

STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

IN THE MATTER OF THE APPLICATION FOR)	
REINSTATEMENT OF)	160194 MD
)	
)	ORDER ON APPLICATION
KIM, JASUNG)	FOR REINSTATEMENT

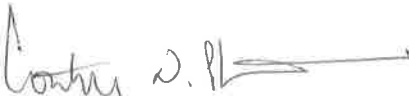
THIS MATTER came on for consideration of the Application for Reinstatement filed by Jasung Kim, MD, license #21811 (Applicant), on October 13, 2015, requesting modification of the terms and conditions of his probation imposed pursuant to the Order for Reinstatement (Probation Order) dated November 3, 2014, adopting the probation conditions in the Findings of Fact, Conclusions of Law and Recommendation for Reinstatement dated October 10, 2014.

Based on the Recommendation entered by the Board of Medicine and Surgery on December 22, 2015, and being further advised in the premises, the undersigned finds that the Applicant's request to modify the conditions of the Probation Order should be and hereby is APPROVED. The terms and conditions imposed by the Probation Order dated November 3, 2014, shall remain in effect, except for the following:

1. Paragraph 1(a) regarding distribution of the "Principles of Medical Practice" form is modified as follows: Distribution is only required for outpatient office-based patients seen by Applicant.
2. Paragraph 1(b) regarding six-month booster treatments conducted at Behavioral Medicine Institute in Atlanta, Georgia is deleted.
3. Paragraph 1(c) regarding six-month polygraph examinations is deleted.

IT IS SO ORDERED.

DATED: 2/17/16



Courtney N. Phillips, MPA
Chief Executive Officer
Department of Health and Human Services

CERTIFICATE OF SERVICE

The undersigned certifies that on the 18th day of February, 2016, a copy of the foregoing was sent by certified United States mail, postage prepaid, return receipt requested to: Jasung Kim, MD, 8744 Angeline Ct, Lincoln NE 68526.

Vonda Apking

Vonda Apking, Health Licensing Coordinator
Office of Medicine & Specialized Services
DHHS Licensure Unit, Division of Public Health
PO Box 94986
Lincoln, NE 68509-4986

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA


IN THE MATTER OF THE APPLICATION)
OF JASUNG KIM, MD)
FOR REINSTATEMENT OF A)
CREDENTIAL TO PRACTICE AS A)
PHYSICIAN)

ORDER

The matter came before the Director of the Division of Public Health on the Recommendation of the Board of Medicine and Surgery. The Director having considered said Recommendation and all supporting documentation, hereby APPROVES the Reinstatement of a credential with probationary terms and conditions to Jasung Kim as recommended by the Board of Medicine and Surgery's Findings of Fact, Conclusions of Law, and Recommendation dated October 10, 2014.

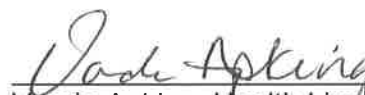
IT IS SO ORDERED.

DATED this 3rd day of November, 2014.


Joseph M. Acierno, MD, JD
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of November, 2014 a true and correct copy of the foregoing ORDER was sent by certified United States mail, postage prepaid, return receipt requested to Jasung Kim, 1141 Fairview Ave #A, Arcadia CA 91007; to his attorney Melanie Whittamore-Mantzios, Wolfe Snowden Hurd Luehr & Ahl, LLP, Suite 800 Wells Fargo Center, 1248 O Street, Lincoln NE 68508-1424; and Julie Agena, Assistant Attorney General, 2115 State Capitol, via interagency mail.


Vonda Apking, Health Licensing Coordinator
Licensure Unit, Division of Public Health
Department of Health and Human Services

**BEFORE THE BOARD OF MEDICINE AND SURGERY
STATE OF NEBRASKA**

In the Matter of the Application for)	Findings of Fact,
Reinstatement of License to Practice)	Conclusions of Law, and
Medicine and Surgery)	Recommendation for Reinstatement
Following Disciplinary Action of)	On Probation
Jasung Kim, MD)	

The Board of Medicine and Surgery has reviewed the Application for Reinstatement of License to Practice Medicine and Surgery Following Disciplinary Action of Jasung Kim, MD, license number 21811. The Board of Medicine and Surgery considered the application and all other supporting information.

FINDINGS OF FACT

Based upon the record identified above, the Board of Medicine and Surgery finds:

1. Dr. Kim was issued a Nebraska license to practice medicine and surgery on June 18, 2001.
2. On February 4, 2010, a Petition for Disciplinary Action and Temporary License Suspension was filed against Dr. Kim's license. Allegations were for unprofessional conduct related to professional sexual misconduct based on Dr. Kim's personal relationships with patients and continued treatment of those patients.
3. On February 4, 2010, an Order for Temporary License Suspension and Notice of Hearing was issued by the Chief Medical Officer. Dr. Kim's license was suspended effective upon service of the Order based on the finding that there was reasonable cause to believe that statutory grounds existed for the suspension of his license on the basis that Dr. Kim's continued practice at that time would constitute an imminent danger to public health and safety. The matter was set for hearing.
4. On July 8, 2010, an Amended Petition for Disciplinary Action and Temporary License Suspension was filed.
5. On July 13, 2010, an Order on Agreed Settlement was issued by the Chief Medical Officer, accepting the facts as set out in the Petition as true and suspending Dr. Kim's license to practice medicine for one year beginning February 5, 2010, the date of his immediate suspension. During the one year suspension, Dr. Kim was to complete treatment and continue to follow all recommendations of his treatment providers. At the end of the one year suspension, reinstatement is at the discretion of the Department and upon approval of the Board of Medicine and Surgery. Proof of completion of treatment and continued compliance with treatment recommendations was to be provided with the reinstatement application.
6. On June 5, 2014, the Department received an Application for Reinstatement of a License Following Disciplinary Action from Jasung Kim, MD.
7. Dr. Kim's Application included a letter in which Dr. Kim explains that after finishing the professional misconduct program he was so overwhelmed with shame and guilt that he decided to return to his home country, South Korea. He indicated that he had been practicing as a psychiatrist in South Korea from January, 2011 to March, 2014.
8. Dr. Kim provided proof of meeting the continuing competency requirement for reinstatement.

9. The Department received documentation from the Professional Renewal Center (PRC) regarding Dr. Kim's assessment and treatment in their program. The Assessment was from March 17 - 23, 2010 and the dates of treatment were April 19 – June 18, 2010. The discharge summary indicates that Dr. Kim requested discharge from PRC, and that at the time of discharge, the PRC team was not able to endorse his return to practice.

10. The Department received documentation from the Behavioral Medicine Institute (BMI) in Atlanta regarding Dr. Kim's evaluation completed on September 10, 2010 and his Treatment Summary Report dated December 10, 2010. The Treatment Summary indicated that Dr. Kim successfully completed the intensive day treatment program from September 20, 2010 through October 27, 2010. The Summary indicated that his BMI providers were of the opinion that Dr. Kim would not pose a significant safety threat to his patients or staff regarding his past professional sexual misconduct provided he follows the maintenance treatment program and recommendations which they outlined in the Summary.

11. The Department also received a letter from BMI dated July 11, 2014, summarizing the results of a re-evaluation which Dr. Kim underwent from April 29 - 30, 2014. The re-evaluation stated the belief of the providers at BMI that Dr. Kim could safely return to the practice of psychiatry if he meets the recommendations which they outlined in the same letter.

CONCLUSIONS OF LAW

The Board of Medicine and Surgery has jurisdiction over this matter pursuant to Neb. Rev. Stat. 38-149. Dr. Kim has met the procedural requirements for consideration of reinstatement of license. This matter is properly before the Board of Medicine and Surgery for consideration on the merits of the Application for Reinstatement of License to Practice Medicine and Surgery.

RECOMMENDATION

The Board of Medicine and Surgery recommends that Dr. Kim's license be reinstated on probation for a period of five years with the following conditions:

1. Dr. Kim shall follow all treatment recommendations as made by the Behavioral Medicine Institute in their letter to Becky Wisell, Administrator, Nebraska Board of Medicine and Surgery, dated July 11, 2014. These recommendations are:
 - a. Dr. Kim shall distribute the attached "principles of medical practice" to all patients that he sees, to clarify that he is intolerant of sexual harassment of patients or staff and any such sexual harassment should be reported to his practice manager.
 - b. Dr. Kim shall have a booster treatment every six months after his return to practice. This booster treatment might last 2-3 days, and is to insure that Dr. Kim is being compliant with the recommendations outlined for him and has been appropriately assimilated into the new city/environment where he is practicing.
 - c. Every six months Dr. Kim shall undergo a polygraph; one should be cautious about the interpretation of the results of a polygraph, since false-positives and false-negatives can occur with a polygraph. The questions he is asked can be similar to those outlined on page 5 of the letter from Behavioral Medicine Institute dated July 11, 2014.
 - d. Dr. Kim shall have psychiatric-psychological treatment two times per month by a local therapist approved by the Board; on a quarterly basis, this therapist shall inform the Board as to Dr. Kim's progress and need for further treatment; the local therapist shall be acquainted with his professional sexual misconduct history.

- e. Dr. Kim shall have a local psychiatrist, approved by the Board, to act as his professional mentor and/or practice monitor; this individual shall talk with Dr. Kim about problematic patients and/or his interaction with staff or hospital staff.
- f. Dr. Kim shall remain compliant with all restrictions placed on his license by any state medical board in any state or jurisdiction in which he is licensed.
- g. Dr. Kim shall successfully complete at least four hours of ethical training per year and provide proof of same to the Board.
- h. If Dr. Kim has any further communication with any prior victims of his sexual misconduct, he should provide advance communication about this to his treating therapists and to the Board.
- i. All of Dr. Kim's treatment providers and practice monitors shall be required to read this Findings of Fact, Conclusions of Law, and Recommendation for Reinstatement on Probation and to read the July 11, 2014, letter from BMI to the Nebraska Board of Medicine and Surgery and sign off that they have read them. The treatment providers and practice monitors should understand that if they believe Dr. Kim is a safety threat to his patients, they must immediately notify the Board.

2. Dr. Kim shall have a female chaperone continually present with him at all times while he is providing healthcare services to female patients, including but not limited to, patient evaluation, interviewing, treatment, and post-evaluation treatment directions.

3. Dr. Kim shall assure that quarterly reports are submitted to the Department from all of his treatment providers and facilities as are required by his probationary conditions.

4. Dr. Kim shall assure that quarterly reports are submitted to the Department from all employers for whom he provides medical services. These reports need to describe his work habits, work-related performances, attendance, and evidence of appropriate conduct with his patients and staff.

5. Dr. Kim shall provide notification of this disciplinary action to any employers for whom he provides medical services, any facility where he practices medicine and surgery or has credentials to practice medicine and surgery, all practice partners or associates, and to any educational program of medicine in which he may enroll. Written confirmation of this notification shall be provided to the Department within 30 days of the reinstatement of license and within 30 days of any new employment, partners, facility privileges or educational programs of medicine.

6. Dr. Kim shall provide notification of this disciplinary action to the licensing authority in any state where he has or may obtain a license or permit to practice medicine and surgery. Written confirmation of this notification shall be provided to the Department within 30 days of the reinstatement of license and within 30 days of licensure in another state.

7. Dr. Kim shall provide written notification, within seven days of its occurrence, of any change in residence, employment, address or phone number and its effective date.

8. Dr. Kim shall provide all reports, notices, and other documentation as directed by the Department. If the Department provides any particular form of report, reports must be made on such form.

9. Dr. Kim shall promptly respond to all requests and inquiries by the Department concerning compliance with the terms and conditions of probation.

10. Dr. Kim shall obey all state and federal laws and the rules and regulations regarding the practice of medicine and surgery. Any violations shall be reported to the Department within seven days.

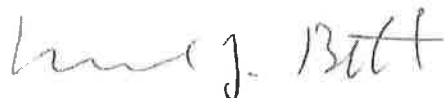
11. Dr. Kim shall pay any costs associated with insuring compliance with the probation.

12. Any period that Dr. Kim may hold an inactive Nebraska license or is not practicing medicine and surgery shall not reduce the probationary period or satisfy the terms and conditions of probation.

13. If Dr. Kim practices or resides in a jurisdiction other than Nebraska, such practice or residency shall not serve to reduce or satisfy the probationary terms and conditions unless that jurisdiction adopts the probationary terms and conditions that are on his Nebraska license.

Dated this 10th day of October, 2014.

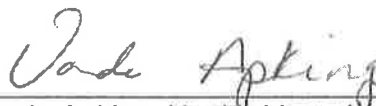
The Nebraska Board of Medicine & Surgery



Michael J. Bittles, MD, Chairman

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 10th day of October, 2014, a copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION, was sent by certified United States mail, postage prepaid, return receipt requested to Jasung Kim, MD, 1141 Fairview AVE #A, Arcadia, CA 91007; to his attorney, Melanie Whittamore-Mantzios, Wolfe Snowden Hurd Luers & Ahl, LLP, Suite 800 Wells Fargo Center, 1248 O Street, Lincoln, NE 68508-1424; and to Julie Agena, Assistant Attorney General, 2115 State Capitol, via interagency mail.



Vonda Apking, Health Licensing Coordinator
Licensure Unit
Division of Public Health
Department of Health and Human Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

LICENSURE UNIT

JUL 14 2010

RECEIVED

STATE OF NEBRASKA ex rel.,
JON BRUNING, Attorney General,

Plaintiff,

vs.

JASUNG KIM, M.D.

Defendant.

H10-405

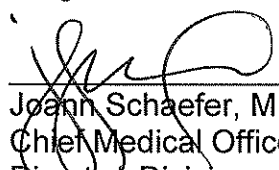
ORDER ON
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on July 8, 2010.

ORDER

1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.
2. The facts as set out in the petition are taken as true and adopted herein.
3. The parties shall comply with all of the terms of the Agreed Settlement.

DATED this 13 day of July, 2010.



Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

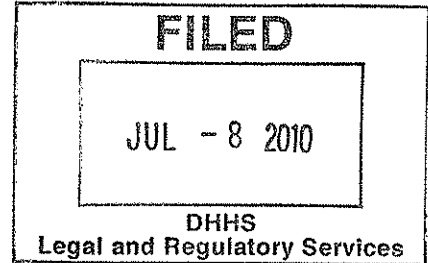
CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 14th day of July, 2010 a copy of the foregoing **ORDER ON AGREED SETTLEMENT** was sent by United States certified mail, postage prepaid, return receipt requested, to **Melanie Whittamore-Mantzios, Wolfe, Snowden, Hurd, Luers & Ahl, 1248 O Street, Suite 800, Wells Fargo Center, Lincoln, NE 68508-1424** and by interoffice mail to **Susan M. Ugai, Assistant Attorney General, 2115 State Capitol, Lincoln, Nebraska.**



Keith B. Roland
DHHS Legal and Regulatory Services
P.O. Box 98914
Lincoln NE 68509-8914
P. (402) 471-7237 F. (402) 742-2376

**THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA**



**STATE OF NEBRASKA ex rel. JON
BRUNING, Attorney General,**

Plaintiff,

vs.

JASUNG KIM, M.D.,

Defendant.

AGREED SETTLEMENT

The Plaintiff and the Defendant, Jasung Kim, M. D., in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, Jasung Kim, M.D., was issued medical license # 21811 by the Nebraska Department of Health and Human Services Division of Public Health ("Department") to practice medicine in the State of Nebraska.

2. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant waives the right to a hearing. The Defendant waives any right to judicial review of an order by the Department's Chief Medical Officer which approves the terms of this Agreed Settlement.

3. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce him to enter into this Agreed Settlement.

4. The Defendant acknowledges that he has read the Amended Petition for: Disciplinary Action and Temporary License Suspension filed by the Attorney General's Office. The Defendant pleads no contest to the allegations of the Amended Petition for: Disciplinary Action and Temporary License Suspension.

5. The Plaintiff and the Defendant consent to the Department's Chief Medical Officer entering a final disciplinary order which finds that the allegations of the Amended Petition for: Disciplinary Action and Temporary License Suspension are true.

6. The Plaintiff and the Defendant consent to the Chief Medical Officer entering an order suspending the Defendant's license to practice medicine for one (1) year beginning February 5, 2010, the date of his immediate suspension in this case. The Defendant shall not engage in any conduct which constitutes the practice of medicine during the period of suspension of his medical license.

7. During the one (1) year suspension the Defendant shall complete treatment and shall continue to follow all recommendations of his treatment providers.


8. The Defendant acknowledges that reinstatement of his medical license at the end of the one (1) year suspension is at the discretion of the Department and upon approval of the Board of Medicine and Surgery. Defendant shall provide proof of completion of treatment and continued compliance with treatment recommendations with his reinstatement application.

9. Any Nebraska medical license now in the possession of the Defendant shall be surrendered to the Department upon the entry of the Chief Medical Officer's Order of Agreed Settlement.

10. The Attorney General's Office has given notice of this Agreed Settlement to the Board of Medicine and Surgery and has received their input in accordance with NEB. REV. STAT. § 38-190 (Reissue 2008).


11. If this Agreed Settlement is not approved by the Chief Medical Officer, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter.

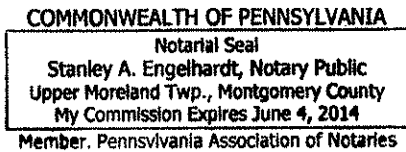
AGREED TO:

BY: 
Jasung Kim, M.D.
Defendant

State of Nebraska)
) ss.
County of Lancaster)

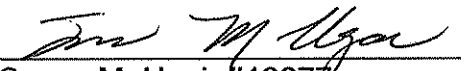
Acknowledged before me by Jasung Kim, M.D. on this 30 day of
June, 2010.


Notary Public
My Commission Expires:



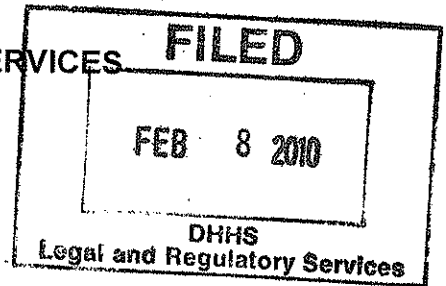
THE STATE OF NEBRASKA ex rel.
JON BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 
Susan M. Ugai, #16677
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
Tel: (402) 471-9658
Fax: (402) 471-4725

Attorneys for Plaintiff.

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



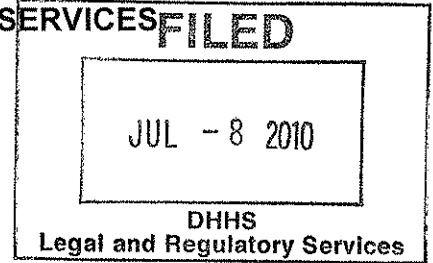
STATE OF NEBRASKA ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
v.)
)
JASUNG KIM, M.D.,)
)
Defendant.)

PROOF OF SERVICE

The undersigned investigator from the Nebraska DHHS Division of Public Health, Professions and Occupations Investigations, hereby certifies that a copy of the Petition for: Disciplinary Action and Temporary License Suspension and Order for Temporary License Suspension and Notice of Hearing were personally served upon the Defendant, Jasung Kim, M.D., on February 4, 2010, at 4²⁵ o'clock P.m. at the following location: Lincoln Psychiatric Group
6920 Van Dorn Ste B Lincoln, NE

BY: Patricia Lemke
Patricia Lemke, Investigator
1033 'O' St., Ste 500
Lincoln, NE

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA, ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
vs.)
)
JASUNG KIM, M.D.,)
)
Defendant.)

AMENDED PETITION FOR:
DISCIPLINARY ACTION
And
TEMPORARY LICENSE
SUSPENSION

The Plaintiff alleges as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Jurisdiction is based on NEB. REV. STAT. §§ 38-183, 38-184, 38-186 (Reissue 2008) and 71-150 (Reissue 2003).
2. At all times relevant herein, the Defendant, Jasung Kim, M.D., has been the holder of license #21811 which was issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department") for his practice as a medical doctor.
3. The Department is the agency of the State of Nebraska authorized to enforce the laws of Nebraska regulating the practice of medicine.
4. The Nebraska Board of Medicine and Surgery considered the investigation of this matter and made its recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to NEB. REV. STAT. §§ 38-1,105, 38-1,106 (Reissue 2008), 71-168.01(7), and 71-168.01(8) (Reissue 2003).
5. Defendant's primary practice is in the field of psychiatry.

6. Patient J.A. had her first appointment with the Defendant on July 14, 2009.

7. Defendant was being treated for depression. During the appointment J.A. told the Defendant she had been hurt terribly in relationships and wanted no romantic relationship in her life. Defendant wrote prescriptions for J.A. At the end of the session, Defendant told J.A. she needed to get a new psychiatrist as he was attracted to her. Defendant gave J.A. his cell phone number.

7. Defendant acquired J.A.'s telephone number from her medical chart and called her later that same day to ask her out on a date. They began a dating relationship on July 16, 2009, which became a sexual relationship and continued through September 9, 2009.

8. During their dating relationship, Defendant continued to give J.A. therapeutic advice and tried to wean her off her medications.

9. After she terminated her personal relationship with Defendant, J.A. called the treatment providers' office on September 10, 2009, and told them she needed medication refills, specifically requesting that Defendant not be involved in her care. Defendant wrote refill prescriptions for J.A. on September 10, 2009.

10. V.K. was Defendant's patient from July 23, 2004, through November 1, 2005, and from February 27, 2009, to the present. V.K. is being treated with Suboxone for opioid addiction. Defendant dated and had a sexual relationship with V.K. in May of 2009. V.K. indicated she felt she was in a situation where Defendant was one of the few prescribing physicians for Suboxone in Lincoln and wondered if she cut off the relationship whether he would stop prescribing for her, and she would have to go to Omaha for treatment.

11. Defendant is currently V.K.'s treatment provider and prescribing Suboxone for her. V.K. sees him approximately every six weeks.

FIRST CAUSE OF ACTION

12. Paragraphs 1 through 11 are incorporated herein by reference.

13. NEB. REV. STAT. §§ 38-178(23) (Reissue 2008) and 71-147 (10) (2006 Cum. Supp.) provides that a professional license may be disciplined, revoked, or suspended for unprofessional conduct.

14. NEB. REV. STAT. §§ 38-179 (Reissue 2008) and 71-148 (Reissue 2003) define unprofessional conduct as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation regardless of whether a person, patient or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest.

15. NEB. REV. STAT. §§ 38-179(15) (Reissue 2008) and 71-148(22) (Reissue 2003) define unprofessional conduct as such other acts as may be defined in rules and regulations adopted and promulgated by the board of examiners in the profession of the applicant, licensee, certificate holder or registrant with the approval of the Department.

16. Title 172 Chapter 88-013.21 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as any conduct or practice outside the normal standard of care in the State of Nebraska which is or might be harmful or dangerous to the health of the patient or the public.

17. Title 172 Chapter 88-013.16 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as commission of any act of sexual misconduct, or exploitation related to the person's practice of medicine and surgery.

Sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce or attempt to induce the patient to engage, or to attempt to engage the patient, in sexual activity; committing any act which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both.

18. Defendant's conduct is unprofessional conduct and is grounds for discipline.

SECOND CAUSE OF ACTION

19. Paragraphs 1 through 18 are incorporated herein by reference.

20. NEB. REV. STAT. §§ 38-178(23) (Reissue 2008) and 71-147 (10) (2006 Cum. Supp.) provide that a professional license may be disciplined, revoked, or suspended for unprofessional conduct.

21. NEB. REV. STAT. §§ 38-179(9) (Reissue 2008) defines unprofessional conduct as commission of any act of misconduct or exploitation related to the practice of the profession of the credential holder.

22. Defendant's conduct is unprofessional conduct and is grounds for discipline.

THIRD CAUSE OF ACTION

23. Paragraphs 1 through 22 are incorporated herein by reference.

24. Title 172 Chapter 88-013.1 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as any departure from or failure to conform to the ethics of the medical profession, as found in the American Medical Association's Code of Medical Ethics and Opinions.

25. The American Medical Association's Code of Medical Ethics and Opinions § 8.14 Sexual Misconduct in the Practice of Medicine also provides:

"Sexual contact that occurs concurrent with the patient-physician relationship constitutes sexual misconduct. Sexual or romantic interactions between physicians and patients detract from the goals of the physician-patient relationship, may exploit the vulnerability of the patient, may obscure the physician's objective judgment concerning the patient's health care, and ultimately may be detrimental to the patient's well-being.

If a physician has reason to believe that non-sexual contact with a patient may be perceived as or may lead to sexual contact, then he or she should avoid the non-sexual contact. At a minimum, a physician's ethical duties include terminating the physician-patient relationship before initiating a dating, romantic, or sexual relationship with a patient.

Sexual or romantic relationships between a physician and a former patient may be unduly influenced by the previous physician-patient relationship. Sexual or romantic relationships with former patients are unethical if the physician uses or exploits trust, knowledge, emotions, or influence derived from the previous professional relationship."

26. The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry, Section 1.1, 2009 Edition Revised, states: "A psychiatrist shall not gratify his or her own needs by exploiting the patient. The psychiatrist shall be ever vigilant about the impact that his or her conduct has upon the boundaries of the doctor-patient relationship, and thus upon the well-being of the patient. These requirements become particularly

important because of the essentially private, highly personal, and sometimes intensely emotional nature of the relationship established with the psychiatrist.”

27. The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry, Section 2.1, 2009 Edition Revised, states: “The requirement that the physician conduct himself/herself with propriety in his or her professional and in all the actions of his or her life is especially important in the case of the psychiatrist because the patient tends to model his or her behavior after that of his or her psychiatrist by identification. Further, the necessary intensity of the treatment relationship may tend to activate sexual and other needs and fantasies on the part of both patient and psychiatrist, while weakening the objectivity necessary for control. Additionally, the inherent inequality in the doctor-patient relationship may lead to exploitation of the patient. Sexual activity with a current or former patient is unethical.”

28. Defendant’s personal relationships with patients and continued treatment of those patients constitute unprofessional conduct and is grounds for discipline.

FOURTH CAUSE OF ACTION

29. Paragraphs 1 through 28 are incorporated herein by reference.

30. NEB. REV. STAT. §§ 38-178(6)(d and) 71-147(5) (2006 Cum. Supp.) provides that a professional license may be disciplined, revoked, or suspended for practice of the profession in a pattern of negligent conduct in performing the duties of the profession.

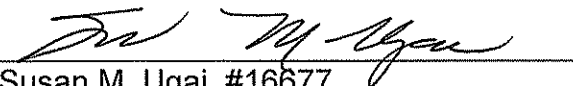
31. Defendant’s conduct is grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that the Chief Medical Officer set this Amended Petition for: Disciplinary Action and Temporary License Suspension for hearing and enter an order for appropriate disciplinary action pursuant to NEB. REV. STAT. § 38-183 (Reissue 2008), and tax the costs of this proceeding to the Defendant.

STATE OF NEBRASKA ex rel. JON BRUNING,
Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 
Susan M. Ugai, #16677
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-2682

Attorneys for the Plaintiff.

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

STATE OF NEBRASKA ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
v.)
)
JASUNG KIM, M.D.,)
)
Defendant.)

ORDER FOR TEMPORARY
LICENSE SUSPENSION AND
NOTICE OF HEARING

THIS MATTER came on for consideration before the Nebraska Department of Health and Human Services Public Health Division's Chief Medical Officer on Plaintiff's Petition for: Disciplinary Action and Temporary License Suspension ("Petition") and upon the affidavit in support of the request for temporary suspension. The Chief Medical Officer finds that there is reasonable cause to believe that grounds exist under NEB. REV. STAT. §§ 38-183 and 38-178 (Reissue 2008) for the suspension of the license of the Defendant to practice as a physician on the basis that the Defendant's continued practice at this time would constitute an imminent danger to public health and safety.

IT IS THEREFORE ORDERED:

1. The license of the Defendant, JASUNG KIM, M.D., to practice medicine is suspended effective upon service of this Order upon the Defendant in accordance with NEB. REV. STAT. §§ 38-183 (Reissue 2008) and 71-1795 (Reissue 2003).

2. Pursuant to NEB. REV. STAT. § 38-183, the hearing on the merits of the allegations of the Petition shall be held on the 19th day of February, 2010, beginning at

9:00 a.m. at the DHHS Hearing Room, Gold's Galleria, 1033 O Street, Suite 113,
Lincoln, NE, Vital Records Entrance, corner of 11th & N Streets.

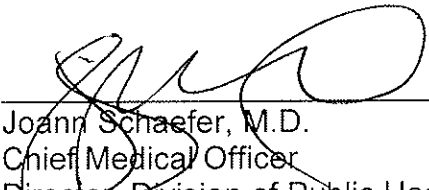
3. James J. Smith is the designated Hearing Officer with authority over the hearing as provided by Title 184 – Nebraska Administrative Code, Chapter 1 – Rules of Practice and Procedure of the Department of Health for Administrative Hearings.

4. The Defendant shall have the opportunity to appear and defend against the Petition at such time and place. The Defendant is further notified that he may present such witnesses and such evidence at said time and place as he may care to present in answer to the allegations of the Petition, and he may be represented by legal counsel at said hearing. Hearings are conducted according to NEB. REV. STAT. §§ 38-186 and 84-901, et seq. (Reissue 2008; 2006 Cum. Supp.), and the Rules of Practice and Procedure of the Department 184 NAC 1. If auxiliary aids or reasonable accommodations are needed for participation in the hearing, please call Ashlea Cedrone, (402) 471- 7237, or for persons with hearing impairments, (402) 471-9570 TDD, or the Nebraska Relay System, (800) 833-7352 TDD, prior to the hearing date.

5. The DHHS Division of Public Health, Office of Investigations, is appointed, pursuant to 184 NAC 006.01E, to personally serve the Defendant with copies of this Order and the Petition.

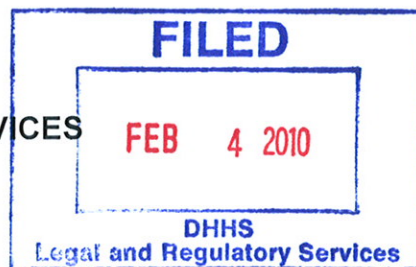
DATED this 4 day of February, 2010.

BY:



Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA, ex rel. JON
BRUNING, Attorney General,

Plaintiff,

vs.

JASUNG KIM, M.D.,

Defendant.

PETITION FOR:
DISCIPLINARY ACTION
And
TEMPORARY LICENSE
SUSPENSION

The Plaintiff alleges as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Jurisdiction is based on NEB. REV. STAT. §§ 38-183, 38-184, 38-186 (Reissue 2008) and 71-150 (Reissue 2003).

2. At all times relevant herein, the Defendant, Jasung Kim, M.D., has been the holder of license #21811 which was issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department") for his practice as a medical doctor.

3. The Department is the agency of the State of Nebraska authorized to enforce the laws of Nebraska regulating the practice of medicine.

4. The Nebraska Board of Medicine and Surgery considered the investigation of this matter and made its recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to NEB. REV. STAT. §§ 38-1,105, 38-1,106 (Reissue 2008), 71-168.01(7), and 71-168.01(8) (Reissue 2003).

5. Defendant's primary practice is in the field of psychiatry.

6. Patient J.A. had her first appointment with the Defendant on July 14, 2009. Defendant was being treated for depression. During the appointment J.A. told the

Defendant she had been hurt terribly in relationships and wanted no romantic relationship in her life. Defendant wrote prescriptions for J.A. At the end of the session, Defendant told J.A. she needed to get a new psychiatrist as he was attracted to her. Defendant gave J.A. his cell phone number.

7. Defendant acquired J.A.'s telephone number from her medical chart and called her later that same day to ask her out on a date. They began a dating relationship on July 16, 2009, which became a sexual relationship and continued through September 9, 2009.

8. During their dating relationship, Defendant continued to give J.A. therapeutic advice and tried to wean her off her medications.

9. During their dating relationship, Defendant shared the names and medical information concerning his other patients with J.A. On one occasion he brought a patient list over to J.A.'s home and described each of the patients' issues.

10. After she terminated her personal relationship with Defendant, J.A. called the treatment providers' office on September 10, 2009, and told them she needed medication refills, specifically requesting that Defendant not be involved in her care. Defendant wrote refill prescriptions for J.A. on September 10, 2009.

11. V.K. was Defendant's patient from July 23, 2004, through November 1, 2005, and from February 27, 2009, to the present. V.K. is being treated with Suboxone for opioid addiction. Defendant dated and had a sexual relationship with V.K. in May of 2009. V.K. indicated she felt she was in a situation where Defendant was one of the few prescribing physicians for Suboxone in Lincoln and wondered if she cut off the relationship whether he would stop prescribing for her, and she would have to go to Omaha for treatment.

12. Defendant is currently V.K.'s treatment provider and prescribing Suboxone for her. V.K. sees him approximately every six weeks.

FIRST CAUSE OF ACTION

13. Paragraphs 1 through 12 are incorporated herein by reference.

14. NEB. REV. STAT. §§ 38-178(23) (Reissue 2008) and 71-147 (10) (2006 Cum. Supp.) provides that a professional license may be disciplined, revoked, or suspended for unprofessional conduct.

15. NEB. REV. STAT. §§ 38-179 (Reissue 2008) and 71-148 (Reissue 2003) define unprofessional conduct as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation regardless of whether a person, patient or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest.

16. NEB. REV. STAT. §§ 38-179(15) (Reissue 2008) and 71-148(22) (Reissue 2003) define unprofessional conduct as such other acts as may be defined in rules and regulations adopted and promulgated by the board of examiners in the profession of the applicant, licensee, certificate holder or registrant with the approval of the Department.

17. Title 172 Chapter 88-013.21 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as any conduct or practice outside the normal standard of care in the State of Nebraska which is or might be harmful or dangerous to the health of the patient or the public.

18. Title 172 Chapter 88-013.16 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as commission of any act of sexual misconduct, or exploitation related to the person's practice of medicine and surgery.

Sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce or attempt to induce the patient to engage, or to attempt to engage the patient, in sexual activity; committing any act which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both.

19. Defendant's conduct is unprofessional conduct and is grounds for discipline.

SECOND CAUSE OF ACTION

20. Paragraphs 1 through 19 are incorporated herein by reference.

21. NEB. REV. STAT. §§ 38-178(23) (Reissue 2008) and 71-147 (10) (2006 Cum. Supp.) provide that a professional license may be disciplined, revoked, or suspended for unprofessional conduct.

22. NEB. REV. STAT. §§ 38-179(9) (Reissue 2008) defines unprofessional conduct as commission of any act of misconduct or exploitation related to the practice of the profession of the credential holder.

23. Defendant's conduct is unprofessional conduct and is grounds for discipline.

THIRD CAUSE OF ACTION

24. Paragraphs 1 through 23 are incorporated herein by reference.

25. Title 172 Chapter 88-013.1 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as any departure from or failure to conform to the ethics of the medical profession, as found in the American Medical Association's Code of Medical Ethics and Opinions.

26. The American Medical Association's Code of Medical Ethics and Opinions §

5.05 Confidentiality states:

"The information disclosed to a physician by a patient should be held in confidence. The patient should feel free to make a full disclosure of information to the physician in order that the physician may most effectively provide needed services. The patient should be able to make this disclosure with the knowledge that the physician will respect the confidential nature of the communication. The physician should not reveal confidential information without the express consent of the patient, subject to certain exceptions which are ethically justified because of overriding considerations."

27. The American Medical Association's Code of Medical Ethics and Opinions §

8.14 Sexual Misconduct in the Practice of Medicine also provides:

"Sexual contact that occurs concurrent with the patient-physician relationship constitutes sexual misconduct. Sexual or romantic interactions between physicians and patients detract from the goals of the physician-patient relationship, may exploit the vulnerability of the patient, may obscure the physician's objective judgment concerning the patient's health care, and ultimately may be detrimental to the patient's well-being.

If a physician has reason to believe that non-sexual contact with a patient may be perceived as or may lead to sexual contact, then he or she should avoid the non-sexual contact. At a minimum, a physician's ethical duties include terminating the physician-patient relationship before initiating a dating, romantic, or sexual relationship with a patient.

Sexual or romantic relationships between a physician and a former patient may be unduly influenced by the previous physician-patient relationship. Sexual or romantic relationships with former patients are unethical if the physician uses or exploits trust, knowledge, emotions, or influence derived from the previous professional relationship.”

28. The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry, Section 1.1, 2009 Edition Revised, states: “A psychiatrist shall not gratify his or her own needs by exploiting the patient. The psychiatrist shall be ever vigilant about the impact that his or her conduct has upon the boundaries of the doctor-patient relationship, and thus upon the well-being of the patient. These requirements become particularly important because of the essentially private, highly personal, and sometimes intensely emotional nature of the relationship established with the psychiatrist.”

29. The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry, Section 2.1, 2009 Edition Revised, states: “The requirement that the physician conduct himself/herself with propriety in his or her professional and in all the actions of his or her life is especially important in the case of the psychiatrist because the patient tends to model his or her behavior after that of his or her psychiatrist by identification. Further, the necessary intensity of the treatment relationship may tend to activate sexual and other needs and fantasies on the part of both patient and psychiatrist, while weakening the objectivity necessary for control. Additionally, the inherent inequality in the doctor-patient relationship may lead to exploitation of the patient. Sexual activity with a current or former patient is unethical.”

30. Defendant's personal relationships with patients and continued treatment of those patients constitute unprofessional conduct and is grounds for discipline.

FOURTH CAUSE OF ACTION

31. Paragraphs 1 through 30 are incorporated herein by reference.

32. NEB. REV. STAT. §§ 38-178(6)(d and) 71-147(5) (2006 Cum. Supp.) provides that a professional license may be disciplined, revoked, or suspended for practice of the profession in a pattern of negligent conduct in performing the duties of the profession.


33. Defendant's conduct is grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that the Chief Medical Officer set this Petition for: Disciplinary Action and Temporary License Suspension for hearing and enter an order for appropriate disciplinary action pursuant to NEB. REV. STAT. § 38-183 (Reissue 2008), and tax the costs of this proceeding to the Defendant.

STATE OF NEBRASKA ex rel. JON BRUNING,
Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 
Susan M. Ugai, #16677
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-2682

Attorneys for the Plaintiff.