



**Department
of Health**

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

October 6, 2017

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Timothy J. Morley, D.O.

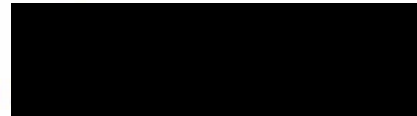

Re: License No. 263342

Dear Dr. Morley:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 17-289. This order and any penalty provided therein goes into effect October 13, 2017.

Please direct any questions to: Board for Professional Medical Conduct, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204, telephone # 518-402-0846.

Sincerely,



Robert A. Catalano, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Joseph Potashnik, Esq.
Joseph Potashnik and Associates, PC.
260 Madison Avenue, 21st Fl.
New York, New York 10016

IN THE MATTER
OF
TIMOTHY MORLEY, D.O.

CONSENT
ORDER

Upon the application of (Respondent) TIMOTHY MORLEY, D.O., in the attached Consent Agreement and Order, 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 transmission to Respondent or Respondent's attorney,

whichever is first

SO ORDERED.

DATE 10/05/2017


Carmela Torrelli
Vice Chair
State Board for Professional Medical Conduct

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

IN THE MATTER
OF
TIMOTHY MORLEY, D.O.

CONSENT
AGREEMENT

TIMOTHY MORLEY, D.O., represents that all of the following statements are true:

That on or about October 20, 2011, I was licensed to practice as a physician in the State of New York, and issued License No. 263342 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 address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Commissioner's Summary Order, Notice of Hearing, and Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement

I agree not to contest the allegations set forth in Paragraphs A, A1, A3, and A4, and the first through fourth specifications of misconduct, to the extent those allegations are

cited in those specifications, in full satisfaction of the charges against me, and agree to the following penalty:

- Respondent shall remain subject to the requirements imposed pursuant to Summary Order of the Commissioner. Those requirements, precluding medical practice and requiring production of records, shall remain in full force and effect until and unless Respondent satisfies all conditions set forth in Exhibit B, and receives written notice from the Director of the Office of Professional Medical Conduct that the Director has determined that such satisfaction is complete and acceptable.
- Pursuant to N.Y. Pub. Health Law § 230-a(3), Respondent's license to practice medicine in New York State shall be limited to preclude Respondent, his designee(s), and/or any practitioners or others in his employ, from:
 - Preparation, handling, and administration of any form of substance to be given intravenously;
 - Performing any and all intravenous services; and
 - Compounding of medication. ("Compounding shall include the combining, mixing, or altering of ingredients of a drug to create a medication tailored to the needs of one or more individual patients.)

- Pursuant to N.Y. Pub. Health Law § 230-a(9), Respondent shall be placed on probation for a period of 36 months, subject to the terms set forth in attached Exhibit "C."

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

That Respondent shall comply with each and every penalty imposed by this Order pursuant to N.Y. Pub. Health Law § 230-a.

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 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall: report to the department all information required by the Department to develop a

public physician profile for the licensee; continue to notify the department of any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his or her profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his or her physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent remains a licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(21) and N.Y. Educ. Law § 6530(29). Potential penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand, probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, 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. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent Order and in its investigations 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 Order. Respondent shall meet with a person designated by the Director of OPMC,

as directed. Respondent shall respond promptly and provide 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 N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and Order 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 N.Y. Pub. 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 its 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 transmission to me or my attorney, whichever is first.

The Consent Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities or other confidential information, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

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 and OPMC 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 of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed 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 10/4/17

8



TIMOTHY MORLEY, D.O.
RESPONDENT

5

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

DATE: 10/4/17


JOSEPH POTASHNIK, ESQ.
Attorney for Respondent

DATE: 10/5/17


ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct

DATE: 10/5/17


KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER
OF
TIMOTHY MORLEY, D.O.

COMMISSIONER'S
ORDER AND
NOTICE OF
HEARING

TO: TIMOTHY MORLEY, D.O.
37 Moore Avenue, #3, Mount Kisco, N.Y.
10549 and 1133 Westchester Ave. White Plains, N.Y.

The undersigned, Howard A. Zucker, M.D., J.D., Commissioner of Health, after an investigation, and after being presented with information indicating that a licensee is causing, engaging in or maintaining a condition or activity which has resulted in the transmission or suspected transmission, or is likely to lead to the transmission, of communicable disease as defined in the state sanitary code or HIV/AIDS, by the state and/or a local health department and being of the opinion it would be prejudicial to the interests of the people to delay action until an opportunity for a hearing can be provided in accordance with the prehearing and hearing provisions of §230 of the Public Health Law, and upon the Statement of Charges attached hereto and made a part hereof, has determined that the continued practice of medicine in the State of New York by TIMOTHY MORLEY, D.O. (henceforth: "Respondent") and the continued failure by Respondent to provide within one day any relevant records or other information requested by the state or local department of health with respect to an inquiry into a report of a communicable disease as defined in the state sanitary code, or HIV/AIDS, constitutes an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law §230(12), that effective immediately, Respondent shall not practice medicine in the State of New York. It is further ORDERED that effective immediately Respondent shall cease and desist in his continuing failure to produce records required and demanded by the NY State Health Department and/or the Westchester County Health Department and shall forthwith produce to those departments all records and other information as required, including but not limited to producing for interview all staff of Respondent's medical practice offices. This Order is effective upon issuance and shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law §230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admn. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on September 19, 2017, at 10:00 a.m., at the offices of the New York State Health Department, at 90 Church Street – 4th Floor, New York, NY 10007, and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his

behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not the Respondant appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center 150 Broadway - Suite 510, Albany, NY 12204-2719., ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

**THESE PROCEEDINGS MAY RESULT IN A DETERMINATION
THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW
YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT
YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET**

FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU
ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT
YOU IN THIS MATTER.

DATED: Albany, New York

September 8, 2017

 Feb
Howard A. Zucker, M.D., J.D.
Commissioner of Health
New York State Health Department

Inquiries should be directed to:

ROY NEMERSON
Deputy Counsel / BPMC
N.Y.S. Department of Health
Division of Legal Affairs
90 Church Street – 4th Floor
212-417-4450

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

IN THE MATTER
OF
TIMOTHY MORLEY, D.O.

STATEMENT
OF
CHARGES

TIMOTHY MORLEY, D.O., the Respondent, was authorized to practice medicine in New York State on or about October 20, 2011, by the issuance of license number 263342 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On dates in and after December 2015, and continuing until the present, Respondent has maintained medical practice at locations including 37 Moore Avenue, #3, Mount Kisco, N.Y. and 1133 Westchester Ave. White Plains, N.Y. As is relevant to the allegation set forth below, Respondent's practice included the intravenous infusion and intramuscular injection of "supplements" prepared at the practice site; intravenous infusion of an "Ozone" solution; phlebotomy; and the preparation of medications, nutritionals, and supplements for those infusions and/or injections.

1. Respondent in the general course of his above described medical practice(s) failed to comply with scientifically accepted barrier precautions and infection control practices regarding office procedures; staff and personal hand hygiene; and medication preservation, preparation, handling, and administration.

2. Respondent, with respect to at least those four of his patients identified in Appendix A. (patient identities are confidential), failed to exercise due care to prevent the transmission of hepatitis C virus (HCV) to or among those patients.
3. Respondent permitted, aided, or abetted medical or nursing practices by his staff unauthorized by license to engage in those practices.
4. During August and September 2017, Respondent, upon receiving requests, from the New York State and Westchester County Departments of Health for records and/or other information in their investigation of the communicable disease transmission set forth in Paragraph A2, failed to produce all such records and failed to make available for interview those of his staff members who possessed such information.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

FAILURE RE: INFECTION CONTROL

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(47) in his failure to use scientifically accepted barrier precautions and infection control practices as established by the department of health pursuant to section two hundred thirty-a of the public health law., as alleged in the facts of the following:

1. Paragraphs A, and A1 and/or A2.

SECOND SPECIFICATION

PERMITTING, AIDING OR ABETTING UNLICENSED PRACTICE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(11) by permitting, aiding or abetting an unlicensed person to perform activities requiring a license as alleged in the facts of the following:

- 2 Paragraphs A and A3.

THIRD SPECIFICATION

FAILURE TO PRODUCE RECORDS OR INFORMATION REGARDING INQUIRY RE:

COMMUNICABLE DISEASE TRANSMISSION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(49) by, without having shown good cause, failing to provide within one day any relevant records or other information requested by the state or local department of health with respect to an inquiry into a report of a communicable disease as defined in the state sanitary code, or HIV/AIDS., as alleged in the facts of:

3. Paragraphs A and A4.

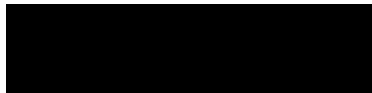
FOURTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of:

4. Paragraphs A and its subparagraphs.

DATE: September 8, 2017
New York, New York



for

ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"**Conditions Precedent to Release from Summary Order**

1. Respondent shall enroll in and successfully complete professional education, proposed by him but subject to the Director's advance written approval, in the subject areas of infection prevention and control, safe injection practices, safe medication handling and administration, prevention of bloodborne pathogen transmission, supervision and scope of practice for employees, and medical record keeping.
2. Subsequent to successful compliance with Condition #1, above, Respondent shall take and pass a clinical competency evaluation, proposed by him but subject to the Director's advance written approval, in the subject areas set forth in Condition #1, above.
3. At the discretion of the Director, Respondent shall meet with and submit to interview by personnel of the Office of Professional Medical Conduct and the Bureau of Healthcare Associated Infections, for the purpose of demonstrating his fund of knowledge regarding infection prevention and control standards and practices.
4. Respondent shall advise the Director of OPMC, in writing, of every proposed practice location and shall make such locations available to personnel of the Office of Professional Medical Conduct and the Bureau of Healthcare Associated Infections. This condition shall continue to apply with regard to any and all future practice locations until Respondent completes his full term of probation under this order.
5. Respondent shall hire a consultant with experience and expertise in the field of infection prevention and control. Such consultant shall be proposed by Respondent but subject to the Director's advance written approval. for the first three months after the consultant is approved and hired, Respondent shall cause the consultant spend a minimum of 20 hours per week on site at Respondent's practice(s). Respondent shall cause the consultant to determine the competency of office staff in appropriate infection control practices, and to then take steps to remediate deficiencies in knowledge, process, or practice if found. Respondent shall cause such consultant to report finding and activities, no less frequently than quarterly, to OPMC. Any perceived deviation from

accepted standards of medical care or refusal to cooperate with the consultant shall be reported within 24 hours to OPMC. The consultant will assist the Respondent in the development and review of infection prevention and control policies, procedures, and practices for each practice location. The consultant shall also provide periodic education regarding infection prevention and control. Respondent shall cause the consultant to provide the Director with full access to the consultant for the purpose of periodically reviewing the consultant's findings and activities. The consultant shall not be the same individual who will serve as Practice Monitor under the terms of probation.

6. At such time as Respondent believes he has complied with each of the above terms, he shall make written application to the Director of OPMC, to request the Director's written determination that each of these conditions has been satisfied. Upon receipt of such Director's determination, the terms as imposed pursuant to the Commissioner's Summary Order shall terminate. Respondent shall continue, however, to be bound by all relevant law, practice standards, and other terms of this Consent Order.

EXHIBIT "C"

Terms of Probation

- 1) Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
- 2) Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
- 3) 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].
- 4) 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 14 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.
- 5) The Department of Health, the Office of Public Health, Bureau of Healthcare Associated Infections, and/or the Director of OPMC may review Respondent's professional performance. 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 and/or inspections, with Respondent and staff at practice locations or OPMC offices. Respondent shall in all respects provide immediate access and cooperation. Respondent shall provide such access prior to the resumption of practice at any planned practice location.
- 6) 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.

- 7) Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
- 8) Within thirty days of the Consent Order's effective date, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.
 - a) Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b) Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c) Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d) Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
- 9) Respondent shall enroll in and successfully complete a continuing education program in an area or areas as directed by OPMC. This continuing education program is subject to the Director of OPMC's prior written approval and shall be successfully completed within the first 90 days of the probation period.
- 10) Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.