



**Department
of Health**

ANDREW M. CUOMO
Governor

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

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

April 3, 2018

CERTIFIED MAIL-RECEIPT REQUESTED

Jason Brancato, P.A.
365 Broadway, Suite 1
Amityville, New York 11701

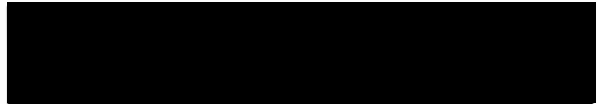
Re: License No. 012564

Dear Mr. Brancato:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 18-076. This Order of Conditions pursuant to Public Health Law Section 230 is effective April 10, 2018.

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

cc: Alexander G. Bateman, Jr.
Ruskin, Moscou, Faltischek, P.C.
1425 RXR Plaza
East Tower, 15th Fl.
Uniondale, New York 11556-1425

IN THE MATTER
OF
JASON BRANCATO, P.A.

ORDER
OF CONDITIONS
PURSUANT TO
N.Y. PUB. HEALTH
LAW § 230

Upon the application of JASON BRANCATO, P.A. (Licensee) in the attached Stipulation and Application for an Order of Conditions Pursuant to N.Y. Pub. Health Law § 230 (Application), which is made a part of this Order of Conditions Pursuant to N.Y. Pub. Health Law § 230 (Order), it is agreed that:

- the Application and its terms are adopted; and
- this Order shall be effective upon issuance by the Board, either by mailing of a copy of this Order by first class mail to Licensee at the address in the attached Application or by certified mail to Licensee's attorney, or upon facsimile transmission to Licensee or Licensee's attorney, whichever is first.

SO ORDERED.

DATE: 4/02/2018


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

IN THE MATTER
OF
JASON BRANCATO, P.A.

APPLICATION FOR
ORDER OF
CONDITIONS
PURSUANT TO
N.Y. PUB. HEALTH
LAW § 230

JASON BRANCATO, P.A., represents that all of the following statements are true:

That on or about May 27, 2008, I was licensed to practice as a physician assistant in the State of New York, and issued License No. 012564 by the New York State Education Department.

My current address is 365 Broadway, Suite 1, Amityville, N.Y. 11701

and I will advise the Director of the Office of Professional Medical Conduct of any change of address. I am affiliated with the following hospitals and/or facilities: NONE

I understand that the New York State Board for Professional Medical Conduct ("the Board") has investigated the issues set forth in attached Exhibit "A".

I request that the Board and the Director of the Office of Professional Medical Conduct ("the Director"), in reliance upon the results of the investigation to date and upon my representation that I have practiced as a physician assistant without incident for at least a year before this Application, conclude the investigation of these issues, provided I successfully and without incident comply with the Conditions set forth below. In consideration of the Board and the Director granting this Application, and upon the Board's

election not to bring disciplinary charges against me, I agree that the Board and the Director shall issue an Order of Conditions Pursuant to N.Y. Pub. Health Law § 230.

I agree that the Order shall impose the following conditions:

That Licensee shall not treat or prescribe any medications, whether controlled or non-controlled substances, for himself, family members, personal friends, or persons with whom he is in a professional relationship.

That Licensee 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. Licensee 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 Order's effective date and shall continue at all times until the conclusion of the period of Practice Conditions, regardless of tolling; and

That Licensee 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 Licensee'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. Licensee 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 Licensee receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Licensee has fully complied with and satisfied the requirements of the Order, regardless of tolling; and

That Licensee shall cooperate fully with the Office of Professional Medical Conduct ("OPMC") in its administration and enforcement of this Order and in its investigation of Licensee. Licensee shall respond in a timely manner to all OPMC requests for written periodic verification of compliance with the terms of this Order, meet in person with the Director's designee, and respond promptly and provide all documents and information within Licensee's control to OPMC, as directed. This Condition shall take effect upon the Order's effective date and shall continue while Licensee possesses a license in New York; and

That for a period of 36 months from the Order's effective date, subject to the tolling provisions set forth below, Licensee shall be subject to additional conditions set forth as "Practice Conditions" enumerated in Exhibits "B" and "C", which are attached to and a part of this agreement.

I stipulate that my failure to comply with the conditions imposed by this order, if proven and found at a hearing pursuant to N. Y. Pub. Health Law § 230(10), shall

constitute professional misconduct as defined in N.Y. Educ. Law § 6530(29). I agree that if I am charged with professional misconduct in future, this Application and Order shall be admitted into evidence in that proceeding.

I understand that nothing in this Application shall be construed as an admission by me of any act of alleged misconduct or as a finding of misconduct as to those issues referred to in Exhibit "A". I deny any acts of misconduct and reserve my right to assert all defenses I may have in any later or other proceeding.

I understand and agree that my failure to comply with, successfully complete, or satisfy any of the material conditions of this Order, and/or any unsatisfactory report by the practice supervisor, Preceptor, or monitor (if any) shall vest the Director with the authority, in the exercise of reasonable discretion, to vacate this agreement and shall permit the Director to pursue further investigation and/or prosecution of misconduct charges against me as to the issues set forth in Exhibit "A" to the full extent authorized by the Public Health Law and the Education Law.

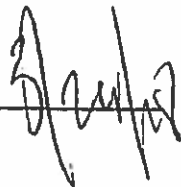
I understand that an Order issued upon this Application does not bar prosecution for professional misconduct based upon allegations of violations of N.Y. Educ. Law § 6530 unrelated to the issues set forth in Exhibit "A", whether those alleged violations occurred before or after this Application. The Director may, at such time, also direct counsel to prepare charges that include allegations as to the issues set forth in Exhibit "A".

I agree that, if the Board grants this Application, the Chair of the Board shall issue an Order of Conditions in accordance with its terms. I further agree that the Department of Health shall notify the National Practitioner Data Bank and the Federation of State Medical Boards of this Order of Conditions pursuant to N.Y. Pub. Health Law § 230 and that the change in my licensure status is not disciplinary in nature. This Order of Conditions [with the exception of Exhibit "A," which shall remain a part of the investigative files of the Office of Professional Medical Conduct within the meaning of N.Y. Pub. Health Law § 230(10)(a)(v)] shall be posted on the Department of Health website(s).

I make this Application of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Application, I waive my right to contest the Order for which I apply, whether administratively or judicially, I agree to be bound by the Order, and I ask that the Board grant this Application.

I understand and agree that the attorney for the Department of Health, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and 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




JASON BRANCATO, P.A.
LICENSEE

The undersigned agree to Licensee's attached Order of Conditions and to its proposed terms and conditions.

DATE: 3/26/18


ALEXANDER G. BATEMAN, JR., ESQ.
Attorney for Licensee

DATE: March 27, 2018


MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/29/18


KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "B"

PRACTICE CONDITIONS

- 1) Licensee's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Licensee as defined in N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of this Order and may subject Licensee to an action pursuant to N.Y. Pub. Health Law § 230.
- 2) Licensee shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Licensee shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients.
- 3) The Director may review Licensee'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 or periodic visits with Licensee and staff at practice locations or OPMC offices.
- 4) Licensee shall provide access for DOH personnel to Licensee's office(s) to verify Licensee's compliance with this Order. This access shall include, but not be limited to, on-site inspections, observation and interviews.
- 5) Within thirty days of this Order's effective date, Licensee shall practice as a physician assistant only when supervised by a licensed physician, board certified in an appropriate specialty, ("practice supervisor") proposed by Licensee and subject to the written approval of the Director of OPMC. The Practice Supervisor shall be

on-site at all locations, unless determined otherwise by the Director of OPMC, and shall be in a position to regularly observe and assess Licensee's practice as a physician assistant. The Practice Supervisor shall oversee Licensee's compliance with the terms of practice imposed by the Order and Licensee's prescribing, administering, dispensing, inventorying, wasting and disposal of controlled substances. The Practice Supervisor shall report immediately to OPMC any suspected impairment, inappropriate behavior, questionable medical practice, possible misconduct, or violation by Licensee of any of the terms of this Order. The Practice Supervisor shall submit quarterly reports to OPMC regarding the quality of Licensee's practice as a physician assistant and prescribing practices, any unexplained absences from work, and certifying Licensee's compliance or detailing Licensee's failure to comply with each Condition imposed. Any practice as a physician assistant in violation of this term shall constitute unauthorized practice.

6) Licensee shall obtain a clinical competency assessment (CCA) performed by a program for such assessment as directed by the Director of OPMC. Licensee shall complete the assessment to the satisfaction of the Director of OPMC, and shall cause a written report of such assessment to be provided directly to the Director of OPMC within sixty (60) days of the effective date of this Order.

a) Licensee shall be responsible for all expenses related to the clinical competency assessment and shall provide to the Director of OPMC proof of full payment of all costs that may be charged. This condition shall not be satisfied in the absence of actual receipt, by the Director, of such

documentation, and any failure to satisfy shall provide a basis for a proceeding pursuant to governing law.

- 7) At the direction of the Director, and within 60 days following the completion of the clinical competency assessment the Licensee shall identify a Preceptor, who shall be a Board certified physician, to be approved in writing, by the Director of OPMC.

The Licensee shall cause the Preceptor to:

- a) Develop and submit to the Director of OPMC for written approval a remediation plan, which addresses the deficiencies /retraining recommendations identified in the CCA. Additionally, this proposal shall establish a timeframe for completion of the remediation program.
- b) Submit progress reports at periods identified by OPMC certifying whether the Licensee is fully participating in the personalized continuing medical education program and is making satisfactory progress towards the completion of the approved remediation plan.
- c) Report immediately to the Director of OPMC if the Licensee withdraws from the program and report promptly to OPMC any non-compliance by the Licensee.
- d) At the conclusion of the program, and at any time prior to the conclusion, as Preceptor deems appropriate, submit to the Director a detailed assessment of the progress made by the Licensee toward remediation of all identified deficiencies, a recommendation regarding the need for any further remediation or training, and any recommendation regarding

advisable restrictions, if any, on Licensee's future practice as a physician assistant.

- 8) Licensee shall be subject to any further terms and conditions as may be imposed by Director, in the Director's sole reasonable discretion, as the Director deems necessary based upon all relevant facts and circumstances then known to OPMC, including, but not limited to, those related to OPMC investigations of Licensee, the results and recommendations of the CCA, the Preceptor's reports, and Licensee's practice in the future, as deemed by the Director to be necessary to protect the public health. Licensee, by making this Application, stipulates that the Director shall be so authorized.
- 9) Licensee shall solely^{BE} responsible for all expenses associated with these terms, including fees, if any, for the clinical competency assessment, the personalized continuing medical education program, or to the supervising physician.
- 10) Licensee shall issue prescriptions and/or dispense controlled substances only after his supervising physician co-signs the note in the patient record that relates to the prescribing and/or dispensing of the controlled substance. Licensee shall also maintain, in a format that is acceptable to OPMC, a log of each and every controlled substance prescription that he issues, and shall make this log immediately available to OPMC, upon demand. The log shall include the following information: the drug, the dose, the patient, the diagnosis, the date that the drug was prescribed, and such other information related to the prescribing as may be requested by OPMC

- 11) Licensee shall enroll in and successfully complete a continuing education program as directed by the Office of Professional Medical Conduct. This continuing education program is subject to the Director of OPMC's prior written approval. This program shall be successfully completed within the first 90 days after the effective date of this Order, unless Licensee obtains, in writing, the Director's prior authorization to exceed that 90 day period. The Director, for good cause shown by Licensee prior to the expiration of such 90 day period, shall have full discretion to deny or grant such extension.
- 12) The period of Practice Conditions shall toll when Licensee is not engaged in active practice as a physician assistant in New York State for 30 consecutive days or more. Licensee shall notify the Director, in writing, if Licensee is not currently engaged in or intends to leave active practice as a physician assistant in New York State for 30 consecutive days or more and Licensee shall then notify the Director again at least 14 days before returning to active practice as a physician assistant in New York State. Upon Licensee's return to active practice as a physician assistant in New York State, the period of Practice Conditions shall resume and Licensee shall fulfill any unfulfilled 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.
- 13) Licensee shall comply with this Order, and all its terms and Conditions, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance

with or violation of these terms, the Director and/or the Board may initiate a proceeding against Licensee under N.Y. Pub. Health Law § 230.

EXHIBIT "C"

PRACTICE AND RECORDS SUPERVISOR

- 1) Within 60 days of this Order's effective date, Licensee's practice as a physician assistant shall be subject to review by a licensed physician, board certified in an appropriate specialty (henceforth "Practice and Records Supervisor"), proposed by Licensee and subject to the written approval of the Director of OPMC. The Practice and Records Supervisor shall not be Licensee's on-site supervising physician, and shall not be in an employment relationship with Licensee. Any practice by Licensee as a physician assistant in violation of this term shall constitute unauthorized practice.
 - a) Licensee shall make available to the Practice and Records Supervisor any and all records or access to the practice requested by the Practice and Records Supervisor, including on-site observation. The Practice and Records Supervisor shall visit each and every location where Licensee practices as a physician assistant, on a random unannounced basis at least monthly, and shall examine a selection (no fewer than 20) of records maintained by Licensee, including patient records, prescribing information and office records. The review will determine whether the Licensee's practice as a physician assistant is conducted in accordance with the generally accepted standards of the profession. Any perceived deviation

of accepted standards of medical care or refusal to cooperate with the Practice and Records Supervisor shall be reported within 24 hours to OPMC.

- b) Licensee shall be solely responsible for all expenses associated with the Practice and Records Supervisor's review, including fees, if any, to the Practice and Records Supervisor.
- c) Licensee shall cause the Practice and Records Supervisor to report quarterly, in writing, to the Director of OPMC.

- 2) The period during which Licensee's practice as a physician assistant shall be subject to review by a Practice and Records Supervisor, and all related Conditions, shall toll when Licensee is not engaged in active practice as a physician assistant in New York State for 30 consecutive days or more. Licensee shall notify the Director, in writing, if Licensee is not currently engaged in or intends to leave active practice as a physician assistant in New York State for 30 consecutive days or more and Licensee shall then notify the Director again at least 14 days before returning to active practice as a physician assistant in New York State. Upon Licensee's return to active practice as a physician assistant in New York State, the period of such Conditions shall resume and Licensee shall fulfill any unfulfilled 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.