



New York State Board for Professional Medical Conduct

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

Kendrick A. Sears, M.D.
Chair

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

January 24, 2007

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Chad Epps, M.D.

REDACTED

Re: License No. None

Dear Dr. Epps:

Enclosed is a copy of Order #BPMC 07-11 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect January 31, 2007.

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

Sincerely,

REDACTED

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

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: David J. Abrams, Esq.
Kasowitz, Benson, Torres & Friedman, LLP
1633 Broadway
New York, NY 10019-6799

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

**IN THE MATTER
OF
CHAD EPPS, M.D.**

**CONSENT
ORDER**

BPMC No. #07-11

Upon the application of (Respondent) CHAD EPPS, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

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

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

SO ORDERED.

DATE: 1-23-07

REDACTED

KENDRICK A. SEARS, M.D.
Chair

State Board for Professional Medical Conduct

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

**IN THE MATTER
OF
CHAD EPPS, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

CHAD EPPS, M.D., representing that all of the following statements are true, deposes and says:

That I have been a "licensee," as that term is defined in N.Y. Public Health Law §230(7), at times on and after July 1, 2001. During all relevant periods, I practiced medicine in New York as part of a residency program in anesthesiology at Mount Sinai Medical Center in New York. (For purposes of this document, I will be referred to as "Licensee," although I do not hold a medical license in New York State, and any reference to conditions or limitations on my "license" to practice medicine in New York shall apply to my ability to practice medicine, whether pursuant to provisions of N.Y. Educ. Law §§ 6525 or 6526, or pursuant to a license, if one is granted to me in future by the New York State Education Department.) I do not hold and have not held a license to practice medicine in New York State issued by the New York State Education Department. I hold limited permit P28423, valid only for the practice of medicine at Mount Sinai Medical Center in New York, which was issued by the State Education Department on Sept. 1, 2005. I am currently not licensed as a physician, and do not hold a limited permit to practice medicine, in any jurisdiction outside New York.

My current address is REDACTED, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the Director of OPMC has alleged that I have violated Terms of Probation imposed upon me by Consent Order BPMC No. 05-261, which went into effect on November 22, 2005 (and which is attached as Exhibit "A"), as follows:

1. By failing to comply with Term of Probation 9 in Exhibit "B" of Consent Order BPMC No. 05-261 (requiring that "Respondent shall remain drug/alcohol free") during periods after November 22, 2005 and in or about 2006.

I do not contest the allegation above, in full satisfaction of the facts alleged, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice medicine in New York State shall be limited to preclude the practice of anesthesiology.

Pursuant to N.Y. Pub. Health Law § 230-a(2), my license shall be suspended for an indefinite period but no less than twelve months. 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 shall impose the following conditions:

That Respondent shall return any and all official New York State prescriptions to the Bureau of Narcotic Enforcement, and shall surrender Respondent's Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within thirty days of this Consent Order's effective date. Further, within thirty days of returning these prescriptions and surrendering

this registration, Respondent shall provide the Director of OPMC ("Director") with written evidence, satisfactory to the Director, that Respondent has complied with this condition.

Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502, including but not limited to the requirements that a licensee shall register, and continue to be registered, with the New York State Education Department, (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in § N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect thirty days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall 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 N.Y. Educ. Law § 6530(29).

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

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. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient

identities, if any, redacted. As public documents, they may be posted on the Department's website.

I stipulate that the proposed sanction and Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 1/4/07

REDACTED

CHAD EPPS, M.D.
RESPONDENT

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

DATE: 1/8/07

REDACTED

DAVID J. ABRAMS, ESQ.
Attorney for Respondent

DATE: January 10, 2007

REDACTED

MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: January 22, 2007

REDACTED

DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

Exhibit "A"



New York State Board for Professional Medical Conduct

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

Antonla 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

Kendrick A. Sears, M.D.
Chairman

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

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

Public

November 15, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Chad Epps, M.D.

REDACTED

Re: License No. Resident

Dear Dr. Epps:

Enclosed is a copy of Order #BPMC 05-261 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect November 22, 2005.

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,

REDACTED

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Wilfred T. Friedman, Esq.
36 West 44th St., Suite 816
New York, NY 10036

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

IN THE MATTER
OF
CHAD EPPS, M.D.

CONSENT
ORDER

BPMC No. #05-261

Upon the application of (Respondent) CHAD EPPS, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

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

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

SO ORDERED.

DATE: 11-11-05

REDACTED

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional Medical Conduct

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

**IN THE MATTER
OF
CHAD EPPS, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

CHAD EPPS, M.D., representing that all of the following statements are true, deposes and says:

That I have been a "licensee", as that term is defined in N.Y. Public Health Law § 230(7), at all times relevant hereto. I do not hold a license to practice medicine in New York State issued by the New York State Education Department. I presently hold limited permit number P28423 issued on or about September 1, 2005, by the New York State Education Department.

My current address is REDACTED 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 two 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 state that I cannot successfully defend against at least one of the acts of misconduct alleged, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to §230-a(2) of the Public Health law, my permit and any license to practice medicine I may be granted within twelve months of the effective date of this order shall be

suspended during a period of twelve months beginning upon the effective date of this order, with said suspension to be entirely stayed.

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of sixty months, subject to the terms set forth in attached Exhibit "B."

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

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 holds such license or permit.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §5530(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. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

I stipulate that the proposed sanction and Order are authorized by Public Health Law Sections 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the

Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

DATE 11/3/05

REDACTED

CHAD EPPS, M.D.
RESPONDENT

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

DATE: 11/9/05

REDACTED
~~WILFRED T. FRIEDMAN, ESQ.~~
Attorney for Respondent

DATE: 11/8/05

REDACTED
~~ROY NEMERSON~~
Deputy Counsel
Bureau of Professional Medical Conduct

DATE: 11/10/2005

REDACTED
~~DENNIS J. GRAZIANO~~
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
CHAD EPPS, M.D.

STATEMENT
OF
CHARGES

CHAD EPPS, M.D., the Respondent, has been a "licensee", as that term is defined in N.Y. Public Health Law § 230(7), at all times relevant hereto, and does not hold a license to practice medicine in New York State issued by the New York State Education Department. Respondent presently holds limited permit number P28423 issued on or about September 1, 2005, by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent was dependent upon or an habitual user of controlled substance(s), in or before the year 2004. On at least one occasion, Respondent obtained such substance by diversion from hospital supplies.
- B. In or about March of 2001, Respondent failed to disclose at least one Motor Vehicle conviction occurring in or after 1994, on a hospital appointment application.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

BEING AN HABITUAL USER

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

1. Paragraph A.

SECOND SPECIFICATION

VIOLATING P.H.L. § 2805-K

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(14) by violating section twenty-eight hundred five-k of the public health law, as alleged in the facts of:

2. Paragraph B.

DATED: ^{Nov 8}
October 2005
New York, New York

REDACTED

Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by 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 active registration of any permit or license Respondent holds to practice medicine in New York, 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), Hedlev 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 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 § 171(27)]; State Finance Law § 18; CPLR § 5001; Executive Law § 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 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 day period. Respondent shall then notify the Director again at least fourteen 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 and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or are necessary to protect the public health.

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.
9. Respondent shall remain drug/alcohol free.
10. Respondent shall remain active in self help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
11. Respondent shall notify all treating physicians of his/her history of alcohol/chemical dependency. Respondent shall advise OPMC of any controlled or mood-altering substance given or prescribed by treating physicians.
12. Respondent shall practice only when monitored by qualified health care professional monitors (sobriety monitor, practice supervisor, and therapist) proposed by Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships which would pose a conflict with monitoring responsibilities.
13. Respondent shall ensure that the monitors are familiar with Respondent's drug/alcohol dependency and with the terms of this Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitors to submit required reports on a timely basis.
14. Respondent shall submit, at the request of a monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random, seven-days a week, twenty-four hours a day basis. Respondent shall report for a drug screen within four (4) hours of being contacted by the monitor. Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by Respondent or a test is positive for any unauthorized substance. Respondent shall avoid all substances which may cause positive urine drug screens such as poppy seeds, mouthwash, cough medicine, etc. Any positive result will be considered a violation of probation.
15. Respondent shall meet with a sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying Respondent's sobriety. These reports are to include a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than six times per month for the first 12 months of the period of probation, then at a frequency to be proposed by the sobriety monitor and approved by OPMC and b) an assessment of self-help group attendance (e.g., AA/NA/Caduceus, etc.), 12 step progress, etc.

16. Respondent shall practice medicine only when supervised in his/her medical practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. Respondent shall not practice medicine until a practice supervisor has been approved. 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.
17. Respondent shall cause the practice supervisor to review Respondent's practice regarding the prescribing, administering, dispensing, inventorying, and disposal of controlled substances. The practice supervisor shall oversee R's prescribing, administering, dispensing, inventorying and wasting of controlled substances.
18. Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any term of probation.
19. Respondent shall continue in counseling or other therapy with a therapist as long as the therapist determines is necessary, or for the period of time dictated in the Order.
20. Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse.
21. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.
22. Respondent shall enroll in and complete a continuing education program in a subject area as directed by the Director of OPMC. This continuing education program is subject to the Director's prior written approval and shall be completed within the first year of the probation period.
23. 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.

Exhibit "B"

EXHIBIT "B"

1. The suspension of Respondent's license shall be terminated only upon a showing to the satisfaction of a Committee on Professional Conduct (Committee) of the State Board for Professional Medical Conduct (Board) that Respondent has successfully complied with or completed a course of therapy and ongoing evaluation, which successful compliance or completion must include a determination by said Committee that Respondent is no longer incapacitated for the practice as a physician and **that Respondent is both fit and clinically competent to practice as a physician.** Respondent shall provide to the Office of Professional Medical Conduct (OPMC) a proposed treatment plan, for advice as to whether it is generally appropriate, but the determination of successful compliance with or completion of the course of therapy shall be made solely by the Committee, and shall include, but not be limited to, a determination that Respondent is no longer incapacitated for the active practice as a physician.

2. Upon Respondent's request, but after the passage of the minimum period of suspension, a meeting of a Committee shall be convened for the purpose of hearing and evaluating Respondent's showing referred to in paragraph 1. The Board will make reasonable attempts to convene a Committee not later than 90 days after Respondent's request, which shall not be deemed to have been perfected until receipt, by the Director of the Office of Professional Medical Conduct, (Director) of all that is required to be provided by Respondent pursuant to the Conditions imposed upon Respondent and pursuant to paragraph 3 below. The procedural nature of said proceeding shall be determined by the Board through the discretion of the Director of OPMC upon consultation with Counsel, Bureau of Professional Medical Conduct (Counsel). 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 for the purpose of addressing any and all facts, evidence, information, circumstances, or issues which do or may 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 pertaining to Respondent's compliance with the conditions imposed.
 - b. Any evidence which the Director or Counsel deems appropriate.
3. At the time that Respondent requests that a meeting of a Committee be scheduled, pursuant to paragraph 2, he shall provide the Director of OPMC with the following:
- a. The signed acknowledgment and curriculum vitae from the proposed sobriety monitor referred to in paragraph 5c.
 - b. The signed acknowledgment and curriculum vitae from the proposed supervising physician referred to in paragraph 5d.
 - c. The signed acknowledgment and curriculum vitae from the proposed health care professional referred to in paragraph 5e.
 - d. Certified true and complete copies of all evaluation and treatment records relating to Respondent's substance abuse/dependence, psychological, psychiatric and/or mental health treatment whether in an in-patient, out-patient, after-care or consultation setting. These certified records shall be forwarded directly to OPMC from all treatment providers, facilities and evaluators. These records shall reflect any treatment and evaluation provided whether said treatment and evaluation occurred prior to or during the time this suspension is in effect. Such records shall include documentation of the results of all tests conducted to evaluate Respondent's fitness and clinical competence to practice medicine.
 - e. Documentation of Respondent's participation in the program(s) of the Committee for Physicians' Health of the Medical Society of the State of New York or other equivalent program(s). Documentation shall include but not be limited to verification of compliance and results of forensically valid alcohol/drug screening.
 - f. Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records.

- g. A current, independent, in-depth chemical dependency and psychiatric evaluation by a board-certified psychiatrist specializing in addiction medicine.
- h. Upon request of the Director of OPMC, Respondent shall attend, participate in and cooperate with an interview with designated personnel from the 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 least 14 days prior to the scheduled date of the proceeding referred to in paragraph 2, Respondent shall provide OPMC with the following:
 - a. Certified true and complete copies of records updating treatment and alcohol/drug screening since the date of the original submissions referred to in paragraph 3d.
 - b. 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 active practice as a physician.

- 5. If the Chairperson of the Committee issues an order (Modification Order) finding that Respondent has successfully completed the prescribed course of treatment and has regained fitness and competence to practice medicine, and terminating the suspension of Respondent's license, the Modification Order shall further impose a fixed five year period of probation, pursuant to N.Y. Pub. Health Law § 230-a, during which Respondent's practice as a physician shall be subject to conditions, as set forth in the Modification Order. This fixed period of probation shall run continuously for five years from the effective date of the Modification Order, and shall terminate five years from the effective date of the Modification Order. Notwithstanding the foregoing, if at any time prior to

the expiration of the five year probation period, Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more, and subsequently returns to the active practice of medicine in New York State, the probation period shall be reinstated to the extent that Respondent shall be subject to a total of up to five years of probation while engaged in active medical practice in New York State.

Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Respondent's probation in New York shall have the same terms and conditions as set forth below in this paragraph and in paragraphs 6 and 7, and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to Respondent's sobriety, Respondent's fitness to practice, the matters underlying this agreement, or as are necessary to protect the public health.

The minimum conditions of probation shall include the following:

- a. Respondent shall be required to comply with the terms of a continuing after-care treatment plan that addresses the major problems associated with Respondent's illness.
- b. 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 Respondent's fitness or incapacity to practice as a physician.
- c. Respondent's sobriety will be monitored by a health care professional proposed by Respondent and approved in writing by the Director of OPMC. Said monitor shall not be a personal friend. Said monitor shall be familiar with Respondent's history of chemical dependence, with this suspension and with the terms of probation to be set forth. Said sobriety monitor shall acknowledge his/her

willingness to comply with the monitoring by executing the acknowledgment provided by OPMC.

- i. Respondent shall remain drug and alcohol free.
 - ii. Said monitor shall see Respondent at least twice during each month.
 - iii. Said monitor shall direct Respondent to submit to unannounced tests of her 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 positive or is refused by Respondent. Respondent shall avoid all substances which may cause positive urine drug screens such as poppy seeds, mouthwash, cough medicine, etc. Any positive result will be considered a violation of probation.
 - iv. Said monitor shall report to OPMC any non-compliance with the imposed conditions.
 - v. Respondent shall ensure that said monitor submits to OPMC quarterly reports 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.
 - vi. Respondent shall avoid all substances which may cause positive urine screens such as poppy seeds, mouthwash and cough medication. Any positive test result will be considered a violation of this Order.
- d. Respondent shall be supervised in Respondent's medical practice by a licensed physician, proposed by Respondent 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 impairment 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 to regularly observe and assess Respondent's medical practice. The supervising physician shall oversee Respondent's prescribing, administering, dispensing, inventorying and wasting of controlled substances. Said supervising physician shall acknowledge his/her willingness to comply with the supervision by executing the acknowledgment provided by OPMC.

- i. Respondent shall ensure that said supervising physician submits to OPMC quarterly reports regarding the quality of Respondent's medical practice, any unexplained absences from work and certifying her compliance or detailing her 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.
 - e. Respondent shall continue in treatment with a health care professional, proposed by Respondent and approved, in writing, by the Director of OPMC, for as long as the health care professional determines it is necessary.
 - i. Respondent shall ensure that said treating health care professional or program submits 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 non-compliant with the treatment plan or 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 that shall be imposed by the Committee; upon terminating the suspension of Respondent's license, the Committee may add such other terms of probation related to Respondent's fitness to practice as they deem

appropriate. The costs of complying with all terms of probation shall be Respondent's responsibility. Any failure by Respondent to comply with the conditions imposed upon his practice at the time of suspension termination may result in disciplinary action being brought against him charging professional misconduct as defined by the N.Y. Educ. Law, including but not limited to N.Y. Educ. Law § 6530(29).

7. In addition to the terms set out in paragraph 5 and any other terms added by the Committee upon the termination of Respondent's license suspension, 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 maintain active registration of Respondent's license (should he be granted one by the State Education Department, and except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
 - c. 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 this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
 - d. 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.

Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.

- e. 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 § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
 - 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, hospital charts, and/or electronic records; interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
 - g. Respondent shall maintain legible and complete medical records which 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 Respondent is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of non-compliance 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.
8. Upon any denial of Respondent's petition for suspension termination by the Committee, Respondent shall not again request convening a Committee until a minimum period of nine months has elapsed since such denial.