited to the cervical area for complaints involving the head, neck, shoulder, arms and hands;

iii. Injections are generally, but not exclusively, limited to the thoracic area for complaints involving the chest, mid back and flank;

iv. Injections are generally, but not exclusively, limited the lumbosacral area for complaints involving the low back, buttocks thighs, legs and feet; and

v. Injections to other related trigger points from which pain is referred may be made for relief of myofascial pain and dysfunction, if medically indicated and in accordance with generally accepted medical practice.

Future Supervision

8. Upon receipt of the UW-CME assessment report referred to in paragraph 3, above, respondent shall make arrangements for a personal appearance before the board for the purpose of addressing the issue of whether or not it shall require Respondent to obtain a professional mentor for her practice. At her appearance, the Board shall be provided with a copy of this Order as well as a copy of the assessment report. The Board may ask Respondent questions regarding her practice.

a. If the Board determines that the appointment of a professional mentor is needed for the protection of public health and safety, Respondent shall within thirty (30) days from the effective date of this Order obtain a Professional Mentor acceptable to the Board.

i. The Professional Mentor may designate another qualified physician or other health care provider acceptable to the Board to exercise the duties and responsibilities of the Professional Mentor in an absence of more than three weeks.

ii. In the event that the Professional Mentor is unable or unwilling to continue to serve as Respondent's Professional Mentor, the Board may in its sole discretion select a successor

Professional Mentor.

iii. The Professional Mentor shall have no duty or liability to any patient or third party, and the Mentor's sole duty is to the Board.

b. IF the Board determines that the appointment of a Professional Mentor is needed, the Professional Mentor shall be the individual responsible for supervision of Respondent's provision of trigger point injections and pain management. Supervision shall include weekly review of charts selected by the Professional Mentor, monthly meetings, and any other actions deemed appropriate by the Professional Mentor to determine that Respondent is practicing in a professional and competent manner.

Modification of practice limitations and/or supervision

9. The Board reserves the right upon receipt of the assessment referred to in ¶3 above to expand the scope respondent's limitations and/or of the Professional Mentor's supervision to include areas related to deficiencies identified in the assessment report.

Reporting

10. If applicable, Respondent shall arrange for her Professional Mentor to provide formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, PO Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor.

a. Mentor reports shall assess Respondent's work performance.

b. Respondent's Professional Mentor shall immediately report to the Department Monitor any conduct or condition of the Respondent which may constitute unprofessional conduct, a violation of this Order, or a danger to the public or a patient.

11. It is the responsibility of Respondent to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order, including (if applicable) any failures of the Professional Mentor to conform to the terms and conditions of this Order.

12. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

Petitions for Modification of Terms

13. At any time following successful completion of the education requirements set forth above, Respondent may petition for modification of any limitations, terms and conditions of this Order. After two [2] years of continuous compliance with the terms of this Order, Respondent may petition for a return to full and unrestricted licensure. Respondent shall personally appear before the Board to answer any questions that the Board may have in conjunction with its consideration of a petition submitted by Respondent under this paragraph. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of secs. 227.01(3) and 227.42, Stats.

Summary suspension

14. If the Board determines that there is probable cause to believe that Respondent has substantially violated any term of this Final Decision and Order, the Board may, pursuant to §448.02(4), Wis. Stats., order that the license and registration of Respondent be summarily suspended pending investigation of the alleged violation.

Costs

15. Respondent shall be responsible for all costs incurred in her compliance with the terms of this Order.

16. This Order shall become effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

By: Sidney Johnson
A Member of the Board

4-22-03
Date