

STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

July 25, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Monica Martin, M.D.

Redacted Address

Francis Ruddy, Esq.
NYS Department of Health
90 Church Street – 4th Floor
New York, New York 10007-2919

Victor Roger Rubin, Esq.
Rubin Mackay International Law P.C.
303 Fifth Avenue
New York, New York 10016

RE: In the Matter of Monica Martin, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 08-136) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the Respondent or the Department may seek a review of a committee determination.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

Redacted Signature

James F. Horan, Acting Director
Bureau of Adjudication

JFH:cah

Enclosure

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

IN THE MATTER
OF
MONICA MARTIN, M.D.

DETERMINATION
AND
ORDER

BPMC 08 - 136
COPY

Richard N. Ashley, M.D., (Chairperson), Rafael Lopez, M.D., and James J. Ducey, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to §230(10) of the Public Health Law.

Marc P. Zylberberg, Esq., Administrative Law Judge ("ALJ"), served as the Administrative Officer.

The Department of Health appeared by Francis Ruddy, Esq., Assistant Counsel. Respondent, Monica Martin, M.D., appeared personally and was represented by Rubin Mackay International Law, P.C., Victor Roger Rubin, of Counsel¹.

Evidence was received and examined, including witnesses who were sworn or affirmed. Transcripts of the proceeding were made. After consideration of the record, the Hearing Committee issues this Determination and Order.

¹ Mr. Rubin appeared at the Pre-Hearing on March 25, 2008 and submitted an answer on behalf of Dr. Martin. Mr. Rubin requested an adjournment of the April 3, 2008 Hearing date, claiming personal illness, which adjournment was granted by the Hearing Committee. Mr. Rubin did not appear at the rescheduled May 6, 2008 Hearing and did not contact the ALJ to request an adjournment or to request to be relieved of his representation of Dr. Martin. On Friday, May 2, 2008, Mr. Rubin submitted a letter to the Department of Health attorney, Mr. Ruddy, indicating that "we regrettably have withdrawn from the representation of Dr. Martin, effective immediately." (ALJ Exhibit # 3).

PROCEDURAL HISTORY

Date of Notice of Hearing and Statement of Charges:	February 4, 2008
Date of Answer to Charges:	March 24, 2008
Hearing Held: - (First Hearing day):	May 6, 2008
Pre-Hearing Conference Held:	March 25, 2008
Intra-Hearing Conference Held:	May 6, 2008
Deliberations Held: (last day of Hearing)	June 25, 2008
Location of Hearings:	Offices of New York State Department of Health 90 Church Street, 4 th Floor New York, NY 10007
Witnesses called by the Department of Health:	Patient A ² Elizabeth Heubell Canam Lawrence Matlin
Witness called by the Respondent:	Monica Martin, M.D.

As indicated above, Mr. Rubin did not appear at the Hearing on May 6, 2008. Respondent indicated that she had contacted another attorney who would appear on her behalf. No attorney appeared. At the request of Respondent, the ALJ contacted a Mr. Francis A. Mainiero during the Hearing of May 6, 2008. Mr. Mainiero indicated that he had not been retained by Respondent. Respondent's request for an adjournment was denied by the Hearing Committee based on the above information. After Respondent's testimony and the close of the Hearing, Respondent was given additional time to submit information to the Hearing Committee, either through her own resources or through Mr. Mainiero or through another attorney. As of the date of this Determination and Order, no one purporting to represent of Dr. Martin, has contacted the ALJ.

² In order to maintain patient confidentiality the patient is referenced by letter.

STATEMENT OF CASE

The State Board for Professional Medical Conduct is a duly authorized professional disciplinary agency of the State of New York (§230 *et seq.* of the Public Health Law of the State of New York ["P.H.L."]). This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("Petitioner" or "Department") pursuant to §230 of the P.H.L. Monica Martin, M.D. ("Respondent") is charged with one (1) specification of professional misconduct as set forth in §6530 of the Education Law of the State of New York ("Education Law").

Respondent is charged with professional misconduct by reason of failing to complete forms or reports required for the reimbursement of a patient by a third party³.

Respondent essentially does not refute the factual allegations but denies that her acts were willful acts of misconduct and claims that any mistakes made were clerical errors, inadvertent and due to miscommunication between Respondent and Patient A. A copy of the Statement of Charges and a copy of the Answer are attached to this Determination and Order as Appendices # 1 and # 2.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record available to the Hearing Committee in this matter. These facts represent documentary evidence and testimony found persuasive by the Hearing Committee in arriving at a particular finding. Where there was conflicting evidence the Hearing Committee considered all of the evidence presented and rejected what was not relevant, believable or credible in favor of the cited evidence. The Department, which has the burden of proof, was required to prove its case by a preponderance of the evidence.

³ Education Law §6530(43) - (First Specification in the Statement of Charges [Department's Exhibit # 1]).

The Hearing Committee unanimously agreed on all Findings of Fact. All Findings of Fact made by the Hearing Committee were established by at least a preponderance of the evidence.

1. Respondent was authorized to practice medicine in New York State on October 30, 1981 by the issuance of license number 148324 by the New York State Education Department (Department's Exhibit # 5)⁴.

2. The State Board for Professional Medical Conduct has obtained personal jurisdiction over Respondent and has jurisdiction over Respondent's license and this disciplinary proceeding (determination made by the Administrative Law Judge; Respondent had no objection regarding service effected on her); (P.H.L. §230[10][d]); [P.H.T-10]⁵; (Department's Exhibits # 1, # 2, # 3 & # 4).

3. From May 13, 2003 through May 15, 2004, Respondent saw and treated Patient A on at least twelve (12) occasions at Respondent's medical office located at 161 Madison Avenue, Suite 8, in New York City (Department's Exhibits # 8 & # 12); [T-24-26, 77].

4. On May 13, 2003, Patient A and Respondent agreed between themselves that Patient A would pay Respondent out-of-pocket for medical services rendered, and that Respondent in turn would file insurance forms with Patient A's insurance carrier, so that Patient A might receive reimbursement as provided by her insurance company [T-23, 29, 32]; (Department's Exhibit # 10 @ p. 3).

⁴ Refers to exhibits in evidence submitted by the New York State Department of Health (Department's Exhibit #) or by Dr. Martin (Respondent's Exhibit #).

⁵ Numbers in brackets refer to Hearing transcript page numbers [T-] or to Pre-Hearing transcript page numbers [P.H.T-]. The Hearing Committee did not review the Pre-Hearing transcripts or the Intra-Hearing transcripts but, when necessary, was advised of the relevant legal decisions or rulings made by the Administrative Law Judge.

5. On May 13, 2003, Respondent informed Patient A that Respondent accepted all insurance [T-32]; (Department's Exhibit # 6).
6. Between May 13, 2003 and May 15, 2004, Patient A paid Respondent a total of \$4,225.00 (\$3,850.00 in checks and \$375.00 in cash) for services and treatment rendered by Respondent to Patient A during said period (Department's Exhibit # 12); [T- 24-25].
7. In May, 2003, Patient A had insurance coverage with Empire-Blue Cross/Blue Shield senior plan (an HMO). Patient A advised Respondent that she was changing her insurance coverage to Medicare, with supplementary coverage with one of AARP's providers [T-22-24, 32, 79]; (Department's Exhibit # 8 @ p. 4).
8. On or shortly after May 13, 2003, Patient A provided Respondent with Patient A's Medicare card, which was copied by Respondent's office staff [T-23, 26].
9. On three or four occasions between May 13, 2003 through May 15, 2004 Patient A inquired of Respondent if Respondent had mailed the claim forms to Medicare on her behalf. Respondent advised Patient A variously: that she had not; that she would; that she didn't have the time; that she was busy; that her parents were sick. When Patient A suggested to Respondent that Patient A would mail the (insurance) forms, Respondent dismissed the offer and said that Respondent had to fill the forms out, but Respondent did not have the time to do so [T- 27-28, 89]; (Department's Exhibit # 10 @ p. 3 & 4).
10. During interviews on July 21, 2005 and on August 22, 2006 Respondent told Lawrence Matlin, a Senior Medical Conduct Investigator with the NYS Office of Professional Medical Conduct, the following reasons why Respondent since May 13, 2003 had not filed insurance forms with the Medicare program on behalf of Patient A:

- (1) Patient A failed to give Respondent the Medicare forms;
- (2) Respondent was going to file the forms;
- (3) Respondent's parents were ill;
- (4) Respondent had personal problems;
- (5) Respondent's office staff had changed; and
- (6) Respondent was not familiar with how to file the forms [T-63-64].

11. From May 13, 2003 through the date of the Hearing, Patient A never received any reimbursement or statements from Medicare or any other insurance company for medical treatment rendered to her by Respondent [T-26-27, 32].

12. From May 13, 2003 through the date of the Hearing, Respondent never submitted forms to the Medicare program or any other insurance company for the medical treatment rendered to Patient A by Respondent [T-63-64].

13. From May 13, 2003 through the date of the Hearing, Respondent never provided to Patient A an itemized statement ("super bill") for the medical treatment she rendered to Patient A [T-33, 59, 69-70].

14. On various occasions between May 2003 and August 2006 Respondent promised to Patient A, promised to Investigator Matlin, and promised to Senior Consumer Frauds Representative (Health Care Bureau of the New York State Office of the Attorney General) Elizabeth Heubel, that she would submit the forms to Medicare and she was "going to make it right" for Patient A. Nevertheless, Respondent subsequently admitted to the above individuals that she never filled out the forms and never filed or submitted any forms on behalf of Patient A [T-18-34, 37-51, 54-70, 76-147]; (Department's Exhibit # 10 @ p. 3 & 4).

CONCLUSIONS OF LAW

The Hearing Committee, pursuant to the Findings of Fact listed above, makes the conclusion by a unanimous vote, that Factual Allegations A and A.1. contained in the February 4, 2008 Statement of Charges are **SUSTAINED**. Based on the foregoing, the Findings of Fact and the discussion below, the Hearing Committee, by a unanimous vote, concludes that the Specification of Misconduct contained in the Statement of Charges is **SUSTAINED**. The rationale for the Hearing Committee's conclusions is set forth below.

DISCUSSION

Respondent is charged with one (1) specification alleging professional misconduct within the meaning of §6530 of the Education Law. In her testimony, Respondent does not dispute that she did not fill out the forms for Patient A in relation to Patient A's Medicare claims.

Respondent's explanations regarding her failure to fill out the forms required are rejected by the Hearing Committee. Respondent was notified on numerous occasions by a number of governmental officials that she needed to fill out insurance forms or provide Patient A with adequate statements ("super bill") of her services. The reasons for not doing so, as given by Respondent, are insufficient to excuse her from her responsibility to her patient and to the health care system.

The Hearing Committee observed a physician with a long history of irresponsibility. Respondent disregarded Patient A's legitimate requests for completing forms or reports required by a third party payor and delayed Patient A's requests for her medical records. Respondent disregarded and/or delayed the Medicare Rights Center's legitimate requests to complete the forms or reports for Patient A that are required by a third party payor. Respondent disregarded and/or delayed the legitimate request made by the Office of the New York State Attorney General to

complete the forms or reports for Patient A that are required by a third party payor and to provide a copy of Patient A's medical records. Respondent disregarded and/or delayed the Department's legitimate requests to complete the forms or reports for Patient A that are required by a third party payor.

Respondent's history of conduct or actions which is before the Hearing Committee indicates an individual who acts or responds only when the matter has become a crisis and only when severe consequences are imminent (some examples include numerous promises to Patient A and to various governmental officials to fill out the requested forms, the failure to respond to the Department of Health, and the failure to accept documents sent by the Department).

Respondent repeatedly promised Patient A that she would ensure that insurance forms would be filed with Medicare on Patient A's behalf during the period when Respondent treated Patient A. Respondent could have filed the insurance forms with Medicare as either a non-participating provider (if she did not have a Medicare personal identification number "PIN") or as a participating provider (if she did have a Medicare PIN) in the Medicare program. Respondent failed to do so. Alternatively, Respondent could have furnished paid bills directly to Patient A, signed by Respondent, which listed the date of treatment, diagnosis, treatment, and amount paid. Patient A could have then submitted same to the Medicare program. Respondent failed to do so.

Respondent's failure, over a five (5) year period, to file the requested forms for Patient A, reflects a deficiency in Respondent's professional capacity to her patients and defies logic.

The Hearing Committee unanimously concludes that the Department has proven, by a preponderance of the evidence, that Respondent committed professional misconduct by failing to complete the insurance and/or Medicare forms for Patient A; therefore, the First Specification is sustained. Respondent violated §6530(43) of the Education Law.

DETERMINATION AS TO PENALTY

The Hearing Committee reviewed the full spectrum of penalties available pursuant to P.H.L. §230-a, including: (1) Censure and reprimand; (2) Suspension of the license, wholly or partially; (3) Limitations of the license; (4) Revocation of license; (5) Annulment of license or registration; (6) Limitations; (7) the imposition of monetary penalties; (8) a course of education or training; (9) performance of public service; and (10) probation.

The Hearing Committee considered the Department's proposed penalty and generally agrees with some minor modifications. Respondent should be Censured and Reprimanded, fined a total sum in the amount of \$3,000.00 (\$2,000.00 under P.H.L. §230-a[7] and \$1,000.00 as restitution to be provided to Patient A under P.H.L. §230[18][a][x]⁶), mandatory Continuing Medical Education in medical ethics, and in coding and medical billing as approved by the director of the OPMC, and a two (2) year period of probation under the terms of probation annexed as Appendix 3.

The only mitigation that the Hearing Committee could find in Respondent's favor is that the actual medical care that she provided to Patient A was proper and adequate. The Department did not claim, and in fact conceded, that this case was not about quality of care.

Respondent's failure to complete the forms in question is not a misunderstanding. There was no breakdown in communication. Respondent's actions are willful and a reckless disregard of her fiduciary obligations and responsibilities to her patient as a practicing physician.

Respondent's actions towards Patient A was misleading. Respondent's empty promises are unacceptable. Respondent is not required to take Medicare or insurance but she is required to so inform her patients whether she does or does not.

⁶ The Hearing Committee imposes on the Respondent, or in the alternative, requests that the director of the OPMC requires the Respondent, to pay to Patient A the sum of \$1,000.00 for Respondent's failure to fill out the forms necessary for Respondent to obtain any reimbursement of her expenditures. The Hearing Committee believes that this restitution is reasonably related to the misconduct found and that the director may require the Respondent to comply with the penalty imposed pursuant to P.H.L. §230(18)(a)(ix) and (x).

Taking all of the facts, details, circumstances, and particulars in this matter into consideration, we determine the above to be the appropriate action under the circumstances.

By execution of this Determination and Order, all members of the Hearing Committee certify that they have read and considered the complete record of this proceeding.

ORDER

Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of Misconduct, contained in the Statement of Charges (Department's Exhibit # 1), is **SUSTAINED**; and

2. Respondent is **CENSURED and REPRIMANDED** and placed on **PROBATION for TWO (2) YEARS** and shall practice in accordance with the terms of probation which are annexed and made a part of this Order (Appendix 3); and

3. Respondent shall enroll in and complete a continuing medical education ("CME") program in the area of **medical ethics for a minimum of ten (10) credit hours AND** shall enroll in and complete a CME program in the area of **coding and medical billing for a minimum of ten (10) credit hours.** The CME programs are subject to the Director of OPMC's prior written approval and shall be completed within **six (6) months** of the effective date of the Determination and Order; and

3-A. Within sixty (60) days of the effective date of this Order, Respondent shall pay a total fine of **THREE THOUSAND (\$3,000.00) DOLLARS** (\$2,000.00 to be turned over to the State of New York and \$1,000.00 to be turned over to Patient A); and

4. Said fine shall be submitted to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct, Hedley Park Place, 433 River Street, Suite 303, Troy, New York 12180-2299; and


5. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes, but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non renewal of permits or licenses (Tax Law §171[27]; State Finance Law §18; CPLR §5001; Executive Law §32); and

6. Respondent shall remain compliant with this Determination and Order and shall cooperate with the New York State Department of Health and provide any and all releases for information to the Department of Health concerning her compliance with the payment of the restitution and payment of the fine imposed; and

7. This Determination and Order shall be effective on personal service on the Respondent or seven (7) days after the date of mailing of a copy to Respondent by certified mail or as provided by P.H.L. §230(10)(h).

DATED: New York
July, 24 2008

Redacted Signature


Richard N. Ashley, M.D., (Chairperson)
Rafael Lopez, M.D.
James J. Ducey

Monica Martin, M.D.
401 West 56th Street
Apartment 4-E
New York, NY 10011

Victor Roger Rubin, Esq.
Rubin Mackay International Law, P.C.
303 Fifth Avenue
New York, NY 10016

Francis Ruddy, Esq.
Assistant Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, NY 10007-2919

APPENDIX 1

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

IN THE MATTER
OF
MONICA MARTIN, M.D.

STATEMENT
OF
CHARGES

MONICA MARTIN, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 30, 1981, by the issuance of license number 148324 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A, a female, d.o.b. 10/9/29, at her office located at 161 Madison Avenue, Suite 8 SW, New York, New York 10016, for gynecological services, from approximately May 13, 2003 to May 15, 2004. (The identity of Patient A is contained in the attached appendix.)

1. Respondent failed to fill out form(s) which were required for reimbursement to Patient A in relation to her Medicare claims.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

FAILURE TO COMPLETE FORMS REQUIRED FOR REIMBURSEMENT OF A PATIENT BY A THIRD PARTY

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(43) by failing to complete forms or reports required for the reimbursement of a patient by a third party, as alleged in the facts of:

1. Paragraph A and A1.

DATE: February 4, 2008
New York, New York

Redacted Signature

Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct

APPENDIX 2

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



-----X
IN THE MATTER

OF

ANSWER TO
CHARGE

MONICA MARTIN, M.D.
-----X

MONICA MARTIN, the Respondent herein, by her attorneys, RUBIN MACKAY INTERNATIONAL LAW, P.C., answering the charge in the "Statement of Charges" respectfully shows the State Board for Professional Medical Conduct as follows;

AS TO THE FACTUAL ALLEGATIONS

1. Respondent denies each and every allegation contained in the Paragraph "A.1 of the Statement of Charges" and the "First Specification" of the "Specification of Charges" as they may relate to willful acts of misconduct involving a failure to fill out forms required for reimbursement.

AS AND FOR A COMPLETE DEFENSE TO SAID CHARGE

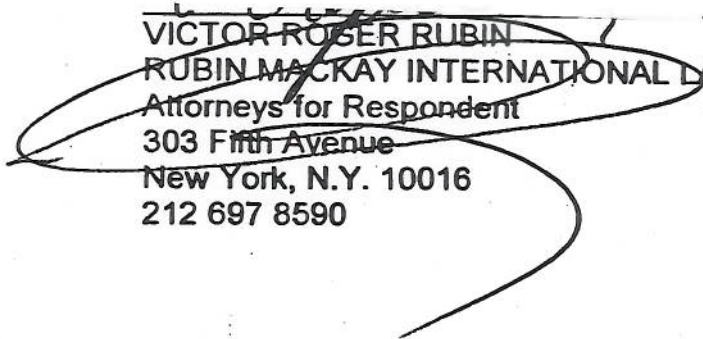
2. Respondent respectfully alleges that if any forms were not, in fact, filled out as specified in the said "Statement of Charges" and the "First Specification" of the "Specification of Charges", such mistakes were wholly inadvertent and due in major part to miscommunication between the specified patient and the Respondent.

AS AND FOR A DEFENSE IN MITIGATION

3. Respondent respectfully alleges that the within charges represent at worst, clerical errors, and that Respondent has always been a superb practitioner in the medical field. In the case at bar, she successfully treated the patient with treatment that involved surgery and the respondent has never before been brought before the instant Board.

Dated, New York, N.Y
March 24th, 2008

Redacted Signature


VICTOR ROSE R RUBIN
RUBIN MACKAY INTERNATIONAL LAW, P.C.
Attorneys for Respondent
303 Fifth Avenue
New York, N.Y. 10016
212 697 8590

Index No.:

Year

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

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IN THE MATTER
OF
MONICA MARTIN, M.D.

=====

ANSWER TO CHARGE

=====

Redacted Signature

~~VICTOR ROGER RUBIN, ESQ.~~
RUBIN MACKAY INTERNATIONAL LAW, P.C.
Attorneys for Plaintiff
Office and P.O. Address:
303 Fifth Avenue,
New York, N.Y. 10016
Tel:(212) 697 8590

=====

To:
Attorney(s) for

=====

Service of a copy of the within
is hereby admitted

Dated: _____
Attorneys for

=====

PLEASE TAKE NOTICE

_____ that the within is a true (certified) copy of a
entered in the office of the clerk of the within named
Court on 19

_____ that an order of which the within is a true copy shall be
presented for settlement to the Hon.
one of Judges of the within named Court at
on 19 , at M.

Dated:

VICTOR ROGER RUBIN, ESQ.
RUBIN MACKAY INTERNATIONAL LAW, P.C.

APPENDIX 3

Terms of Probation For Monica Martin, M.D.

1. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within and outside of New York State, and any and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action. Respondent shall notify OPMC, in writing, within thirty (30) days of any additions to or changes in the required information.
2. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Determination and Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
3. Respondent shall enroll in and complete a continuing medical education ("CME") program in the area of medical ethics for a minimum of ten (10) credit hours AND shall enroll in and complete a CME program in the area of coding and medical billing for a minimum of ten (10) credit hours. The CME programs are subject to the Director of OPMC's prior written approval and shall be completed within six (6) months of the effective date of the Determination and Order.
4. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law §171(27); State Finance Law §18; CPLR §5001; Executive Law §32]
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 at least fourteen (14) days before returning to active practice. On return to active practice in New York, the period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled.

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, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and 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 maintain active registration of Respondent's license with the New York State Education Department, Division of Professional Licensing Services, and shall pay all registration fees.
9. Respondent shall conduct herself in all ways in a manner befitting her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by her profession.
10. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which she is subject pursuant to the Determination and Order and shall assume and bear all costs related to compliance. On 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.