

Public

**NEW YORK**  
state department of  
**HEALTH**

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

December 16, 2013

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

David M. Heydt, M.D.

REDACTED

Re: License No. 248079

Dear Dr. Heydt:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 13-421. This order and any penalty provided therein goes into effect December 23, 2013.

**If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to: c/o Physician Monitoring Unit, NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719.**

**If your license is framed, please remove it from the frame and only send the parchment paper on which your name is printed. Our office is unable to store framed licenses.**

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

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IN THE MATTER  
OF  
DAVID M. HEYDT, M.D.

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CONSENT  
ORDER

Upon the application of **DAVID M. HEYDT, M.D.**, (Respondent), in the attached Consent Agreement, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board, either by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, or upon facsimile or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 12/14/2013

REDACTED

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ARTHUR S. HENGERER, M.D.  
Chair  
State Board for Professional  
Medical Conduct

STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER

CONSENT

OF

AGREEMENT

DAVID M. HEYDT, M.D.  
CO-12-12-6109-A

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DAVID M. HEYDT, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about March 26, 2008, I was authorized to practice medicine in the State of New York, and issued license number 248079 by the New York State Education Department.

My current address is REDACTED and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with two (2) Specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A," is attached to and part of this Consent Agreement.

I do not contest the two (2) Specifications and agree to the following penalty:

My license shall be suspended for an indefinite period but no less than twelve (12) months. I shall be subject to the condition that I comply with attached Exhibit "C" ("Requirements for Closing a Medical Practice Following Medical License Revocation, Surrender or Suspension of a Medical License"). Upon compliance with all the conditions of this Consent Order, I may petition the Board for a Modification Order staying the indefinite suspension of my license.

I understand and agree:

That any Modification Order the Board may issue, in the exercise of its reasonable discretion, may include terms of probation and/or further conditions on my practice.

That the Board will exercise its reasonable discretion upon my petition for a Modification Order, through a Committee on Professional Conduct, after a proceeding in which I have met a burden of proof and persuasion, as further set forth in attached Exhibit "B."

That the Committee's exercise of discretion shall not be reviewable by the Administrative Review Board.

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall return all official New York State prescriptions to the Bureau of Narcotic Enforcement, and shall surrender Respondent's Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within 30 days of the Consent Order's effective date. Further, within 30 days of returning these prescriptions and surrendering this Registration, Respondent shall provide the Director of OPMC ("Director") with written evidence, satisfactory to the Director, that Respondent has complied with this condition.

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 including, but not limited to, the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 30 days after the effective date of the Consent Order and will continue so long as Respondent remains a licensee in New York State;

and

That Respondent shall cooperate fully with the OPMC in its administration and enforcement of the Consent Order and in its investigation of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Agreement. Respondent shall meet with a person designated by the Director, OPMC, as directed. Respondent shall respond promptly and

provide OPMC with all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by New York State Education Law § 6530(29).

I agree that, if I am charged with professional misconduct in the future, this Consent Agreement and the Consent Order, and/or related Modification Orders, shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, or upon facsimile or email transmission to me or my attorney, whichever is first. This Consent Order, this Consent Agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department of Health website.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director, OPMC, and the Chair of the Board each retain complete discretion either to enter into the proposed Consent Agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE: 12/4/13

REDACTED

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DAVID M. HEYDT, M.D.  
Respondent

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: December 5 2013

REDACTED

PAUL TSUI  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 12/12/13

REDACTED

KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

IN THE MATTER  
OF  
DAVID HEYDT, M.D.  
CO-12-12-6109-A

STATEMENT  
OF  
CHARGES

DAVID HEYDT, M.D., Respondent, was authorized to practice medicine in New York State on March 26, 2008, by the issuance of license number 248079 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about December 5, 2012, the Maryland State Board of Physicians (hereinafter "Maryland Board"), concluded that the public health, safety or welfare imperatively required emergency action and entered an Order for Summary Suspension of License to Practice Medicine (hereinafter "Maryland Summary Order") that summarily suspended Respondent's license to practice medicine pursuant to Md. State Gov't Code Ann. §10-226(c)(2)(i) (2009 Repl. Vol.). The Maryland Summary Order was based upon Respondent's violation of the Maryland Medical Practice Act (hereinafter, the "Act") and Maryland Health Occ. Code Ann. ("H.O.") §§14-101 et seq. (2009 Repl. Vol.) as well as Respondent's violation of the Maryland Board's prior non-public Disposition Agreement with the Respondent dated December 14, 2010. In that prior Disposition Agreement, Respondent's license to practice medicine was subject to summary suspension if Respondent tested positive during any chemical screen or failed to provide a specimen under the terms of an earlier agreement with Respondent dated December 6, 2010.

1. On or about April 5, 2011, Respondent failed to provide a specimen while in Florida despite having a list of collection sites in Florida due to transportation issues. The Maryland Board instructed respondent to provide a specimen on or about April 11, 2011. Respondent advised the Board that he did not receive the message until it was too late to test. Respondent provided a specimen on April 12, 2011, which was negative.

EXHIBIT

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2. On or about October 5, 2012, the Maryland Professional Rehabilitation Program (hereinafter "MPRP") reported to the Maryland Board that a sample provided by Respondent on September 28, 2012 was positive for alcohol metabolites. Respondent denied using alcohol and reported there were "alcohol vapors and alcohol substances used for slide fixation" in the laboratory in which he works.
3. On or about October 12, 2012, the MPRP reported to the Maryland Board that Respondent provided a letter of explanation admitting alcohol use and a violation of his contract with the MPRP.
4. On or about October 15, 2012, the MPRP notified the Maryland Board that respondent's hair sample tested positive for alcohol metabolites.
5. On or about October 22, 2012, the MPRP notified the Maryland Board that a lab report dated October 18, 2012 indicated that Respondent's hair sample tested positive for Hydrocodone, a schedule II controlled dangerous substance.
6. In a statement dated October 19, 2012, respondent admitted that he took six (6) Hydrocodone that belonged to a close relative due to severe ankle pain. He admitted that he violated his contract with the MPRP and that he had enrolled in an outpatient program.
7. On or about December 28, 2012, the Maryland Board ordered that the summary suspension of Respondent's license be continued after Respondent appeared at a hearing on December 19, 2012, to show cause why the Maryland Board's suspension should not be continued. The Maryland Board determined that a substantial risk of serious harm to the public health, safety or welfare existed in the Respondent's continued practice.

B. On or about March 1, 2013, Respondent entered into a Consent Order with the Maryland Board which concluded that Respondent was guilty of unprofessional conduct in violation of Health Occ. §14-404(a)(3)(ii). The Maryland Board ordered that the Summary Suspension dated December 5, 2012 was terminated and ordered that Respondent's license be suspended for a minimum period of six (6) months, to commence on December 5, 2012, subject to certain terms and conditions including a Board-monitored Rehabilitation Agreement with the

MPRP with a minimum duration of five (5) years. At the end of the five years, Respondent would enter into a new Rehabilitation Agreement or an extension of the initial agreement, for a length of time to be recommended by the MPRP. The Maryland Board ordered that if the Board terminates the suspension of Respondent's license, the Respondent will be placed on probation for a minimum of five (5) years subject to the successful completion of certain terms and conditions.

C. On or about June 5, 2013, Respondent entered into an Order Terminating Suspension and Imposing Probation. With the conclusion of the six-month suspension period, the Maryland Board ordered Respondent be placed on probation for a minimum of five (5) years subject to certain terms and conditions including enrollment in and completion of a Board-monitored Rehabilitation Agreement with the MPRP.

D. The conduct resulting in the Maryland Board disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to the following section of New York State law:

1. New York Education Law §6530(8) (Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice), and/or
2. New York Education Law §6530(9)(b) (having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State), and/or
3. New York Education Law §6530(9)(d) (Having his license to practice medicine suspended or having other disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action involving the license would, if committed in New York State, constitute professional misconduct under the laws of New York State).

E. On or about February 4, 2013, the Commonwealth of Pennsylvania, State Board of Medicine (hereinafter "Pennsylvania Board") temporarily suspended Respondent's license to practice medicine for a period of no longer than 180 days from January 9, 2013, based upon the Maryland Board's Summary Suspension of Respondent's license in the State of Maryland. The conduct resulting in the Pennsylvania Board disciplinary actions against Respondent would

constitute misconduct under the laws of New York State, pursuant to the following section of New York State law:

1. New York Education Law §6530(9)(d) (Having his license to practice medicine suspended after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension would, if committed in New York State, constitute professional misconduct under the laws of New York State.

F. On or about March 7, 2013, the Commonwealth of Virginia, Department of Health Professions (hereinafter "Virginia Board") suspended Respondent's license to practice medicine and surgery based upon the Maryland Board's Consent Order dated March 1, 2013, terminating the summary suspension and suspending Respondent's license for six months. The conduct resulting in the Virginia Board disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to the following section of New York State law:

1. New York Education Law §6530(9)(d) (Having his license to practice medicine suspended after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension would, if committed in New York State, constitute professional misconduct under the laws of New York State.

#### SPECIFICATIONS

##### FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

1. The facts in Paragraphs A & A.1., A & A.2., A & A.3., A & A.4., A & A.5., A & A.6., A. & A.7., B, C, D & D.1 and/or D and D.2.

##### SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license suspended or having other disciplinary action taken by a duly authorized professional

disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York State, constitute professional misconduct under the laws New York State, in that Petitioner charges:

2. The facts in Paragraphs A & A.1., A & A.2., A & A.3., A & A.4., A & A.5., A & A.6., A. & A.7., B, C, D and D.1, D and D.3, E & E.1. and/or F & F.1.

DATED: *Nov. 14*, 2013  
Albany, New York

REDACTED

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MICHAEL A. HISER ✓  
Deputy Counsel  
Bureau of Professional Medical Conduct

## EXHIBIT "B"

1. The suspension of Respondent's license shall be terminated only after Respondent makes a showing to the satisfaction of a Committee on Professional Conduct (Committee) of the State Board for Professional Medical Conduct (Board) that Respondent has successfully complied with or completed a course of therapy and ongoing evaluation and is no longer incapacitated for the practice as a physician, and a Committee makes a determination that Respondent is both fit and clinically competent to practice as a physician. Respondent shall provide the Office of Professional Medical Conduct (OPMC) with a proposed treatment plan for advice as to whether it is generally appropriate; however, the determination of successful compliance with or completion of a course of therapy, and the determination that Respondent is no longer incapacitated for the active practice as a physician, shall be made solely by the Committee.
  
2. After Respondent completes the minimum period of suspension pursuant to the terms of this Consent Order, and upon Respondent's request, a Committee shall be convened to hear and evaluate Respondent's showing, as set forth in paragraph 1 above. The Board will make reasonable attempts to convene a Committee within 90 days of Respondent's request; however, Respondent's request shall not be perfected until the Director of OPMC receives all the required documentation, and complies with all the Conditions, set forth in paragraph 3 below. The Board shall determine the procedural nature of the proceeding through the exercise of the Director of OPMC's reasonable discretion upon consultation with Counsel, Bureau of Professional Medical Conduct (Counsel). Proceedings before a Committee shall not be in the nature of a hearing pursuant to N.Y. Pub. Health Law § 230, but shall instead be informal and intended only to address any facts, evidence, information, circumstances, or issues relating to the advisability of terminating Respondent's license suspension. The Committee shall be given access to evidence including, but not limited to:
  - a. Any evidence pertaining to Respondent's compliance with the condition(s) imposed.
  - b. Any evidence that the Director or Counsel deems appropriate.
  
3. Upon requesting that a Committee be convened, pursuant to paragraph 2, Respondent shall provide the Director of OPMC with the following:
  - a. The signed acknowledgment and curriculum vitae from the proposed sobriety monitor referred to in paragraph 5c.
  - b. The signed acknowledgment and curriculum vitae from the proposed supervising physician referred to in paragraph 5d.
  - c. The signed acknowledgment and curriculum vitae from the proposed health care professional referred to in paragraph 5e.
  - d. Certified true and complete copies of all evaluation and treatment records relating to Respondent's substance abuse/dependence, psychological, psychiatric and/or mental health treatment, whether in an in-patient, out-patient, after-care or consultation setting; the certified records shall be forwarded directly to OPMC by the treatment providers, facilities and evaluators. The records shall reflect all treatment and evaluation provided, and shall include the results of all

tests conducted to evaluate Respondent's fitness and clinical competence to practice medicine, whether the treatment, evaluation and testing occurred before, or while, the suspension was in effect.

- e. Documentation of Respondent's participation in the program(s) of the Committee for Physicians' Health of the Medical Society of the State of New York or other equivalent program(s). Documentation shall include but not be limited to verification of compliance and results of forensically valid alcohol/drug screening.
- f. Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records.
- g. A current, independent, in-depth chemical dependency and psychiatric evaluation by a board-certified psychiatrist specializing in addiction medicine.
- h. Upon request of the Director of OPMC, Respondent shall attend, participate in and cooperate with an interview with designated personnel from the OPMC.
- i. Respondent shall comply fully with the June 5, 2013, Order terminating Suspension and Imposing Probation of the Maryland State Board of Physicians and any extension or modification thereof and provide proof of compliance upon request by the OPMC.

**Provision of the documents listed in this paragraph shall not, alone, constitute a showing that Respondent is no longer incapacitated for active practice as a physician.**

- 4. At least 14 days before the scheduled date of the proceeding referred to in paragraph 2, Respondent shall provide OPMC with the following:
  - a. Certified true and complete copies of records updating treatment and alcohol/drug screening since the date of the original submissions referred to in paragraph 3d.
  - b. Evidence that Respondent has maintained adequate knowledge and competence to practice medicine; this evidence shall include documentation of continuing medical education and, at the Director of OPMC's request, a report of an independent evaluation of Respondent's medical knowledge and competence.

**Submission of the evidence listed in this paragraph shall not, alone, constitute a showing that Respondent is no longer incapacitated for active practice as a physician.**

- 5. If the Chair of the Committee issues an Order finding that Respondent has successfully completed the prescribed course of treatment and has regained fitness and competence to practice medicine, and therefore terminates the suspension of Respondent's license, the Order shall further impose a period of probation, pursuant to N.Y. Pub. Health Law § 230-a, during which Respondent's practice as a physician shall be subject to conditions imposed for a period of no less than five years. The minimum conditions shall include the following:

- a. Respondent shall be required to comply with the terms of a continuing after-care treatment plan addressing the major problems associated with Respondent's illness.
- b. At the direction of the Director of OPMC, Respondent shall submit to periodic interviews with, and evaluations by, a board-certified psychiatrist or other licensed mental health practitioner designated by the Director. This practitioner shall report to the Director regarding Respondent's condition and Respondent's fitness or incapacity to practice as a physician.
- c. Respondent's sobriety will be monitored by a health care professional proposed by Respondent and approved, in writing, by the Director of OPMC ("sobriety monitor"). The sobriety monitor shall not be a personal friend. The sobriety monitor shall be familiar with Respondent's history of chemical dependence, with this suspension and with the terms of probation to be set forth. The sobriety monitor shall acknowledge willingness to comply with the monitoring terms by executing the acknowledgment provided by OPMC.
  - i. Respondent shall remain drug and alcohol free.
  - ii. The sobriety monitor shall see Respondent at least twice during each month.
  - iii. The sobriety monitor shall direct Respondent to submit to unannounced tests of Respondent's blood, breath and/or urine for the presence of drugs or alcohol and shall report to OPMC within 24 hours if at any time a test is positive or is refused by Respondent. Respondent shall avoid all substances that may cause positive urine drug screens such as poppy seeds, mouthwash, cough medicine, etc. Any positive result shall be considered a violation of probation.
  - iv. The sobriety monitor shall report to OPMC any non-compliance with the imposed conditions.
  - v. Respondent shall ensure that the sobriety monitor submits quarterly reports to OPMC certifying Respondent's compliance, or detailing Respondent's failure to comply, with each of the conditions imposed. The reports shall include the results of all body fluid and/or breath tests for drugs and/or alcohol performed during that quarter.
- d. Respondent's medical practice shall be supervised by a licensed physician ("practice supervisor") proposed by Respondent and approved, in writing, by the Director of OPMC. The supervising physician shall be familiar with Respondent's history of impairment and with the Order and its conditions. The supervising physician shall supervise Respondent's compliance with the conditions of practice imposed by the Order. The supervising physician shall be in a position to regularly observe and assess Respondent's medical practice. The supervising physician shall oversee Respondent's prescribing, administering, dispensing, inventorying and wasting of controlled substances. The supervising physician shall acknowledge willingness to comply with the supervision terms by executing the acknowledgment provided by OPMC.

- i. Respondent shall ensure that the supervising physician submits quarterly reports to OPMC regarding the quality of Respondent's medical practice, any unexplained absences from work and certifying Respondent's compliance with each condition imposed, or detailing Respondent's failure to comply.
          - ii. The supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practices or possible misconduct to OPMC.
        - e. Respondent shall continue in treatment with a health care professional or program ("health care professional") proposed by Respondent and approved, in writing, by the Director of OPMC, for as long as the health care professional determines it is necessary.
          - i. Respondent shall ensure that the health care professional submits quarterly reports to OPMC certifying that Respondent is in compliance with treatment, or detailing Respondent's failure to comply.
          - ii. The health care professional shall report to OPMC immediately if Respondent is non-compliant with the treatment plan or demonstrates any significant pattern of absences.
          - iii. The health care professional shall acknowledge willingness to comply with the reporting requirements with respect to treatment by executing the acknowledgment provided by OPMC.
6. The terms set forth in paragraph 5 are the minimum probation terms related to fitness to practice to be imposed on Respondent upon the termination of Respondent's license suspension, and other terms may be added by the Committee. All compliance costs shall be Respondent's responsibility. Respondent's failure to comply with any condition imposed at the time of suspension termination may result in disciplinary action against Respondent with charges of professional misconduct as defined by the New York State Education Law, including but not limited to N.Y. Educ. Law § 6530(29).
7. If a Committee denies a petition by Respondent for license suspension termination, Respondent shall be barred from requesting that a Committee be convened to hear a petition for license suspension termination for 9 months from the date of the denial.
8. In addition to the terms set out in paragraph 5, and any other terms added by the Committee, upon the termination of Respondent's license suspension, Respondent shall also be subject to the following standard terms of probation:
  - a. Respondent's conduct shall conform to moral and professional standards of conduct and governing law.
  - b. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204, with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility.



Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.

- c. Any civil penalty not paid by Respondent by the prescribed date shall subject Respondent to all legal provisions pertaining to debt collection, including the imposition of interest, late payment charges and collection fees, referral of the debt to the New York State Department of Taxation and Finance for collection, and the non-renewal of permits or licenses. [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
- d. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 90 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
- e. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to a review of office records, patient records, hospital charts, and/or electronic records, as well as interviews and/or periodic visits with Respondent and staff at practice locations or OPMC offices.
- f. Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.
- g. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by state rules and regulations regarding controlled substances.
- h. Respondent shall comply with this Consent Order and all its terms, conditions, restrictions, limitations and penalties and shall be responsible for all associated compliance costs. Upon receiving evidence of non-compliance with the Consent Order, or any violation of its terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any other proceeding against Respondent authorized by law.

## EXHIBIT "C"

### **REQUIREMENTS FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of six months or more) OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine as a physician (in New York State) in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine as a physician.
2. Respondent shall have delivered, to OPMC at Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204, Respondent's original license to practice medicine in New York State and current biennial registration within five (5) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order, notify all patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient and/or his/her authorized representative requests a copy of the patient's medical record, or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic, and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of his/her inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall, within fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. Respondent shall within fifteen (15) days of the Order's effective date, return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement, New York State Department of Health at Riverview Center, 3<sup>rd</sup> Floor, 150 Broadway, Albany, NY 12204. Respondent shall cause all prescription pads bearing his/her name to be destroyed. If no other licensee is providing services at Respondent's practice location, all medications shall be properly disposed of.

7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories, on the internet or otherwise, professional stationery or billings by which his/her eligibility to practice is represented.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by Respondent or others) while barred from engaging in the practice of medicine as a physician. Respondent 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 this Order.
9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if Respondent's license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself/herself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within ninety (90) days of the effective date of this Order. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.
10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in Section 230-a of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which Respondent is found guilty and may include revocation of a suspended license.