



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

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

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

May 4, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Kwang Han Paik, M.D.
47 Edison Drive
Schenectady, NY 12309

Re: License No. 152336

Dear Dr. Paik:

Enclosed please find Order #BPMC 04-95 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect May 11, 2004.

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: James Hacker, Esq.
7 Airport Boulevard
Latham, NY 12110

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

IN THE MATTER
OF
KWANG HAN PAIK, M.D.

CONSENT
ORDER

BPMC No. 04-95

Upon the application of KWANG HAN PAIK, 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 SO ORDERED, and it is further

ORDERED, that this 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.

DATED: 5/3/04


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
KWANG HAN PAIK, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

Kwang Han Paik, M.D., representing that all of the following statements are true, deposes and says:

That on or about October 29, 1982, I was licensed to practice as a physician in the State of New York, and issued License No. 152336 by the New York State Education Department.

My current address is 47 Edison Drive, Schenectady, N.Y. 12309, 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 has charged me with 31 specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I plead no contest to the specifications, in full satisfaction of the charges against me, and agree to the following penalty:

1. My license to practice medicine in New York State shall be permanently restricted as follows:
 - A. Respondent shall practice medicine only when supervised in his medical practice. The practice supervisor shall be on-site at all locations. 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 his 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. Respondent shall ensure that the Practice Supervisor shall always be physically present to supervise Respondent during the intubation and extubation of all patients.

- E. At any time any health care professional(s) participating in patient care shall have the right to immediately notify the Practice Supervisor of any concerns related to the Respondent's care of any patient.

 - F. The Practice Supervisor shall have complete authority to direct the Respondent concerning patient care during all phases of anaesthesia administration, including pre-operative, intra-operative and post-operative care. The Practice Supervisor shall have the authority to assume control over the care of any of Respondent's patients at any time, should he, in his sole discretion, believe it necessary to protect the health of such patient.

 - G. The Practice Supervisor shall be Board certified in Anesthesiology.
2. A probationary term of 5 years during which period I must fully comply with the terms of probation attached hereto as Exhibit B.

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

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect

thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this 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 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 Order shall constitute misconduct as defined by New York State Education 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 Public 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 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.

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 ask that the Board adopt this Consent Agreement.


DATED

APR 20 2004


KWANG HAN PAIK, M.D.
RESPONDENT

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

DATE: 4-20-04



JAMES HACKER, ESQ.
Attorney for Respondent

DATE: April 20, 04.



JOSEPH H. CAHILL
Associate Counsel
Bureau of Professional Medical Conduct

DATE: April 30, 2004



DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
KWANG HAN PAIK, M.D.

STATEMENT
OF
CHARGES

KWANG HAN PAIK, M.D., Respondent, was authorized to practice medicine in New York State on or about October 29, 1982, by the issuance of license number 152336 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical care at Nathan Littauer Hospital, 99 East State Street, Gloversville, New York 12078 (hereafter "Nathan Littauer Hospital") to Patient A, a 74 year old male admitted on June 5, 2003. Respondent administered general anesthesia during an appendectomy performed on June 6, 2003. Respondent extubated the patient in the operating room. Respondent's care of Patient A failed to meet accepted standards of medical care in that:

1. Respondent failed to take timely measures to adequately monitor the patient in the immediate post-extubation period, including the failure to reattach the

anesthesia machine monitors or similar monitors to the patient.

2. Respondent repeatedly misrepresented the patient's status to other health care professionals present, saying "the patient is fine, the patient is breathing" or words to that effect, when the patient was, in fact, in significant cardiac and/or respiratory distress.
3. Respondent failed to timely diagnose post-operative hypoxia.
4. Respondent failed to give the patient adequate ventilation.
5. Respondent failed to timely diagnose severe hypotension in the post-operative period.
6. Respondent failed to timely treat severe hypotension in the post-operative period.
7. Respondent prevented health care professional staff from applying chest compressions to the patient when medically indicated.
8. Respondent failed to timely institute cardiac life support measures or provide cardiac resuscitation when medically indicated.

9. Respondent failed to timely diagnose and/or treat cardiovascular collapse, including pulseless electrical activity in Patient A
10. Respondent inappropriately withheld adequate ventilation from Patient A following the conclusion of the operation.
11. Respondent's failed to appropriately manage the patient's airway post-operatively.
12. Respondent failed to adequately and/or accurately document Patient A's medical record.

B. Respondent provided medical care at Nathan Littauer Hospital to Patient B, a 25 year old male, admitted through the Emergency Department on June 27, 2002. Respondent administered general anesthesia in an open reduction internal fixation of an ankle fracture performed on that date. Respondent extubated Patient B in the operating room. Respondent's care of Patient B failed to meet accepted standards of medical care in that:

1. Respondent failed to appropriately manage the patient's airway post-operatively.
2. Respondent failed to adequately recover the patient prior to extubation.
3. Respondent inappropriately transferred the patient out of the operating room to the post-anesthesia care unit with an unstable airway.
4. Respondent failed to reintubate the patient when medically indicated and after ambubag efforts failed to move the patient into sustained acceptable oxygen saturation levels.
5. Respondent failed to adequately and/or timely treat the patient's hypoxia.
6. Respondent failed to adequately assess and/or treat the patient's symptoms of cyanosis and unresponsiveness.

7. Respondent failed to adequately and/or timely respond to the patient's respiratory failure and/or pulmonary edema.
8. Respondent ordered the administration of IV Demerol to the patient which was contra-indicated given the patient's respiratory failure and unresponsive status.
9. Respondent failed to adequately and/or accurately document Patient B's medical record.

C. Respondent provided medical care at Nathan Littauer Hospital to Patient C, a 48 year old female, on June 11, 2003. Respondent administered general anesthesia related to an elective total abdominal hysterectomy, bilateral salpingo-oophorectomy, cystoscopy and bladder suspension surgery. Respondent extubated Patient C in the operating room. Respondent's care of Patient C failed to meet accepted standards of medical care in that:

1. Respondent failed to record the time that muscle relaxant reversal agent(s) were administered.
2. Respondent failed to record the time(s) that Dopram and/or Zofram were administered.
3. Respondent failed to record specific and/or complete data related to post-extubation oxygen saturation fluctuations.
4. Respondent failed to adequately diagnose the cause of the patient's post-extubation respiratory distress.
5. Respondent inappropriately ordered the administration of IV Lasix for Patient C.
6. Respondent inappropriately ordered the administration of Versed for Patient C.
7. Respondent failed to appropriately manage the patient's airway post-operatively.

8. Respondent failed to adequately and/or accurately document Patient C's medical record.

D. Respondent provided medical care at Nathan Littauer Hospital to Patient D, a 33 year old female, on November 28, 2001. Respondent administered general anesthesia during a laparoscopic cholecystectomy surgery. Respondent extubated Patient D in the operating room. Respondent's care of Patient D failed to meet accepted standards of medical care in that:

1. Respondent failed to appropriately manage the patient's airway post-operatively.
2. Respondent inappropriately transferred the patient from the operating room to the post-anesthesia care unit with an unstable airway.
3. Respondent failed to adequately and/or accurately document Patient D's medical record.

E. Respondent provided medical care at Nathan Littauer Hospital to Patient E, a 42 year old male who was admitted on June 11, 2003 for repair of an epigastric hernia. Patient E had a history of Hepatitis C. On this date Respondent administered general anesthesia during the hernia procedure. Respondent's care of Patient E failed to meet accepted standards of medical care in that:

1. Respondent failed to record the time that muscle relaxant reversal agent(s) were administered.
2. Respondent failed to record the time that Dopram was administered.
3. Respondent failed to record low oxygen saturation readings.
4. Respondent inappropriately placed a used LMA (with oral secretions and blood) into his pocket, using his bare hands. Respondent, when confronted about this matter, placed the bloody side of the LMA back into his pocket and then sat on various chairs in the post-anesthesia care unit.
5. Respondent failed to adequately and/or accurately document Patient E's medical record.

F. Respondent provided medical care at Nathan Littauer Hospital to Patient F, a 40 year old female who was admitted on an outpatient basis on July 1, 2002 for a laparoscopic bilateral salpingo-oophorectomy. Respondent provided general anesthesia during this procedure. Respondent extubated Patient F in the operating room. Respondent's care of Patient F failed to meet accepted standards of medical care in that:

1. Respondent failed to record the doses and/or times that atropine and/or neostigmine were administered.
2. Respondent failed to appropriately manage the patient's airway post-operatively.
3. Respondent failed to adequately recover the patient prior to extubation.
4. Respondent inappropriately transferred the patient from the operating room to the post-anesthesia care unit with an unstable airway.
5. Respondent failed to adequately and/or accurately document Patient F's medical record.

G. Respondent provided medical care at Nathan Littauer Hospital to Patient G, a 58 year old female who was admitted on May 13, 2002 for a laparoscopic cholecystectomy. Respondent provided general anesthesia related to this procedure. Following the procedure, Respondent extubated Patient G in the operating room. Respondent's care of Patient G failed to meet accepted standards of medical care in that:

1. Respondent failed to appropriately manage the patient's airway post-operatively.
2. Respondent failed to adequately recover the patient prior to extubation.
3. Respondent inappropriately transferred the patient from the operating room to the post-anesthesia care unit with an unstable airway.
4. Respondent failed to adequately and/or accurately document the patient's medical record.

H. Respondent provided medical care at Nathan Littauer Hospital to Patient H, a 40 year old male who was admitted on April 16, 2002 through the Emergency Department for an acute appendix. Respondent provided general anesthesia during an appendectomy surgery performed on that date. Following the operation Respondent extubated Patient H in the operating room. Respondent's care of Patient H failed to meet accepted standards of medical care in that:

1. Respondent failed to appropriately manage the patient's airway post-operatively.
2. Respondent failed to adequately recover the patient prior to extubation.
3. Respondent inappropriately transferred the patient from the operating room to the post-anesthesia care unit with an unstable airway.
4. Respondent failed to adequately and/or accurately document the patient's medical record.

I. Respondent provided medical care at Saint Mary's Hospital, 427 Guy Park Avenue, Amsterdam, New York 12010 (hereafter "St. Mary's Hospital"), to Patient I, a 58 year old male who was admitted on November 20, 2000 for evaluation of rectal bleeding. On November 21, 2000, Respondent provided general anesthesia during a rigid proctosigmoidoscopic examination, rectal biopsies and debridement of a rectal ulcer. Following these procedures, Respondent extubated Patient I in the operating room. Respondent's care of Patient I failed to meet accepted standards of medical care in that:

1. Respondent failed to appropriately manage the patient's airway post-operatively.
2. Respondent failed to adequately recover the patient prior to extubation.
3. Respondent inappropriately transferred the patient from the operating room to the post-anesthesia care unit with an unstable airway.
4. Respondent failed to timely reintubate the patient in the face of signs of respiratory distress and/or cardiac decompensation.
5. Respondent failed to adequately and/or timely secure the patient's airway after the patient suffered a cardiac arrest and a code was instituted.

6. Respondent, following reintubation, inappropriately allowed the patient to breath spontaneously, in the face of respiratory distress and/or cardiac arrest.
7. Respondent failed to adequately and/or accurately document the patient's medical record.

J. Respondent provided medical care at St. Mary's Hospital to Patient J, a 35 year old pregnant female who was admitted on November 27, 2001 in active labor. Respondent provided general anesthesia during an emergency Caesarian section performed on that date. Respondent's care of Patient J failed to meet accepted standards of medical care in that:

1. Respondent, following the inadvertent extubation of the endotracheal tube, failed to appropriately manage the patient's airway.
2. Respondent inaccurately documented in the patient's record that laryngospasm was the cause of an unsuccessful intubation.
3. Respondent inaccurately documented the patient's hypoxia on the anesthesia record.
4. Respondent inaccurately documented the patient's ETCO² levels on the anesthesia record.
5. Respondent failed to document the time(s) that induction agents were administered.
6. Respondent, failed to document the time that Atracurium was administered.
7. Respondent, despite the patient's respiratory distress, failed to adequately evaluate and/or treat the patient and told staff that the situation was "under control,"

or words to that effect.

8. Respondent physically interfered with a physician attempting to monitor the patient's respiratory status, when such monitoring was medically indicated.
9. Respondent failed to adequately and/or accurately document the patient's medical record.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(3) 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:

1. The facts in Paragraphs A and A1, A and A2, A and A3, A and A4, A and A5, A and A6, A and A7, A and A8, A and A9, A and A10, A and A11, A and A12; B and B1, B and B2, B and B3, B and B4, B and B5, B and B6, B and B7, B and B8, B and B9; C and C1, C and C2, C and C3, C and C4, C and C5, C and C6, C and C7, C and C8; D and D1, D and D2, D and D3; E and E1, E and E2, E and E3, E and E4, E and E5; F and F1, F and F2, F and F3, F and F4, F and F5; G and G1, G and G2, G and G3, G and G4; H and H1, H and H2, H and H3, H and H4; I and I1, I and I2, I and I3, I and I4, I and I5, I and I6, I and I7; J and J1, J and J2, J and J3, J and J4, J and J5, J and J6, J and J7, J and J8, J and J9.

SECOND SPECIFICATION
INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. The facts in Paragraphs A and A1, A and A2, A and A3, A and A4, A and A5, A and A6, A and A7, A and A8, A and A9, A and A10, A and A11, A and A12; B and B1, B and B2, B and B3, B and B4, B and B5, B and B6, B and B7, B and B8, B and B9; C and C1, C and C2, C and C3, C and C4, C and C5, C and C6, C and C7, C and C8; D and D1, D and D2, D and D3; E and E1, E and E2, E and E3, E and E4, E and E5; F and F1, F and F2, F and F3, F and F4, F and F5; G and G1, G and G2, G and G3, G and G4; H and H1, H and H2, H and H3, H and H4; I and I1, I and I2, I and I3, I and I4, I and I5, I and I6, I and I7; J and J1, J and J2, J and J3, J and J4, J and J5, J and J6, J and J7, J and J8, J and J9.

THIRD THROUGH ELEVENTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(4) by practicing the profession of medicine with gross negligence

as alleged in the facts of the following:

3. The facts in Paragraph A and A1, A and A2, A and A3, A and A4, A and A6, A and A7, A and A8, A and A9, A and A10, A and A11, A and A12.
4. The facts in Paragraph B and B1, B and B2, B and B3, B and B4, B and B5, B and B6, B and B7 and/or B and B8.
5. The facts in Paragraph C and C4 and/or C and C6.
6. The facts in Paragraph D and D1 and/or D and D2.
7. The facts in Paragraph F and F2, F and F3 and/or F and F4.
8. The facts in Paragraph G and G1, G and G2 and/or G and G3.
9. The facts in Paragraph H and H1 and/or H and H2.
10. The facts in Paragraph I and I1, I and I2, I and I3, I and I4, I and I5 and/or I and I6.
11. The facts in Paragraph J and J1, J and J7 and/or J and J8.

TWELFTH THROUGH TWENTIETH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

12. The facts in Paragraph A and A1, A and A2, A and A3, A and A4, A and A6, A and A7, A and A8, A and A9, A and

A10, A and A11, A and A12.

13. The facts in Paragraph B and B1, B and B2, B and B3, B and B4, B and B5, B and B6, B and B7 and/or B and B8.
14. The facts in Paragraph C and C4 and/or C and C6.
15. The facts in Paragraph D and D1 and/or D and D2.
16. The facts in Paragraph F and F2, F and F3 and/or F and F4.
17. The facts in Paragraph G and G1, G and G2 and/or G and G3.
18. The facts in Paragraph H and H1 and/or H and H2.
19. The facts in Paragraph I and I1, I and I2, I and I3, I and I4, I and I5 and/or I and I6.
20. The facts in Paragraph J and J1, J and J2, J and J7 and/or J and J8.

TWENTY-FIRST THROUGH THIRTIETH SPECIFICATIONS
FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(32) 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 the following:

21. The facts in Paragraph A and A12.
22. The facts in Paragraph B and B9.
23. The facts in Paragraph C and C1, C and C2, C and C3 and/or C and C8.
24. The facts in Paragraph D and D3.

25. The facts in Paragraph E and E1, and E and E.2, E and E3 and/or E and E5.
26. The facts in Paragraph F and F1 and F and F5.
27. The facts in Paragraph G and G4.
28. The facts in Paragraph H and H4.
29. The facts in Paragraph I and I7.
30. The facts in Paragraph J and J2, J and J3, J and J4, J and J5, J and J6 and/or J and J9.

THIRTY-FIRST SPECIFICATION
INFECTION CONTROL VIOLATION

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(47) by failing to use scientifically accepted barrier precautions and infection control practices as established by the Department of Health pursuant to § 230(a) of the Public Health Law as alleged in the facts of the following:

31. The facts in Paragraph E and E4.

DATED: April 14, 2004
Albany, New York



PETER D. VAN BUREN
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 New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such 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, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
4. 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.
5. 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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (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 thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms.
7. 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 and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.

8. 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.

PRACTICE SUPERVISOR

9.
 - A. Respondent shall practice medicine only when supervised in his/her medical practice. The practice supervisor shall be on-site at all locations. 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 his 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. Respondent shall ensure that the practice supervisor shall always be physically present to supervise Respondent during the intubation and extubation of all patients.
 - E. At any time any health care professional(s) participating in patient care shall have the right to immediately notify the Supervisor of any concerns related to the Respondent's care of any patient.
 - F. The practice supervisor shall have complete authority to direct the Respondent concerning patient care during all phases of anaesthesia administration, including pre-operative, intra-operative and post-operative care. The practice supervisor shall have the authority to assume control over the care of any of Respondent's patient at any time, should he, in his sole discretion, believe it necessary to protect the health of such patient.
 - G. The practice supervisor shall be Board certified in Anesthesiology.
10. Respondent shall enroll in and complete a continuing education program in the area of airway management or similar subject(s) as the Director may require for a minimum of 18 credit hours. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the first year of the probation period, unless the Order specifies otherwise.

11. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or 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.