



***New York State Board for Professional Medical Conduct***

*433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863*

Antonia C. Novello, M.D., M.P.H., Dr. P.H.  
*Commissioner  
NYS Department of Health*

Dennis P. Whalen  
*Executive Deputy Commissioner  
NYS Department of Health*

Dennis J. Graziano, Director  
*Office of Professional Medical Conduct*

**PUBLIC**

Michael A. Gonzalez, R.P.A.  
*Vice Chair*

Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

October 23, 2003

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Monte S. Keen, M.D.  
42 Blanche Avenue  
Demarest, NJ 07627

Re: License No. 151467

Dear Dr. Keen:

Enclosed please find Modification Order #BPMC 00-42 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect October 30, 2003.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to the Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: Wilfred T. Friedman, Esq.  
Friedman and Mahdavian, P.C.  
36 West 44th Street, Suite 316  
New York, NY 10036

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

IN THE MATTER  
OF  
MONTE STEVEN KEEN, M.D.

MODIFICATION  
ORDER  
BPMC No. 00-42

Upon the proposed Application for a Modification Order ("Application") of MONTE STEVEN KEEN, M.D. (Respondent), which is made a part of this Modification Order, it is agreed to and


ORDERED, that the attached Application, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Modification Order, either by first class mail to Respondent at the address in the attached Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, Whichever is first.

SO ORDERED.

DATED: 10/27/03

  
MICHAEL A. GONZALEZ, R.P.A.  
Vice Chair  
State Board for Professional Medical Conduct

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

**IN THE MATTER  
OF  
MONTE STEVEN KEEN, M.D.**

**APPLICATION FOR  
MODIFICATION  
ORDER**

STATE OF NEW YORK )  
COUNTY OF NEW YORK )      ss.:

MONTE STEVEN KEEN, M.D., (Respondent) being duly sworn, deposes and says:

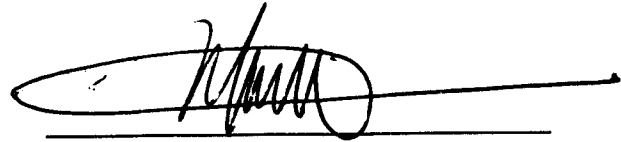
That on or about August 27, 1982, I was licensed to practice as a physician in the State of New York, and issued License No. 151467 by the New York State Education Department. Pursuant to Order # BPMC 00-42, effective February 11, 2000, my license to practice medicine is currently suspended.

My current address is 42 Blanche Ave, Demarest, N.J. 07627, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

BPMC Order No. 00-42 (Attachment I) (henceforth "Original Order"), was issued upon a proposed Consent Agreement and Order signed by me on February 4, 2000, (henceforth "Consent Application"), adopted by the Original Order. I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order, which is attached and made part of this Application of Modification Order ("Application"), as follows:

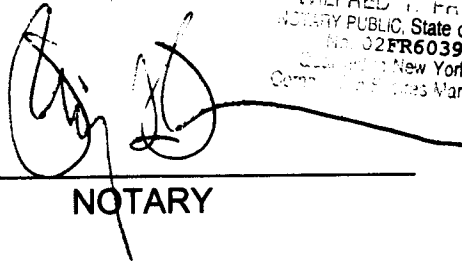
The suspension imposed by the Original Order, which is still in effect, shall continue. The 12 month minimum period of suspension set forth in the penalty section of the Original Order shall be extended to run from the effective date of this Modification Order. This continuation shall be attributable to the state of my recovery, and my continuing incapacity, as of January 18, 2002.

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the Board's acceptance of this Application, I knowingly waive my right to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.



MONTE STEVEN KEEN, M.D.  
RESPONDENT

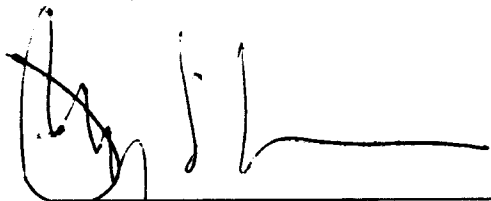
Sworn to before me on this 2<sup>nd</sup> day  
of October 2003

  
\_\_\_\_\_  
NOTARY

WILFRED T. FRILL  
NOTARY PUBLIC, State of New York  
No. 02FR6039433  
New York County 5  
Commission Expires March 27, 2002

The undersigned agree to the attached Application of Respondent and to the proposed penalty based on its terms and conditions.

DATE: 10/2/03



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SHARIF MAHDAVIAN, ESQ.  
Attorney for Respondent

WILFRED T.  
FRIEDMAN

DATE: October 7, 2003



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MARCIA E. KAPLAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: October 17, 2003



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DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

NEW YORK STATE

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

DEPARTMENT OF HEALTH

IN THE MATTER  
OF  
MONTE KEEN, M.D.

CONSENT  
ORDER

Upon the proposed agreement of Monte Keen, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 2/8/00



WILLIAM P. DILLON, M.D.  
Chair  
State Board for Professional  
Medical Conduct

ATTACHMENT I

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

IN THE MATTER  
OF  
MONTE KEEN, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER  
BPMC #00-42

STATE OF NEW YORK )  
COUNTY OF **NASSAU** ss.: )

MONTE KEEN, M.D., (Respondent) being duly sworn, deposes and says:

That on or about August 27, 1982, I was licensed to practice as a physician in the State of New York, having been issued License No. 151467, by the New York State Education Department. I am currently registered to practice medicine.

My current registration address is 42 Blanche Avenue, Demarest, New Jersey 07627. I will advise the Director of the Office of Professional Medical Conduct ("OPMC") of any change of my address.

I understand that the New York State Board for Professional Medical Conduct ("Board") has charged me with six specifications of professional misconduct.

A copy of the Statement of Charges is attached as Exhibit "A".

I agree not to contest the First, Second, Fourth, and Sixth Specifications, in full satisfaction of the charges against me, and I agree to the following penalty:

My license shall be suspended for an indefinite period but no less than twelve months. The twelve months shall be attributable to my plea to allegations B and C1-5 of the Statement of Charges. Further, I shall be ordered to abstain from the practice of medicine in any other jurisdiction; said order shall remain in effect until and unless this order is modified. Upon compliance with all



conditions of this Order, but no sooner than twelve months from the effective date of this order, I may petition the Board for a Modification Order staying the indefinite suspension of my license.

I understand and agree:

That any Modification Order the Board may issue, in the exercise of its reasonable discretion, may include terms of probation, and/or further conditions on my practice.

That the Board will exercise its reasonable discretion upon my petition for a Modification Order through a Committee on Professional Conduct, after a proceeding in which I have met a burden of proof and persuasion as further set forth in attached Exhibit "B".

That the Committee's exercise of discretion shall not be reviewable by the Administrative Review Board.

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

That, I shall return any and all official New York State prescriptions to the Bureau of Controlled Substances, and I shall surrender my Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within thirty days of the effective date of this Order. Further, within

thirty days of returning said prescriptions and surrendering said registration, I shall provide the Director of OPMC ("Director") with written evidence, satisfactory to the Director, that I have so complied with this condition.

That, except during periods of actual suspension, I shall maintain current registration of my license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while I possess my license; and

That I shall fully cooperate in every respect with OPMC in its administration and enforcement of this Order and in its investigation of me. I shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of my compliance with the terms of this Order. I shall meet with a person designated by the Director, as directed. I shall respond promptly and provide any and all documents and information within my control, upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while I possess my license.

I stipulate and agree that my failure to comply with any of the terms and conditions set forth in this Application and Exhibit "B" shall constitute misconduct

as defined by New York State Education Law §6530(29)(McKinney Supp 2000).

If I am charged with professional misconduct in the future, I hereby stipulate and agree to the admission into evidence at such proceeding, during the Department's case-in-chief, of this Application and Order, and/or related Modification Orders at the sole discretion of the Department (Petitioner).

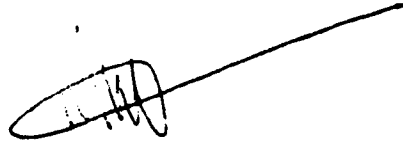
I hereby make this Application to the Board and request that it be granted.

I understand that if this Application is not granted by the Board, this Application shall be of no effect, shall not bind me in any way, shall not be construed to be an admission of any act of alleged misconduct, shall not be used against me, shall be kept in strict confidence, and shall not be used as evidence during the pendency of any professional misconduct disciplinary proceeding; likewise, the Board's denial shall be made without prejudice to the Department's initiation or continuance of any related disciplinary proceeding and/or the Board's final determination of such matter, pursuant to the Public Health Law.

I agree that, if the Board grants my Application, the Chairperson of the Board shall issue an Order in accordance with the terms and conditions set forth in this Application. I agree that such Order shall be effective upon issuance by the Board, which may be accomplished by mailing a copy of the Consent Order to me, by first class mail at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I make this Application of my own free will and accord and not under duress, compulsion or restraint of any kind. In consideration of the value to me of

the Board's acceptance of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent 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.



MONTE KEEN, M.D.  
RESPONDENT

Sworn to before me on this  
4<sup>th</sup> day of Feb., 2000




NOTARY PUBLIC

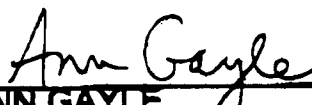
2001

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: February 4, 2000

  
T. LAWRENCE TABAK, ESQ.  
Attorney for Respondent

DATE: Feb. 4, 2000

  
ANN GAYLE  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: Feb 7, 2000

  
ANNE F. SAILE  
Director  
Office of Professional  
Medical Conduct

IN THE MATTER  
OF  
MONTE KEEN, M.D.

STATEMENT  
OF  
CHARGES

MONTE KEEN, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 27, 1982, by the issuance of license number 151467, by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. In and prior to 1999, Respondent was dependent upon, and a habitual user of, narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, including, but not limited to, cocaine and morphine.
- B. On or about the dates listed in Appendix B, Respondent, not in the good faith practice of medicine and not for a proper medical purpose, obtained the medications listed in Appendix B from the Controlled Drug Module ("CDM") at Columbia Presbyterian Hospital, by falsely indicating that the medications were for use by him in treating patients A to N.
- C. From approximately February 25, 1999 to June 23, 1999, Respondent prescribed controlled substances including Dilaudid, Percocet, Vicodin, Valium, and Ambien to Patient A, a known substance abuser, at his office in New York, New York.
1. Respondent failed to obtain an adequate medical history, or note such history, if any.
  2. Respondent failed to perform an adequate physical examination, or note such examination, if any.

**EXHIBIT "A"**

3. The controlled substances were inappropriately prescribed.
  4. The controlled substances were prescribed not in the good faith practice of medicine and not for a proper medical purpose.
  5. Respondent failed to maintain a record which accurately reflects the care and treatment rendered to this patient.
- D. In June 1999, Respondent practiced medicine while his ability to so practice was impaired by drugs including, but not limited to, cocaine and morphine. Instances of such practice included, but were not limited to:
1. On or about June 18, 1999, while at his office located at 16 East 60<sup>th</sup> Street, New York, New York, Respondent treated at least four patients while he was under the influence of drugs including, but not limited to, cocaine and morphine.
  2. Respondent treated Patient O, an adult female, at his office, on or about June 15, 1999 while he was under the influence of drugs including, but not limited to, cocaine and morphine.

### **SPECIFICATION OF CHARGES**

#### **FIRST AND SECOND SPECIFICATIONS FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 2000) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. Paragraph B.
2. Paragraph C and C4.

#### **THIRD SPECIFICATION NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 2000) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

3. Paragraphs B, C, C1-5, and D and D1-2.

**FOURTH SPECIFICATION**  
**BEING AN HABITUAL USER OR HAVING A**  
**PSYCHIATRIC CONDITION WHICH IMPAIRS**  
**THE ABILITY TO PRACTICE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(8)(McKinney Supp. 2000) by 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 as alleged in the facts of the following:

4. Paragraph A.

**FIFTH SPECIFICATION**  
**PRACTICING WHILE IMPAIRED**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(7)(McKinney Supp. 2000) by practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability as alleged in the facts of the following:

5. Paragraphs D and D1-2.

**SIXTH SPECIFICATION**  
**FAILURE TO MAINTAIN RECORDS**

Respondent is charged with committing professional misconduct as defined in



N.Y. Educ. Law §6530(32)(McKinney Supp. 2000) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

6. Paragraph C5.

DATED: January , 2000  
New York, New York

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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

APPENDIX "B"

PATIENT NAME	DATE PATIENT AT COLUMBIA PRESBYTERIAN	DRUGS WITHDRAWN FROM THE CDM - date, quantity, amount, type			
B	5/12/99	5/25/99	2	10 mg	morphine
		5/30/99	3	10 mg	morphine
		6/1/99	2	10 mg	morphine
A	5/13/99 - 5/20/99 6/30/99 - 7/3/99	6/18/99	3	10 mg	morphine
		6/18/99	1	10 pct	cocaine
C	6/2/99	6/2/99	1	10 pct	cocaine
		6/2/99	2	10 mg	morphine
		6/3/99	1	10 mg	morphine
		6/4/99	1	10 pct	cocaine
		6/14/99	2	10 mg	morphine
		6/15/99	1	10 pct	cocaine
		6/15/99	2	10 mg	morphine
D	5/19/99	5/11/99	1	10 pct	cocaine
		5/11/99	2	10 mg	morphine
		5/19/99	2	10 pct	cocaine
		5/30/99	1	10 pct	cocaine
E	4/9/99 - 4/18/99	4/6/99	2	10 mg	morphine
		4/9/99	2	10 mg	morphine
		4/10/99	2	10 mg	morphine
		4/14/99	2	10 mg	morphine
		4/15/99	3	10 mg	morphine
		4/16/99	3	10 mg	morphine
		6/15/99	2	100 mg	meperidine
		6/21/99	3	10 mg	morphine
F	NO HOSPITAL RECORD FOUND	6/2/99	1	10 pct	cocaine
		6/4/99	1	10 pct	cocaine
		6/18/99	3	10 mg	morphine
G	3/31/99	3/31/99	1	10 pct	cocaine
		4/6/99	1	10 pct	cocaine
		4/13/99	1	10 pct	cocaine
		5/21/99	1	10 pct	cocaine
		6/8/99	1	10 pct	cocaine
H	NO HOSPITAL RECORD FOUND	5/28/99	3	10 mg	morphine
		6/1/99	4	10 mg	morphine
		6/14/99	3	10 mg	morphine
I	5/26/99 - 5/29/99	5/26/99	1	10 pct	cocaine
		5/26/99	3	10 mg	morphine
		5/28/99	1	10 pct	cocaine
		6/3/99	2	10 mg	morphine
		6/14/99	1	10 pct	cocaine
		6/14/99	2	10 mg	morphine

J	3/10/99 - 3/15/99	3/22/99	1	10	pct	cocaine
		4/22/99	1	10	pct	cocaine
		5/6/99	2	10	pct	cocaine
		5/10/99	1	10	pct	cocaine
		5/10/99	2	10	mg	morphine
K1	5/12/99 - 5/15/99	5/12/99	1	10	pct	cocaine
		5/12/99	4	10	mg	morphine
		5/13/99	1	10	pct	cocaine
		6/15/99	1	10	pct	cocaine
K2		5/14/99	1	10	pct	cocaine
		5/18/99	2	10	pct	cocaine
		6/17/99	1	10	pct	cocaine
		6/17/99	3	10	mg	morphine
		6/24/99	1	10	pct	cocaine
		6/24/99	2	10	mg	morphine
L	NO HOSPITAL RECORDS FOR 1999 FOUND	4/9/99	2	10	mg	morphine
		4/13/99	2	10	mg	morphine
		4/14/99	3	10	mg	morphine
		4/15/99	2	10	mg	morphine
		4/19/99	2	10	mg	morphine
M	NO HOSPITAL RECORD FOUND	6/4/99	1	1	mg/ml	2 ml midazolam
		6/4/99	1	10	pct	cocaine
		6/4/99	3	10	mg	morphine
		6/5/99	1	10	pct	cocaine
N	6/23/99	6/23/99	2	10	pct	cocaine
		6/25/99	2	10	pct	cocaine

## EXHIBIT "B"

1. Respondent's indefinite license suspension shall be modified, and the active suspension of his license terminated, only upon a showing by Respondent to the satisfaction of a Committee on Professional Conduct of the State Board for Professional Medical Conduct (henceforth "Committee"), and upon the Committee's determination, that: he has successfully complied with or completed a course of therapy and ongoing evaluation; he is no longer incapacitated for the practice of medicine; and he is both fit and clinically competent to practice as a Physician.

2. Upon Respondent's written request, a Committee shall meet to hear and evaluate Respondent's showing, as referred to in paragraph 1 above, in support of a Modification Order. The Board will make reasonable attempts to convene a Committee within 120 days after Respondent's request. That request shall not be perfected until the Director of the Office of Professional Medical Conduct receives all the documents Respondent is required to provide, as set forth in paragraph 3 below. The procedural nature of this proceeding shall be determined by the State Board for Professional Medical Conduct, within the discretion of the Director of the Office of Professional Medical Conduct upon consultation with Counsel, Bureau of Professional Medical Conduct. Proceedings before said Committee shall *not* be in the nature of a *hearing* pursuant to New York Public Health Law §230, but shall instead be informal and intended only to address any and all facts, evidence, information, circumstances, or issues that relate to the advisability of terminating the suspension of Respondent's license. The Committee shall be given access to evidence including but not limited to:

- a. Any and all evidence of Respondent's compliance with the Conditions imposed.
- b. Any evidence that the Director of the Office of Professional Medical Conduct or Counsel, Bureau of Professional Medical Conduct, deems appropriate.

3. At the time that Respondent requests that a Committee meeting be scheduled pursuant to paragraph 2, he shall provide the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299, with the following:

- a. The signed acknowledgment from the supervising physician referred to in paragraph 5e.
- b. The signed acknowledgment from the health care professional referred to in paragraph 5f.
- c. The signed acknowledgment from the monitor referred to in paragraph 5b.
- d. Certified true and complete copies of records of all evaluation and treatment relating to Respondent's impairment, whether that evaluation and treatment occurred prior to or during the time this suspension is in effect. These records shall include documentation of the results of all tests conducted to evaluate Respondent's fitness and his clinical competence to practice medicine. Such records shall include, but not be limited to, documentation of his participation in the program(s) of the Committee for Physicians' Health of the New York State Medical Society, or other equivalent program(s).
- e. Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records.
- f. A current in-depth chemical dependency evaluation by a health care professional in a licensed facility and an independent current psychiatric evaluation by a board certified psychiatrist.
- g. Respondent's attendance at, participation in, and cooperation with an interview conducted by personnel of OPMC, upon the request of the Director.
- h. At the direction of the Director, a report of a complete clinical competency assessment performed by a program for such assessment, such program to be proposed by Respondent and subject to the prior written approval of the Director of OPMC.

Provision of the aforesaid documents will not alone constitute a showing that Respondent is no longer incapacitated for active practice as a Physician.

4. At the proceeding referred to in paragraph 2, Respondent shall provide the committee, at a minimum, with the following:

- a. Certified true and complete copies of records of any and all treatment in a residential rehabilitation or day-treatment program or intensive treatment in an out-patient service and any other psychiatric, psychological, and/or mental health treatment, evaluation, and/or testing, whether in an out-patient, in-patient, office, or consultation setting.
- b. Evidence of compliance with the terms of a continuing after-care out-patient treatment plan that addresses the major problems associated with Respondent's illness.
- c. Evidence that Respondent has maintained adequate knowledge and competence to practice as a physician. Such evidence shall include documentation of continuing medical education and, if so requested by the Director of OPMC, a report of an independent evaluation of Respondent's medical knowledge and competence.

Submission of the aforesaid evidence shall not, alone, constitute a showing that Respondent is no longer incapacitated for the active practice as a Physician.

5. If the Chairperson of the Committee issues an order (Order) finding that Respondent has successfully completed the prescribed course of treatment and has regained fitness and competence to practice medicine, therefore staying the suspension of Respondent's license, the Order shall further impose a period of probation, pursuant to New York Public Health Law §230-a, during which his practice as a Physician shall be subject to conditions imposed. Respondent's practice shall be subject to such conditions for a period of no less than five years. The minimum conditions shall include:

- a. Respondent shall remain drug and alcohol free.
- b. Respondent's sobriety will be monitored by a health care professional, proposed by Respondent and approved in writing by the Director of OPMC, in accordance with the conditions imposed by the Order. Said monitor shall acknowledge his/her willingness to comply with the monitoring by executing the acknowledgment provided by

OPMC, and referred to in paragraph 3c.

- i. Said monitor shall be familiar with Respondent's history of impairment, with this Consent Agreement and Order, and with the conditions of practice imposed by the Order. Said monitor shall not be Respondent's treating physician.
  - ii. Said monitor shall see Respondent at least twice during a quarter.
  - iii. Said monitor shall direct Respondent to submit to unannounced tests of my blood, breath, and/or urine for the presence of drugs or alcohol and shall report to OPMC within 24 hours if at any time such a test is refused by me or is positive.
  - iv. Said monitor shall report to OPMC any noncompliance with the imposed conditions.
  - v. Said monitor shall not be a personal friend of Respondent's.
  - vi. Said monitor shall submit to OPMC quarterly reports either certifying Respondent's compliance, or detailing Respondent's failure to comply, with each of the conditions imposed. The reports shall include the results of all body fluid and/or breath tests for drugs and/or alcohol performed during that quarter.
- c. Respondent shall be required to comply with the terms of a continuing after-care treatment plan that addresses the major problems associated with his illness.
- d. At the direction of the Director of OPMC, Respondent shall submit to periodic interviews with, and evaluations by, a board certified psychiatrist or other licensed mental health practitioner designated by the Director. Said practitioner shall report to the Director regarding Respondent's condition and his fitness or incapacity to practice as a Physician.
- e. Respondent shall be supervised in his medical practice by a

licensed physician, proposed by him and approved in writing by the Director of OPMC, in accordance with the conditions contained in or annexed to the Order. Said supervising physician shall be familiar with Respondent's history of substance abuse and with the Order and its conditions. Said supervising physician shall supervise Respondent's compliance with the conditions of practice imposed by the Order. Said supervising physician shall be in a position regularly to observe and assess Respondent's medical practice. Said supervising physician shall acknowledge his/her willingness to comply with the supervision by executing the acknowledgment provided by OPMC.

- i. Said supervising physician shall submit to OPMC quarterly reports regarding the quality of Respondent's medical practice, any unexplained absences from work and certifying his compliance or detailing his failure to comply with each condition imposed.
  - ii. Said supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practices or possible misconduct to OPMC.
- f. Respondent shall continue in treatment with a health care professional, proposed by him and approved, in writing, by the Director of OPMC, for as long as the health care professional determines it is necessary.
- i. Respondent's treating health care professional or program shall submit to OPMC quarterly reports certifying that Respondent is complying with the treatment.
  - ii. Said treating health care professional shall report to OPMC immediately if Respondent is noncompliant with his treatment plan or if he demonstrates any significant pattern of absences.
  - iii. Said treating health care professional shall acknowledge his/her willingness to comply with



the above-mentioned reporting by executing the acknowledgment provided by OPMC.

6. The terms set out in paragraph 5 shall be the minimum probation terms, related to Respondent's fitness to practice, to be imposed on his practice upon restoration of his license, and that other terms may be added by the Committee at the time of license restoration, and that the costs of complying with all such terms will be Respondent's responsibility. Any failure by Respondent to comply with the conditions imposed upon his practice at the time of license restoration, may result in disciplinary action being brought against him charging professional misconduct as defined by the New York State Education Law, including but not limited to N.Y. Educ. Law Section 6530(29) (McKinney Supp. 2000). That section defines professional misconduct to include "violating any... condition... imposed on the licensee pursuant to section two hundred thirty of the public health law."

7. Upon any denial of license restoration made by the Committee, Respondent shall not again request convening of a Committee until a minimum period of nine months has elapsed since such denial.

8. In addition to the terms set out in paragraph 5 and any other terms imposed by the Committee upon restoration of Respondent's license, he shall also be subject to the following standard terms of probation:

- a. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by the profession of medicine.
- b. Respondent shall submit written notification of all sites of employment and/or medical practice to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.

- c. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. He shall personally meet with a person designated by the Director of OPMC as requested by the Director.
- d. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
- e. Any period of probation shall be tolled during periods in which Respondent is not engaged in the active practice as a Physician in New York State. Respondent shall notify the Director of OPMC, in writing, if he is not currently engaged in or intends to leave the active practice as a Physician in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation that were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State. The tolling provision set forth in this paragraph may be waived by the Director of the OPMC, in the Director's discretion.
- f. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and Respondent's staff at practice locations or OPMC offices.
- g. Respondent shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
- h. Respondent shall comply with all terms, conditions, restrictions, limitations

and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A  
REVOCATION, SURRENDER OR SUSPENSION ( of 6 months or more)  
OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall have delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded 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 seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230 a1. of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.