



Department of Health

ANDREW M. CUOMO
Governor

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

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

August 23, 2021

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Ahmed Elsoury, M.D.



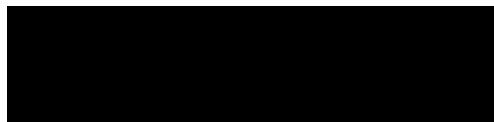
Re: License No. 234547

Dear Dr. Elsoury:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 21-178. This order and any penalty provided therein goes into effect August 30, 2021.

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,



Michael S. Jakubowski, M.D.
Interim Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Amy Kulb, Esq.
Jacobson, Goldberg & Kulb, LLP.
585 Stewart Avenue, Suite 500
Garden City, New York 11530

IN THE MATTER
OF
AHMED ELSOURY, M.D.

BPMC No. 21-178
DIRECTOR'S FIRST
MODIFICATION
ORDER

Respondent, Ahmed Elsoury, M.D., is currently subject to BPMC Order # 18-065 (Attachment I) (henceforth "Original Order"), which was issued upon a Consent Agreement signed by Respondent, and which went into effect on April 2, 2018. The Original Order imposed various Penalties, Probation Terms, and Conditions and also provided the Director of the Office of Professional Medical Conduct the authority and discretion to order subsequent modifications of the Original Order. BPMC Order # 18-065 and all of its Penalties, Limitations, Probation Terms, and Conditions shall continue to apply except as modified in this Director's First Modification Order.

The Penalties imposed in the Original Order included the following:

Pursuant to N.Y. Pub. Health Law § 230-a(2), my license to practice medicine in New York State shall be suspended for 24 months, to be served as a period of actual suspension. At the conclusion of the 24 month period of actual suspension, pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for 36 months, subject to the terms set forth in attached Exhibit "B."

I shall be subject to a Condition that I comply with attached Exhibit "C," "Requirements For Closing a Medical Practice Following a Revocation,

Surrender, Limitation or Suspension (Of 6 Months or More) of a Medical License.”

The Consent Order also imposed the following conditions:

- That before returning to practice after the conclusion of the 24 month period of actual suspension, Respondent shall first obtain a clinical competency assessment (CCA) performed by a program for such assessment as directed by the Director of OPMC. Respondent 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.
- Respondent 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.
- At the direction of the Director and within 60 days following the completion of the clinical competency assessment the Respondent shall identify a Preceptor, preferably a physician who is board certified in the same specialty, to be approved in writing, by the Director of OPMC. The Respondent shall cause the Preceptor to:
 - 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.

- Submit progress reports at periods identified by OPMC certifying whether the Respondent is fully participating in the personalized continuing medical education program and is making satisfactory progress towards the completion of the approved remediation plan.
- Report immediately to the Director of OPMC if the Respondent withdraws from the program and report promptly to OPMC any non-compliance by the Respondent.
- 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 Respondent 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 Respondent's future medical practice.

Respondent shall be subject to any further terms of probation 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 the OPMC investigation of Respondent, the results and recommendations of the CCA, the Preceptor's reports, and Respondent's practice in the future, as deemed by the Director to be necessary to protect the public health. Respondent, by making this Application, stipulates that the Director shall be so authorized.

As the Respondent has successfully completed a clinical competency assessment (CCA) as directed by the Director of OPMC (Director), and the Director has reviewed the CCA results, assessments, and recommendations, based upon all relevant facts and circumstances known to the Director:

The following Modification is hereby ordered with regard to the Conditions imposed in the Original Order as set forth above:

- At the direction of the Director and no more than 60 days following receipt of the report of the clinical competency assessment, the Respondent shall identify a Preceptor, preferably a physician who is board certified in the same specialty, and subject to the Director of OPMC's written approval. No more than 30 days after learning that the approved Preceptor is no longer willing or able to serve or no more than 30 days after having been notified by the Director that the Preceptor has been discharged for cause, which shall include but not be limited to the inadequacy of the Preceptor's reports and/or performance, Respondent shall have an approved successor in place, subject to the Director's written approval. Upon approval, the new Preceptor shall perform the duties described in (i) through (iv) below. Regardless of the reason necessitating a replacement, if the Director does not approve Respondent's proposed new Preceptor, Respondent shall immediately cease the practice of medicine, unless notified by the Director, in writing, of an extension, which may be granted at the Director's discretion. In that event, Respondent shall propose another Preceptor, which the Director has 30 days to approve or disapprove until a Preceptor is accepted. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.

The Respondent shall cause the Preceptor to:

- i. 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.
- ii. Submit progress reports at periods identified by OPMC certifying whether the Respondent is fully participating in the personalized continuing medical education program and is making satisfactory progress towards the completion of the approved remediation plan.
- iii. Report immediately to the Director of OPMC if the Respondent withdraws from the program and report promptly to OPMC any non-compliance by the Respondent.
- iv. 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 Respondent 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 Respondent's future medical practice.

The following Modification is hereby ordered with regard to the Terms of Probation imposed by the Original Order:

- Exhibit B of the Original Order is wholly replaced by the Terms of Probation contained in Attachment II.

The Director reserves the authority, in the Director's sole discretion, to subsequently stay, add, impose, re-impose, extend, or otherwise modify the limitations, probation and/or other terms, penalties and conditions imposed upon Respondent's practice pursuant to BPMC Order No. 18-065 and this First Director's Modification Order, as the Director may determine appropriate, based upon all relevant facts and circumstances then known to the Director, including, but not limited to, those related to the underlying OPMC investigation of Respondent, the CCA results and recommendations, CPH reports, psychiatric evaluations, therapist reports, and Respondent's practice in the future, as are necessary to protect the public health.

THE ABOVE IS HEREBY ORDERED; and

it is further

ORDERED, that this Order shall be effective upon issuance and mailing by first class mail to Respondent at the address in the attached Consent Agreement or at any other address known to the Office of Professional Medical Conduct.

DATE: 7/20/2021


SHELLY WANG BANDAGO
Interim Director
Office of Professional Medical Conduct

ATTACHMENT I



**Department
of Health**

ANDREW M. CUOMO
Governor

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

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

March 26, 2018

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Ahmed Adel Elsoury, M.D.


Re: License No. 234547

Dear Dr. Elsoury:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 18-065. This order and any penalty provided therein goes into effect April 2, 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

Enclosure

cc: Amy Kulb, Esq.
Jacobson, Goldberg & Kulb, LLP.
585 Stewart Avenue, Suite 500
Garden City, New York 11530

IN THE MATTER
OF
AHMED ADEL ELSOURY, M.D.

CONSENT
ORDER

Upon the application of (Respondent) AHMED ADEL ELSOURY, M.D. 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: 3/23/2018


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

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

IN THE MATTER
OF
AHMED ADEL ELSOURY, M.D.

CONSENT
AGREEMENT

AHMED ADEL ELSOURY, M.D., represents that all of the following statements are true:

That on or about November 26, 2004, I was licensed to practice as a physician in the State of New York, and issued License No. 234547 by the New York State Education Department.

My current address is _____ 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 Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement.

I agree not to contest the allegations, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a(2), my license to practice medicine in New York State shall be suspended for 24 months, to be served as a period of actual suspension. At the conclusion of the 24 month period of actual suspension, pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for 36 months, subject to the terms set forth in attached Exhibit "B."

I shall be subject to a Condition that I comply with attached Exhibit "C," "Requirements For Closing a Medical Practice Following a Revocation, Surrender, Limitation or Suspension (Of 6 Months or More) of a Medical License."

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

That before returning to practice after the conclusion of the 24 month period of actual suspension, Respondent shall first obtain a clinical competency assessment (CCA) performed by a program for such assessment as directed by the Director of OPMC. Respondent 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.

- Respondent 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.

At the direction of the Director and within 60 days following the completion of the clinical competency assessment the Respondent shall identify a Preceptor, preferably a physician who is board certified in the same specialty, to be approved in writing, by the Director of OPMC. The Respondent shall cause the Preceptor to:

- 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.
- Submit progress reports at periods identified by OPMC certifying whether the Respondent is fully participating in the personalized continuing medical education program and is making satisfactory progress towards the completion of the approved remediation plan.
- Report immediately to the Director of OPMC if the Respondent withdraws from the program and report promptly to OPMC any non-compliance by the Respondent.
- 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 Respondent 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 Respondent's future medical practice.

Respondent shall be subject to any further terms of probation 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 the OPMC investigation of Respondent, the results and recommendations of the CCA, the Preceptor's reports, and Respondent's practice in the future, as deemed by the Director to be necessary to protect the public health. Respondent, by making this Application, stipulates that the Director shall be so authorized.

- Respondent shall be solely 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 monitoring physician; and

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

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, 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 3/9/18



AHMED ADEL ELSOURY, M.D.
RESPONDENT

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

DATE: 3/12/18


AMY KULB, ESQ.
Attorney for Respondent

DATE: 11/13/18


MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/22/18


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

AHMED ADEL ELSOURY, M.D.

STATEMENT

OF

CHARGES

AHMED ADEL ELSOURY, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 26, 2004, by the issuance of license number 234547 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 8, 2017, in the United States District Court, District of New Jersey, Newark, N.J., Respondent, who practiced medicine in Richmond County, New York, was found guilty of Conspiracy to Violate the Federal Anti-Kickback Statute and the Travel Act and to commit honest services wire fraud, felonies, in violation of 42 U.S.C. § 1320a-7b(b)(1)(A), N.J.S.A. § 2C:21-10 and 18 U.S.C. § 1343 and 1346, in violation of 18 U.S.C. § 371, based upon his plea of guilty, in that from March 2011 through April 2013, Respondent knowingly and intentionally conspired with others, and accepted cash bribes in exchange for referring blood specimens of his Medicare and Private Insurer patients to Biodiagnostic Laboratory Services LLC (BLS) of Parsippany, New Jersey, and was sentenced to 33 months in prison, three years of supervised release and a fine of \$7500.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

CRIMINAL CONVICTION (Federal)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. Paragraph A.

MARCH 17
DATE: January , 2018
New York, New York


ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

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 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 with Respondent and staff at practice locations or OPMC offices.
- 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 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 of the probation period unless Respondent obtains, in writing, the Director's prior authorization to exceed that 90 day period. The Director, for good cause shown by Respondent prior to the expiration of such 90 day period, shall have full discretion to deny or grant such extension.

- 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.

EXHIBIT "C"

**Requirements for Closing a Medical Practice Following a
Revocation, Surrender, Limitation or Suspension of a Medical License**

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact persons who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent 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 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.

EXHIBIT "C"

5. In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges for New York State to the DEA. Licensee shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.
6. Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.
7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.
8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.
10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges of which the Licensee is found guilty, and may include revocation of a suspended license.

ATTACHMENT II

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 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 with Respondent and staff at practice locations or OPMC offices.
- 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) Respondent shall enroll in and successfully complete continuing education as directed by the Office of Professional Medical Conduct, subject to the Director of OPMC's prior written approval. This continuing education shall include but shall not be limited to: ECG, patient communication, Ethics, Internal Medicine, pharmacology course, and Med Challenger course, which shall be completed at the direction of the Director.
- 9) No more than 30 days after the Modification 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 Director of OPMC's written approval. No more than 30 days after learning that the approved practice monitor is no longer willing or able to serve or no more than 30 days after having been notified by the Director that the practice monitor has been discharged for cause, which shall include but not be limited to the inadequacy of the practice monitor's reports and/or performance, Respondent shall have an approved successor in place, subject to the Director's written approval. Upon approval, the new practice monitor shall perform the duties described in (a) and (c) below. Regardless of the reason necessitating a replacement, if the Director does not approve Respondent's proposed new practice monitor, Respondent shall immediately cease the practice of medicine, unless notified by the Director, in writing, of an extension, which may be granted at the Director's discretion. In that event, Respondent shall propose another practice monitor, which the Director has 30 days to approve or disapprove until a practice monitor is accepted. 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.

10) No more than 30 days after the Modification Order's effective date, Respondent shall not be permitted to practice medicine except when supervised by a Practice Supervisor proposed by Respondent and subject to the Director of OPMC's written approval. No more than 30 days after learning that an approved practice supervisor is no longer willing or able to serve or no more than 30 days after having been notified by the Director that a practice supervisor has been discharged for cause, which shall include but not be limited to the inadequacy of the practice supervisor's reports and/or performance, Respondent shall have an approved successor in place, subject to the Director's written approval. Upon approval, the new practice supervisor(s) shall perform the duties described in Paragraphs a-c below. Regardless of the reason necessitating a replacement, if the Director does not approve Respondent's proposed new practice supervisor, Respondent shall immediately cease the practice of medicine, unless notified by the Director, in writing, of an extension, which may be granted at the Director's discretion. In that event, Respondent shall propose another practice supervisor, which the Director has 30 days to approve or disapprove until a replacement practice supervisor is accepted. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.

- a) The practice supervisor shall be on-site at all locations and shall provide direct, contemporaneous supervision, unless determined otherwise by the Director of OPMC. The practice supervisor shall be proposed by Respondent and subject to the written approval of the Director. The practice supervisor shall not be a family member or personal friend or be in a professional relationship which could pose a conflict with supervision responsibilities.
- b) Respondent shall ensure that the practice supervisor is familiar with the Order and terms of probation, and willing to report to OPMC. 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.
- c) Respondent shall authorize the practice supervisor to have access to Respondent's patient records and to submit quarterly written reports, to the Director of OPMC, regarding Respondent's practice. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, general demeanor, time

and attendance, the supervisor's assessment of patient records selected for review and other such on-duty conduct as the supervisor deems appropriate to report.

- d) The practice supervisor shall remain in place at minimum for the first 3 months during which Respondent practices Aesthetic Medicine and/or Internal Medicine. Continuation or cessation of the practice supervisor will be determined based on the findings of the practice supervisors during the course of probation.
- 11) Respondent shall be subject to any further terms of probation 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 the OPMC investigation of Respondent, the results and recommendations of the CCA, the Preceptor's reports, and Respondent's practice in the future, as deemed by the Director to be necessary to protect the public health. Respondent, by making this Application, stipulates that the Director shall be so authorized.
 - 12) Respondent shall comply with this Modification Order and all its terms and shall bear all associated compliance costs, including fees, if any, for the preceptor, the continuing medical education programs, and/or to the monitoring physician. 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.