



Department of Health

ANDREW M. CUOMO
Governor

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

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

December 17, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Marc S. Nash, Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237

Robert Hallett, M.D.


RE: In the Matter of Robert Hallett, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 19-306) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct
New York State Department of Health
Office of Professional Medical Conduct
Riverview Center
150 Broadway - Suite 355
Albany, New York 12204

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

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

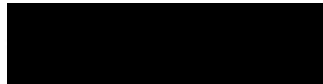
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Chief Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

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

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

Sincerely,



James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: cmg
Enclosure

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

COPY

IN THE MATTER
OF
ROBERT HALLETT, M.D.

DETERMINATION

AND

ORDER
19-306

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("the Department"). A Notice of Referral Proceeding ("NORP") and Statement of Charges ("SOC"), both dated August 30, 2019, were served upon Robert Hallett, M.D. ("Respondent")¹. The NORP and SOC are attached to this Determination and Order as Appendix 1. A hearing, pursuant to N.Y. Public Health Law ("PHL") §230 and New York State Admin. Proc. Act §§301-307 and 401, was held on October 23, 2019, at the Department's offices at 90 Church Street, New York, New York.

C. Deborah Cross, M.D., Chair, David M. Kirshy, M.D., and Michael Colon, Esq., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee ("Committee") in this matter. Ann H. Gayle, Administrative Law Judge, served as the administrative officer. The Department appeared by Marc S. Nash, Associate Counsel. Respondent appeared by telephone and represented himself. Evidence was received and a transcript (pages 1-107) of this hearing was made.

After consideration of the entire record, the Committee issues this Determination and Order; all findings, conclusions, and determinations herein are unanimous.

¹ The NORP and SOC were served on Respondent through his then attorney. Respondent indicated at the hearing that he was no longer represented by counsel. Respondent acknowledged receiving prior to the hearing copies of the NORP and SOC as well as Department's Exhibits 2-4. (T 7-8, 10)

STATEMENT OF CASE

This case was brought pursuant to PHL §230(10)(p) which provides for a hearing with circumscribed issues when a licensee is charged with misconduct based upon a criminal conviction under federal or state law and/or upon an administrative adjudication in another state regarding conduct that would amount to a crime and/or professional misconduct if committed in New York. N.Y. Education Law ("Educ. Law") §6530(9). The scope of the hearing is limited to a determination of the penalty, if any, to be imposed upon the licensee. In the instant case, Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(d) for having disciplinary action taken by another state.

FINDINGS OF FACT

Citations in parentheses, which refer to transcript page numbers ("T") and exhibits ("Ex") that were accepted into evidence, represent evidence found persuasive by the Committee in arriving at a particular finding.

1. On September 4, 1973, Respondent, Robert Hallett, M.D., was authorized by the issuance of license number 117236 by the New York State Education Department to practice medicine in New York State. Respondent's license is currently summarily suspended. (Ex 3; T 12, 89-93)
2. On August 16, 2019, "with the consent of Respondent" (Ex 4, p 2 of 16), the Texas Medical Board ("Texas Board") made Findings and Conclusions of Law, and entered an Agreed Order. (Ex 4)
3. One of the Texas Board's Findings was "Respondent suffers from an impairment due to illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other substances, or as a result of any mental or physical conditions, that affects his ability to practice medicine

- with reasonable skill and safety to patients.” (Ex 4, p 2 of 16)
4. The Texas Board’s Conclusions of Law included “the [Medical Practice] Act authorizes the Board to take disciplinary action against Respondent based on Respondent’s inability to practice medicine with reasonable skill and safety to patients because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or another substance, or as a result of any mental or physical condition” and “the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.” (Ex 4, p 3 of 16)
 5. The Texas Board’s Agreed Order (“Agreed Order”) prohibited Respondent from engaging in the practice of Interventional Cardiology, and limited Respondent’s medical practice to a group or institutional setting. The Agreed Order further directed Respondent to: abstain from the consumption of alcohol and prohibited controlled substances except as prescribed by another physician for legitimate and documented therapeutic purposes; participate in the Texas Board’s drug testing program; and undergo psychiatric and psychological treatment and neurological evaluation, care and treatment. (Ex 4, p 3-12)
 6. Respondent signed his name beneath the language in the Agreed Order that read, “I, [RESPONDENT], HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER, I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.” (emphasis in original). (Ex 4, p 15 of 16)

CONCLUSIONS OF LAW

The Department charged Respondent with one Specification of professional misconduct pursuant to Educ. Law §6530(9)(d) for having disciplinary action taken by another state where

the conduct, if committed in New York state, would have constituted professional misconduct under the laws of New York state, namely N.Y. Educ. Law §6530(8) (being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice).

Respondent argued that this Specification had not been proven because the Agreed Order "doesn't pick which problem I have, was it illness, drunkenness, excessive use of drugs, narcotics, chemicals, other substances, mental condition, physical condition, it never says which of those is my problem. And it certainly never suggests that any of this is habitual." (T 79).

The Department argued that this Specification was proven "based upon the Agreed Order of Texas, which made the findings as they did, that if what [Respondent] agreed in Texas would have happened in New York would be in violation of [Educ. Law] 6530, subsection 8" (T 102).

The Committee finds that Respondent's agreed upon findings and conclusions in the Agreed Order would have violated §6530(8) if committed in New York as it sufficiently matches the findings, conclusions, etc. in the Agreed Order.

The Specification is sustained.

DISCUSSION AND DETERMINATION AS TO PENALTY

Respondent is seeking to have this case dismissed or to have his "medical license without restrictions in New York State" (T 89). Respondent argued that his exhibits demonstrate that he is fit to practice medicine. Respondent testified that "There is nothing there [in the Agreed Order] that says I am a habitual abuser of anything. And I would like to point out that the absence of saying that I am a habitual user which means I have not done anything, which under

the laws of New York State would be considered misconduct ... I believe it is not appropriate for New York State to determine what penalty I should have when I haven't broken a New York State law." (T 87). Respondent claimed that he signed the Agreed Order "under duress or under false impression or however the legal term is. But I just want everybody in that room to understand that I don't agree to those charges against me. I don't agree to them with or without proof, there is no proof. They don't exist. I don't have the mental or physical reason that I cannot practice" (T 95).

The Department is seeking a revocation of Respondent's license based on the Findings, Conclusions, restrictions, limitations, conditions and directions in the Agreed Order (see Finding of Fact #5). The Department argued that "despite what the Texas Board found on January 3rd or January 20th, both of which are referenced in Exhibit 4 ... [Respondent] read the agreement and agreed to it and signed it [and he] continuously denies that any of these problems existed. He denies alcohol, drug, benzos, basically he denies what he signed and agreed to. Someone who has that attitude and has a problem, having a practice in New York impairs the health and safety and welfare of the people in New York" and should be revoked. (T 103-104).

The Committee finds that while a dismissal of this case is not warranted, neither is a revocation or a "license without restrictions." The numerous restrictions, limitations, conditions and directions in the Agreed Order highlight the seriousness of Respondent's misconduct in Texas which led the Texas Board to temporarily suspend Respondent's Medical License in January 2019 and to restrict Respondent's Medical License from any and all practice in February 2019, both times finding that his continuing practice posed a threat to public welfare.

Respondent's documentary evidence and testimony did highlight that: the forensic studies conducted in February and May 2019, prior to the signing of the Agreed Order, indicated that

Respondent's license could be reinstated, with conditions, in Texas (Ex C and Ex F); Respondent's Texas license was so reinstated with the aforesaid numerous terms and conditions in August 2019; and the September 25 and 27, October 7 and 15, 2019 laboratory results were all negative for alcohol and drugs (Ex A). The Committee noted that while the conditions of the Agreed Order "shall continue indefinitely in full force and effect" (Ex 4, page 13-14 of 16), Respondent can petition the Texas Board one year after the effective date of the Agreed Order, and yearly thereafter, to seek amendment or termination of the conditions, and Respondent testified that he is "waiting for [his] one-year term ... to request that this Order be removed or amended or thrown away or something." (T 94).

The Committee determines that the penalty in New York State of permanent limitations on Respondent's license to not engage in the practice of Interventional Cardiology and to practice medicine in a group or institutional setting, suspending Respondent's license wholly until he demonstrates fitness to practice medicine safely in New York State, and then placing Respondent on probation for five years commencing at the time he resumes practice in this state (after the suspension has been lifted) is ample protection of/for the public.

In the few months since the Agreed Order was issued, Respondent has demonstrated his compliance with the conditions and requirements. Respondent would need to provide to the Director of OPMC (Office of Professional Medical Conduct) documentation of his satisfactorily complying with the Texas Board's Agreed Order (as it stands or amended) and/or that he has successfully had the Agreed Order terminated, and of his sobriety status at the time he seeks to resume practice in New York. Also, because Respondent has not practiced medicine since January 2019, and he does not anticipate that his practice of medicine will resume imminently, Respondent must successfully complete a physician re-entry program approved by the Director

of OPMC.

The Agreed Order required Respondent to undergo psychiatric and psychological care and treatment and neurological evaluation, care and treatment. While the Committee believes that Respondent should undergo psychiatric, psychologic, and neurologic evaluations at the time he seeks to practice in New York, there is no provision in PHL §230-a(2) to order an evaluation. Under PHL §230.7(a), however, the Director of OPMC may convene a committee to determine whether a licensee must submit to an examination concerning some form of impairment. The Committee urges Respondent to voluntarily seek psychiatric, psychologic, and neurologic evaluations by evaluators of his choice, with the approval of the Director of OPMC, no more than 90 days prior to the time he seeks to engage in the practice of medicine in New York. If Respondent fails to voluntarily seek such evaluations in that time period, then the Committee recommends that the Director of OPMC convene a Committee pursuant to §230.7(a) to determine if cause exists to order Respondent to submit to an examination concerning psychiatric, psychologic and/or neurologic impairment.


ORDER

IT IS HEREBY ORDERED THAT:

1. The charge of misconduct under Educ. Law §6530(9)(d) (having disciplinary action taken by another state) is sustained.
2. Pursuant to PHL §230-a(3), there shall be a permanent limitation on Respondent's license. Respondent shall not engage in the practice of Interventional Cardiology.
3. Pursuant to PHL §230-a(3) there shall be a permanent limitation on Respondent's license to practice medicine in a group or institutional setting. Respondent shall not practice medicine in a medical practice as a sole practitioner.
4. Pursuant to PHL §230-a(2)(c), Respondent's license to practice medicine shall be suspended wholly, until Respondent complies with the terms or conditions of a board order. The terms and conditions of this board order are:

- a. Respondent shall, at the time he seeks to practice medicine in New York, provide to the Director of OPMC documentation of his sobriety status.
 - b. Respondent shall, at the time he seeks to practice medicine in New York, provide to the Director of OPMC documentation of his satisfactorily complying with all terms and conditions of the Texas Board Agreed Order or any amendment thereof, or that the Texas Board Agreed Order has been terminated.
 - c. Respondent shall successfully complete a physician re-entry program approved by the Director of OPMC.
5. At the completion of the whole suspension, pursuant to PHL §230-a(9), Respondent's license shall be placed on probation for a period of five (5) years during which he shall comply with the Terms of Probation annexed as Appendix 2.
 6. This Order shall be effective upon service on Respondent as required under PHL §230(10)(h).

DATED: _____, New York
December 16, 2019


C. DEBORAH CROSS, M.D., Chair
DAVID M. KIRSHY, M.D.
MICHAEL COLON, ESQ.

APPENDIX 1

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

IN THE MATTER
OF
ROBERT HALLETT, M.D.

NOTICE OF
REFERRAL
PROCEEDING

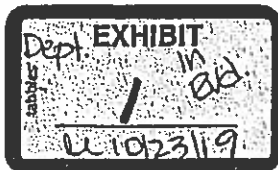
TO: ROBERT HALLETT, M.D.
C/O Jonathan Janofsky, Esq.
Peter C. Kopff, LLC
1055 Franklin Avenue
Suite 306
Garden City, New York 11530

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on October 23, 2019, at 10:30 a.m., at the offices of the New York State Department of Health, 90 Church Street, 4th Floor, New York, NY 10007, and at such other adjourned dates, times and places as the committee may direct.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.



If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted 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 (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. You may also file a written brief and affidavits with the Committee. All such documents shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

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. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here [REDACTED]

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. 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 OUT 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
August 30, 2019

[REDACTED]
TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Marc S. Nash
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-1706

cc: Robert Hallett, M.D.



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

IN THE MATTER
OF
ROBERT HALLETT, M.D.

STATEMENT
OF
CHARGES

ROBERT HALLETT, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 4, 1973, by the issuance of license number 117236 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 16, 2019, Respondent and the Texas Medical Board (hereinafter, "Texas Board") entered into an Agreed Order (hereinafter, "Order"), which: prohibited Respondent from engaging in the practice of Interventional Cardiology; limited Respondent's medical practice to a group or an institutional setting with prior approval; directed Respondent to abstain from prohibited substances including alcohol and controlled substances unless prescribed by another physician for legitimate purposes; directed Respondent to participate in the Texas Board's drug testing program; directed Respondent to undergo psychiatric and psychological treatment; and directed Respondent to undergo a neurological evaluation. This Order was issued pursuant to a finding that Respondent suffers from an impairment due to illness, drunkenness, excessive use drugs, narcotics, chemicals, or other substances, or as a result of any mental or physical conditions, that affects his ability to practice medicine with reasonable skill and safety to patients.

B. The conduct resulting in the Texas Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following Section of New York State Law:

- 6530 AG
1. New York Education Law § ~~6550~~(8) (Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines,

hallucinogens, or other drugs having similar effects, or having a psychiatric condition which impairs the licensee's ability to practice).


SPECIFICATION OF CHARGES

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530(8)) as alleged in the facts of the following:

1. The facts in Paragraphs A and B and B1.

DATE: August 30, 2019
Albany, New York


TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct

APPENDIX 2

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 maintain active registration of his license with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204 with the following information, in writing, and ensure that this information is kept current: a full description of his 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.
4. Respondent shall cooperate fully with and respond in a timely manner to OPMC requests to provide written periodic verification of his compliance with these terms. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent shall abstain from the use of alcohol and controlled substances except as prescribed by another physician for legitimate and documented therapeutic purposes during the probation period and shall be monitored by a qualified health care professional proposed by Respondent and approved in writing by the Director of OPMC (sobriety monitor).
 - a. The sobriety monitor shall oversee Respondent's compliance with the terms and conditions imposed herein and shall cause to be performed forensically valid, random, supervised, unannounced blood, breathalyzer and/or urine tests for the presence of alcohol and controlled substances except as prescribed by another physician for legitimate and documented therapeutic purposes. The sobriety monitor shall notify the Director of OPMC immediately if Respondent refuses such a test or if a test reveals Respondent is not alcohol or controlled substances free.
 - b. Every three months, the sobriety monitor shall submit a report to OPMC certifying compliance with these terms or describing any failure to comply.
6. During the probation period, Respondent shall practice medicine in New York State only when monitored by a licensed physician, board certified in an appropriate specialty (practice

monitor), who is proposed by Respondent and subject to the written approval of the Director of the OPMC.

- 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 the 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 the Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with 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 the OPMC.
 - b. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of the OPMC.
 - c. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - 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 § 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent commencing practice within the State of New York.
7. 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 he 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 the Determination and Order or as are necessary to protect the public health.
 8. 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.
 9. Respondent shall comply with these probationary 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.

To: Marc S. Nash, Associate Counsel
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237-0032

Robert Hallett, M.D.


Matter of Robert Hallett, M.D.