



COMMONWEALTH of VIRGINIA

Robert A. Nebiker
Director

Department of Health Professions

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January 30, 2003

Thomas Ke Tsao, M.D.
780 Lynnhaven Parkway
Suite 220, Windwood Centre
Virginia Beach, Virginia 23452

CERTIFIED MAIL

7160 3901 9844 7520 6819

RE: License No.: 0101-022784

Dear Dr. Tsao:

This letter is official notification that an informal conference of the Virginia Board of Medicine ("Board") will be held on **Wednesday, March 12, 2003, at 1:00 p.m., at the Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.** The conference will be conducted pursuant to Sections 54.1-2919, 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code").

An Informal Conference Committee ("Committee"), composed of three members of the Board, will inquire into allegations that you may have violated certain laws governing the practice of medicine in Virginia. Specifically, you may have violated Section 54.1-2915.A(3), as further defined in Section 54.1-2914.A(8) of the Code, in that from September 19, 2001 through February 1, 2002, you treated Patient A, a 16-year-old female, for major depression and dysthymia. During the course of treatment, you gave her a copy of a draft manuscript written by you, which contained subject matter of a sexually explicit nature, and asked that Patient A assist you in developing the female characters. Further, you instructed Patient A to have photographs taken of herself and recommended a photographer for this purpose. You acknowledged providing another minor patient with a copy of the same manuscript.

Please see Attachment I for the identity of the patient referenced above. The following actions may be taken by this Committee:

1. If a majority of the Committee is of the opinion that a suspension or revocation of your license may be justified, the Committee shall present to the Board in writing its findings, and the Board may proceed with a formal hearing.

2. The Committee may notify you in writing that you are fully exonerated of any charge that might affect your right to practice medicine in Virginia.

3. The Committee may reprimand or censure you.

4. The Committee may impose a monetary penalty pursuant to Section 54.1-2401 of the Code.

5. The Committee may place you on probation for such time as it may designate and direct that during such period you furnish the Committee or its chairman, at such intervals as the Committee may direct, evidence that you are not practicing in violation of the provisions of Chapter 29, Title 54.1 of the Code, which governs the practice of medicine in Virginia.

You have the right to information, which will be relied upon by the Committee in making a decision. Therefore, I enclose a copy of the documents, which will be distributed to the members of the Committee, and will be considered by the Committee when discussing the allegations with you and when deliberating upon your case. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. Further, it is your responsibility to provide the enclosed materials to your attorney.

Absent good cause shown to support a request for a continuance, the informal conference will be held on March 12, 2003. A request to continue this proceeding must state in detail the reason for the request and must establish good cause. Such request must be made in writing to me at the address listed on this letter and must be received by **12:00 noon on February 26, 2003**. Only one such motion will be considered. Absent exigent circumstances, such as personal or family illness, a request for a continuance after **February 26, 2003**, will not be considered.

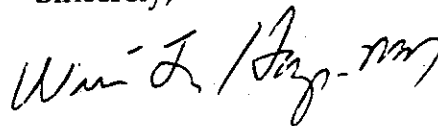
You may be represented by an attorney at the informal conference. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of counsel will not be considered unless received by **February 26, 2003**.

To facilitate this proceeding, you must submit eight (8) copies of any documents you wish for the Committee to consider to Reneé S. Dixon, Discipline Case Manager, Virginia Board of Medicine, 6603 West Broad Street, 5th Floor, Richmond, Virginia 23230-1712, by **12 noon on February 26, 2003**. Your documents may not be submitted by facsimile or e-mail. Should you or Lorraine McGehee, Deputy Director for Administrative Proceedings, wish to submit any documents for the Committee's consideration after February 26, 2003, such documents shall be considered only upon a ruling by the Chair of the informal conference committee that good cause has been shown for late submission.

Relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws relating to the practice of medicine and other healing arts in Virginia cited in this notice can be found on the internet at <http://leg1.state.va.us>. To access this information, please click on the *Code of Virginia* for laws and *Virginia Administrative Code* for regulations.

Please advise the Board, in writing, of your intention to be present. Should you fail to appear at the informal conference, the Board may proceed to a formal administrative hearing in order to impose sanctions. Please contact Ms. McGehee, at (804) 662-7440, with any questions regarding this notice.

Sincerely,



William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

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LM/Tsao18NIF.doc

Enclosures:

Attachment I
Informal Conference Package
Map

cc: Harry C. Beaver, M.D., President, Virginia Board of Medicine
Robert A. Nebiker, Director, Department of Health Professions
Lorraine McGehee, Deputy Director, Administrative Proceedings Division
Patricia A. Stigall, R.N., Regional Investigative Supervisor (84518)
Reneé S. Dixon, Discipline Case Manager, Board of Medicine

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

**IN RE: THOMAS KE TSAO, M.D.
License No.: 0101-022784**

ORDER

In accordance with Sections 54.1-2919, 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code"), an informal conference was held with Thomas Ke Tsao, M.D., on March 12, 2003, in Williamsburg, Virginia. Members of the Virginia Board of Medicine ("Board") serving on the Informal Conference Committee ("Committee") were: Clarke Russ, M.D., Chairman; James F. Allen, M.D.; and J. Kirkwood Allen. Dr. Tsao appeared personally and was represented by legal counsel, Jeffrey A. Swartz, Esquire. The purpose of the informal conference was to inquire into allegations that Dr. Tsao may have violated certain laws governing the practice of medicine in the Commonwealth of Virginia, as set forth in a Notice of Informal Conference dated January 30, 2003.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now, having properly considered the evidence and statements presented, the Committee makes the following Findings of Fact and Conclusions of Law:

1. Thomas Ke Tsao, M.D., was issued license number 0101-022784 to practice medicine in Virginia on December 4, 1972. Said license is currently active and will expire on September 30, 2004, unless renewed or otherwise restricted.
2. Dr. Tsao violated Section 54.1-2915.A(3), as further defined in Section 54.1-2914.A(8) of the Code, in that, from September 19, 2001, through February 1, 2002, Dr. Tsao treated Patient A, a 16-year-old female, for major depression and dysthymia. During the

course of treatment, Dr. Tsao gave the patient a copy of a draft manuscript of a novel written by him. Dr. Tsao stated that he provided this manuscript to Patient A in an attempt to connect with her artistic side. The manuscript included several passages of a sexually explicit nature. Dr. Tsao admitted that it was “dumb” to give it to her.

3. Dr. Tsao admitted that he recommended Patient A have photographs taken of herself, as a way to improve her self-esteem, and further recommended a fashion photographer for this purpose.

4. Dr. Tsao acknowledged that although he provided the manuscript to Patient A and made the referral to the fashion photographer for therapeutic purposes, he did not record these events in the patient’s medical record as part of his treatment planning.

5. As a result of Dr. Tsao’s actions, Patient A’s parents discontinued further treatment with Dr. Tsao and sought counseling for Patient A with another therapist, thereby causing an interruption in the patient’s care. During this transfer of treatment, Patient A lost ground in her therapeutic progress.

ORDER

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that Dr. Tsao be issued a REPRIMAND.

Pursuant to Section 2.2-4023 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

Pursuant to Section 54.1-2919 of the Code, Dr. Tsao may, not later than 5:00 p.m., on April 21, 2003, notify William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, Virginia 23230, in writing, that he desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

Therefore, this Order shall become final on April 21, 2003, unless a request for a formal administrative hearing is received as described above.

FOR THE BOARD



William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

ENTERED: 3/17/03