



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
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NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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Chair

Denise M. Bolan, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

April 16, 2001

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Daniel Holschauer, M.D.
44 Paradise Lane
Warwick, NY 10990

RE: License No. 139966

Dear Dr. Holschauer:

Enclosed please find Order #BPMC 01-99 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect April 16, 2001.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Mark A. Fischer, Esq.
P.O. Box 3090
127 Wickham Avenue
Middletown, NY 10940

Cindy M. Fascia, M.D.

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

IN THE MATTER
OF
DANIEL HOLSCHAUER, M.D.

CONSENT
AGREEMENT
AND
ORDER

BPMC No. 01-99

STATE OF NEW YORK)
COUNTY OF ORANGE) ss.:

DANIEL HOLSCHAUER, M.D., (Respondent) being duly sworn, deposes and says:

That on or about October 5, 1979, I was licensed to practice as a physician in the State of New York, having been issued License No. 139966 by the New York State Education Department.

My current address is 44 Paradise Lane, Warwick, New York 10990, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with sixteen specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit A.

I admit guilt to the Second, Fourth, Fifth and Sixth Specifications, in full satisfaction of the charges against me. I hereby agree to the following penalties:

- 1) A one year suspension of my license to practice medicine in New York State. The first two months of said suspension will be a period of actual suspension, during which time I am prohibited from practicing medicine in New York State, and the remaining ten months will be a period of stayed suspension.

- 2) A probationary period of five years, during which I must fully comply with the Terms of Probation attached hereto as Exhibit B.
- 3) A permanent limitation on my license whereby I will examine, treat, consult with or perform procedures on any female patient only in the presence of a chaperone, as set forth in Exhibit C.
- 4) Monitoring for a period of two years as set forth in Exhibit D. I hereby agree to said monitoring despite the fact I have not been charged with impairment or habitual use in this proceeding.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet

with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

That Respondent will not engage in any social and/or sexual relationship and/or sexual contact with any patient or any former patient.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

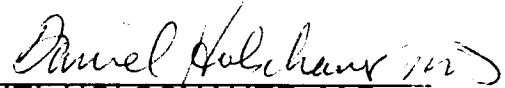
I agree that in the event I am charged with professional misconduct and/or a violation of the terms of my probation in the future, this agreement and order, including all Exhibits, shall be admitted into evidence in any such misconduct or violation of probation proceeding.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.



DANIEL HOLSCHAUER, M.D.
RESPONDENT

DATED March 26, 2001


Sworn to before me
on this 26th day of
March, 2001


MARK A. FISHER
NOTARY


MARK A. FISHER #4517448
NOTARY PUBLIC, State of New York
Qualified in Orange County
Commission Expires February 28, 2003

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

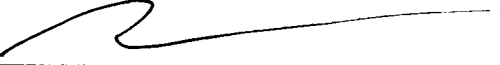
DATE: 3-26-01


MARK FISHER, ESQ.
Attorney for Respondent

DATE: March 30, 2001


CINDY M. FASCIA
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: April 09, 2001


DENNIS J. GRAZIANO
Director
Office of Professional
Medical Conduct

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

**IN THE MATTER
OF
DANIEL HOLSCHAUER, M.D.**

**CONSENT
ORDER**


Upon the proposed agreement of DANIEL HOLSCHAUER, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 4/12/01


WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
DANIEL HOLSCHAUER, M.D. : CHARGES

-----X

DANIEL HOLSCHAUER, M.D., Respondent, was authorized to practice medicine in New York State on October 5, 1979 by the issuance of license number 139966 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine through October 31, 2002, with a registration address of 44 Paradise Lane, Warwick, New York 10990.

FACTUAL ALLEGATIONS

- A. Respondent, on or about February 29, 1996, performed a cone biopsy on Patient A at Horton Hospital, Middletown, New York. (Patients are identified in Appendix.) Thereafter, on or about March 1, 1996, in an on-call room at Horton Hospital, Respondent removed the vaginal packing from the cone biopsy procedure. Respondent then engaged in the following conduct toward Patient A:
1. Respondent, after removing the vaginal packing, said to Patient A "you know, I'd really like to be in there" or words to such effect, referring to

Patient A's vagina and/or sexual contact with Patient A.

2. Respondent began to pull down his pants, and/or Patient A saw that Respondent had an erection.
3. Respondent told Patient A "I just did you a favor, now you could do me a favor" or words to such effect, referring to sexual contact.
4. Respondent told Patient A that he "would only put it in a little and it wouldn't hurt her" or words to such effect.
5. Respondent asked Patient A to perform oral sex on him, and/or to masturbate him with her hand, or words to such effect.
6. Respondent kissed Patient A on the mouth.
7. Respondent grabbed Patient A's breast.
8. Respondent told Patient A that he was going through a divorce and was lonely, or words to such effect.
9. Respondent gave Patient A his beeper number and said to Patient A "we could take care of this at another time", or words to such effect, referring to sexual contact.

10. Respondent attempted to have Patient A engage in sexual intercourse with him the day after Respondent had performed a cone biopsy on Patient A and/or immediately after Respondent had removed vaginal packing from the cone biopsy procedure.
- B. Respondent performed a termination of pregnancy on Patient B on or about July 19, 1995 at South Orange Gynecology, P.C., Monroe, New York.
1. Respondent, approximately one week after he performed the termination of pregnancy on Patient B, came to Patient B's place of employment and asked Patient B to go out with him.
 2. Respondent, approximately one week after he performed the termination of pregnancy on Patient B, engaged in sexual intercourse with Patient B and/or engaged in unprotected sexual intercourse with Patient B.
 3. Respondent, subsequent to engaging in sexual intercourse with Patient B, attempted to continue a social and/or sexual relationship with Patient B, in that:
 - a. Respondent called Patient B on the telephone on one or more occasions and attempted to make a date with her.

- b. On or about September 14, 1995, when Patient B was at the Middletown Community Health Center Clinic to seek medical care, Respondent put his arm around Patient B and said that he "needed a haircut, but that he wanted more than that", or words to such effect.
 - c. Respondent, on or about September 14, 1995, when Patient B was at the Middletown Community Health Center Clinic to seek medical care, asked Patient B to go out to lunch with him.
- C. Respondent, in approximately July 1991, provided medical care to Patient C at All Women's Health and Medical Services, P.C. at 222 Mamaroneck Avenue, White Plains, New York.
- 1. Respondent, in approximately July 1991, after providing post-abortion follow up medical care to Patient C, asked Patient C to go out with him.
 - 2. Respondent took Patient C out to dinner. While he and Patient C were at dinner, Respondent gave Patient C a pill and told her that it would help her relax, or words to such effect.
 - 3. Respondent, after Patient C took the pill he had given her at dinner and drank alcoholic beverages at dinner, took Patient C back to her apartment and had

sexual intercourse and/or unprotected sexual intercourse with her.

D. Respondent, on or about August 26, 1993, submitted an Application for Appointment to the Medical Staff to Arden Hill Hospital, Goshen, New York. Respondent, in his application, answered "No" to the question:

Do you presently have a physical or mental health condition, including alcohol or drug dependence, that affects or is reasonably likely to affect your ability to perform professional or medical staff duties appropriately?

Thereafter, Arden Hill Hospital received information that Respondent had a substance abuse problem and/or had been a habitual user of drugs or alcohol. Respondent, on or about January 24, 1994, was asked about the substance abuse issue. Respondent told Arden Hill Hospital personnel the following, in these words or words to such effect: that about eight years before, he succumbed to the temptation to try cocaine, and that a former friend had introduced him to it at a time when he was in a pit of despair over his father's passing, breakup of a relationship with a girlfriend, and the onset of his mother's Alzheimer's Disease. Respondent said he was beginning to enjoy the habit when he decided to seek help from his siblings and then entered into psychotherapy to grapple with problems in his childhood. Respondent said he was "able to lick the problem" without submitting his license or participating in a medical society sponsored program.

1. Respondent's representation as to the time period and/or circumstances and/or length of time and/or extent of his drug use was false, intentionally or recklessly misleading and/or deceptive.

2. Respondent, on the resume which he attached to and referenced in his Arden Hill Application, intentionally omitted his employment by Lawrence Perl, M.D., from July 1, 1987 through approximately February 1988. Respondent, during the course of his employment by Dr. Perl, used drugs and entered a rehabilitation facility, and eventually was terminated by Dr. Perl due to Respondent's drug use.

E. Respondent, on or about February 22, 1995, submitted an Application for Appointment to the Medical Staff to Horton Memorial Hospital, Middletown, New York. Respondent, in response to the question, "Have you ever had any problems with alcohol or drug dependency?", submitted the following addendum to his affirmative response:

In 1986 after my fathers (sic) death and my mothers (sic) rapid decline due to Alzheimers (sic) I became very depressed. I got involved with drug use for a short while. My family and friends urged me to seek help. I went for counseling and therapy. I have been drug free now for over 8 years. There were no repurcusions (sic) or professional sanctions by any board. I continued therapy and counseling for 6 years.

1. Respondent's representation as to the time period and/or circumstances and/or length of time and/or extent of his drug use was false, intentionally or recklessly misleading and/or deceptive.
2. Respondent's representation that "there were no repercussions or professional sanctions by any board" was false, intentionally or recklessly misleading and/or deceptive.
3. Respondent, in his application, referenced a curriculum vitae he submitted which he represented as listing his affiliations through 1989. Respondent intentionally omitted his employment by Lawrence Perl, M.D., from July 1, 1987 through approximately February 1988. Respondent, during the course of his employment by Dr. Perl, used drugs and entered a rehabilitation facility, and eventually was terminated by Dr. Perl due to Respondent's drug use.

F. Respondent, on or about July 12, 1996, sent a letter to the Administrator of Middletown Community Health Center (hereafter MCHC).

1. Respondent, in his letter, represented that he had been to the Attorney General's Office in Albany, and that the discussion with and/or questioning of Respondent had involved MCHC and its practices, when

in fact Respondent's presence at the Attorney General's office and the discussion and/or questioning did not involve MCHC, and Respondent knew such facts.

2. Respondent, in his letter, offered not to discuss MCHC and its practices with the authorities in return for certain actions on the part of the Administrator of MCHC.

SPECIFICATION OF CHARGES

FIRST THROUGH SIXTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing conduct in the practice of medicine which evidences moral unfitness to practice medicine in violation of N.Y. Education Law §6530(20), in that Petitioner charges:

1. The facts in Paragraphs A and A.1, and/or A.2, and/or A.3, and/or A.4, and/or A.5, and/or A.6, and/or A.7, and/or A.8, and/or A.9, and/or A.10.
2. The facts in Paragraphs B and B.1, and/or B.2, and/or B.3(a), and/or B.3(b), and/or B.3(c).

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

SEVENTH THROUGH NINTH SPECIFICATIONS

HARASSING, ABUSING, OR INTIMIDATING A PATIENT

Respondent is charged with willfully harassing, abusing or intimidating a patient physically and/or verbally in violation of N.Y. Education Law §6530(31), in that Petitioner charges:

7. The facts in Paragraphs A and A.1, and/or A.2, and/or A.3, and/or A.4, and/or A.5, and/or A.6, and/or A.7, and/or A.8, and/or A.9, and/or A.10.
8. The facts in Paragraphs B and B.1, and/or B.2, and/or B.3(a), and/or B.3(b), and/or B.3(c).
9. The facts in Paragraphs C and C.1, and/or C.2, and/or C.3.

TENTH SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with practicing medicine with gross negligence on a particular occasion in violation of N.Y. Education Law §6530(4), in that Petitioner charges:

10. The facts in Paragraphs A and A.10.

ELEVENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing medicine with negligence on more than one occasion in violation of N.Y. Education Law §6530(3), in that Petitioner charges that Respondent committed the following:

11. The facts in Paragraphs A and A.10 and/or B and B.2.

TWELFTH THROUGH FOURTEENTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with practicing medicine fraudulently in violation of N.Y. Education Law §6530(2), in that Petitioner charges:

12. The facts in Paragraphs D and D.1 and/or D.2.

13. The facts in Paragraphs E and E.1, and/or E.2,
and/or E.3.

14. The facts in Paragraphs F and F.1 and/or F.2.

FIFTEENTH AND SIXTEENTH SPECIFICATIONS

MAKING OR FILING A FALSE REPORT

Respondent is charged with willfully making or filing a false report in violation of N.Y. Education Law §6530(21), in that Petitioner charges:

15. The facts in Paragraphs D and D.1 and/or D.2.

16. The facts in Paragraphs E and E.1, and/or E.2,
and/or E.3.

DATED: *January 30*, 2001
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT B

TERMS OF PROBATION

DANIEL HOLSCHAUER, M.D.

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession. Respondent acknowledges that if s/he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19).
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent, at his own expense, shall undergo a psychiatric evaluation and treatment by a Board certified psychiatrist licensed to practice medicine in New York State, who shall be subject to approval in advance by the Director of OPMC or his designee. Said psychiatrist, prior to performing the initial evaluation, shall be provided with a copy of this Consent Order and Exhibits A, B, C and D, as well as those documents Petitioner has introduced as evidence with regard to its allegations. Respondent may also submit documents. Said evaluation is to be performed and a written copy provided to OPMC within sixty (60) days of the effective date of this Consent Order. Following said evaluation, Respondent shall undergo at least monthly therapy sessions for a period of at least one year and thereafter for so long and at such frequency as the psychiatrist shall recommend. Respondent shall cause the psychiatrist to provide quarterly reports to OPMC regarding Respondent's status, progress, compliance with treatment, and need for further treatment. Said treatment shall specifically address the issues of keeping appropriate boundaries with patients, and behaving appropriately with patients. If, during the period of psychiatric treatment, Respondent relocates more than two hundred miles from New York State, Respondent may select a Board certified treating psychiatrist licensed to practice in the state in which Respondent then resides. Any such psychiatrist is subject to the prior approval of OPMC. Any subsequent treating psychiatrist shall be subject to the approval of OPMC, and shall be provided with copies of all materials provided to the prior psychiatrist by OPMC.
4. Respondent, during each year of the period of probation, shall successfully complete one hundred (100) hours of Continuing Medical Education (CME) approved by the Accreditation Council for Continuing Medical Education, for a total of five hundred (500) hours. At least three hundred (300) hours of the Continuing Medical Education must be in the area of medical ethics and/or dynamics of an appropriate doctor/patient relationship. Respondent must seek approval in advance from OPMC for any courses which he proposes to take in

satisfaction of this requirement. Respondent shall also submit written verification of his successful completion of his yearly CME requirements to OPMC on an annual basis.

5. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. 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 and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
7. 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.
8. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

EXHIBIT C

CHAPERONE

DANIEL HOLSCHAUER, M.D.

1. Respondent shall, in the course of practicing medicine in New York State, examine and/or treat and/or consult with and/or perform any procedure on any female patient only in the presence of a chaperone. The chaperone shall be a female licensed or registered health care professional or other health care worker, shall not be a family member, personal friend, or be in a professional relationship with Respondent which could pose a conflict with the chaperone's responsibilities. The chaperone shall be proposed by Respondent and subject to the written approval of the Director of OPMC.
2. Prior to the approval of any individual as chaperone, Respondent shall cause the proposed chaperone to execute and submit to the Director of OPMC an acknowledgment of her agreement to undertake all of the responsibilities of the role of chaperone. Said acknowledgment shall be made upon a form provided by and acceptable to the Director. Respondent shall provide the chaperone with a copy of the Order and all of its attachments and shall, without fail, cause the approved chaperone to:
 - a. Report quarterly to OPMC regarding her chaperoning of Respondent's practice.
 - b. Report within 24 hours any failure of Respondent to comply with the Order, including, but not limited to, any failure by Respondent to have the chaperone present when required, any sexually suggestive or otherwise inappropriate comments by Respondent to any patient, and any actions of a sexual nature by Respondent in the presence of any patient.
 - c. Confirm the chaperone's presence at each and every examination, and treatment of, consultation with, or procedure performed upon, any female patient by Respondent, by placing her name, title and date in the patient record for each and every visit, and by maintaining a separate log, kept in her own possession, listing the patient name and date of visit for each and every patient visit chaperoned.
 - d. Provide copies of the log described in paragraph c, above, to OPMC at least quarterly and also immediately upon the Director's request.

EXHIBIT D

MONITORING

DANIEL HOLSCHAUER, M.D.

1. Respondent shall remain drug/alcohol free.
2. Respondent shall remain active in self help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
3. Respondent shall notify all treating physicians of his/her history of alcohol/chemical dependency. Respondent shall advise PMC of any controlled or mood-altering substance given or prescribed by treating physicians.
4. Respondent shall practice only when monitored by qualified health care professional monitors (sobriety monitor, practice supervisor, and therapist) proposed by Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships which would pose a conflict with monitoring responsibilities.
5. Respondent shall ensure that the monitors are familiar with Respondent's drug/alcohol dependency and with the terms of this Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitors to submit required reports on a timely basis.
6. Respondent shall submit, at the request of a monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random, seven-days a week, twenty-four hours a day basis. Respondent shall report for a drug screen within four (4) hours of being contacted by the monitor. Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by Respondent or a test is positive for any unauthorized substance.
7. Respondent shall meet with a sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying Respondent's sobriety. These reports are to include a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than twice a month for the first 12 months of the period of probation, then, for another twelve months, at a frequency to be proposed by the sobriety monitor and approved by OPMC and b) an assessment of self-help group attendance (e.g., AA/NA/Caduceus, etc.), 12 step progress, etc.
8. Respondent shall practice medicine only when supervised in his/her medical practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. Respondent shall not practice medicine until a practice supervisor has been approved. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
9. Respondent shall cause the practice supervisor to review Respondent's practice regarding the prescribing, administering, dispensing, inventorying,

and disposal of controlled substances.

10. Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any term of probation.
11. Respondent shall continue in counseling or other therapy with a therapist for a period of at least one year, and thereafter for as long as the therapist determines is necessary, as set forth in Exhibit B.
12. Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse.
13. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A
REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more)
OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine 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.
2. Respondent shall have delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order notify his 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 which 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 or and/or his or her 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 their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his 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 return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
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 or otherwise, professional stationery or billings by which his eligibility to practice is represented.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. 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 his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. 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 the Respondent is found guilty and may include revocation of a suspended license.