

May 29, 2014

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

James R. Caputo, M.D.

ADDRESS REDACTED

Re: License No. 206065

Dear Dr. Caputo:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 14-139. This order and any penalty provided therein goes into effect June 5, 2014.

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: c/o Physician Monitoring Unit, NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719.

If your license is framed, please remove it from the frame and only send the parchment paper on which your name is printed. Our office is unable to store framed licenses.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Please direct any questions to: NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719, telephone # (518)402-0855.

Sincerely,

SIGNATURE REDACTED

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

cc: Richard Tubiolo, Esq.
Hirsch & Tubiolo, P.C.
1000 Reynolds Arcade Building, 16 East Main Street
Rochester, New York 14614

Enclosure

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

IN THE MATTER
OF
JAMES R. CAPUTO, M.D.

SURRENDER
ORDER

BPMC #: 14-139

Upon the application of (Respondent) JAMES R. CAPUTO, M.D. to Surrender his or her license as a physician in the State of New York, which is made a part of this Surrender Order, it is

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

ORDERED, that Respondent's name be stricken from the roster of physicians in the State of New York; it is further

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

- by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender of License application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

Whichever is first.

SO ORDERED.

DATE: 05/29/2014

SIGNATURE REDACTED

CARMELA TORRELLI
Vice Chair
State Board for Professional Medical Conduct

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

IN THE MATTER
OF
JAMES R. CAPUTO, M.D.

SURRENDER
OF
LICENSE
AND
ORDER

JAMES R. CAPUTO, M.D., represents that all of the following statements are true:

That on or about March 11, 1997, I was licensed to practice as a physician in the State of New York, and issued License No. 206065 by the New York State Education Department.

My current address is ADDRESS 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 (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", which is attached to and part of this Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I do not contest the Tenth Specification [violating a term of probation] in full satisfaction of the charges against me.

I ask the Board to accept my Surrender of License, and I agree to be bound by all of the terms set forth in attached Exhibit "B".

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I understand that, if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged; this application 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 accepts my Surrender of License, the Chair of the Board shall issue a Surrender 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 Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender 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(s). OPMC shall report this action to the National Practitioner Data Bank, the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, 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 Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

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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 5/28/2014

SIGNATURE REDACTED

~~JAMES P. CAPUTO, M.D.~~
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and Order and to its proposed penalty, terms and conditions.

DATE: 5-26-14

SIGNATURE REDACTED

~~RICHARD TUBIOLD, ESQ.~~ *Ryan S. Kamfield*
Attorney for Respondent

DATE: 5/28/14

SIGNATURE REDACTED

MICHAEL A. HISER, ESQ.
Deputy Counsel
Bureau of Professional Medical Conduct

DATE: 05/28/14

SIGNATURE REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

[Statement of Charges to be attached here]

IN THE MATTER
OF
JAMES R. CAPUTO, M.D.

STATEMENT
OF
CHARGES

JAMES R. CAPUTO, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 11, 1997, by the issuance of license number 206065 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided care to Patient A, an 89-year-old woman (patients are identified in the attached Appendix), at various times from approximately 2007 through 2008 at The Good Life Center for Women, 739 Irving Ave., Syracuse, New York 13210 ("Respondent's Office"), and at Crouse Hospital, 736 Irving Avenue, Syracuse, New York 13210 ("Crouse Hospital"). Patient A had been referred to Respondent by her primary care physician for a growth on an ovary. A pre-operative blood study showed a "critical" elevated CA-125 level, suggestive of cancer. On or about January 17, 2008, Respondent performed an exploratory laparotomy, pelvic mass excision, and a bilateral salpingo-oophorectomy, among others, on Patient A. An intra-operative pathology consultation revealed a high grade serous carcinoma of the right ovary. Respondent's care of Patient A deviated from accepted standards of practice, in that:

1. Respondent, despite knowing information prior to surgery, including the CA - 125 level, indicating a likelihood of malignancy in the pelvic mass, failed to refer Patient A to a gynecologic oncologist for evaluation and treatment, and/or document that he had made such a referral.
2. Respondent, despite scheduling and proceeding to surgery on January 17, 2008, failed to ensure that a specialist capable of performing staging of cancer

was either present or available to come to the operating room, and/or document that he had made such arrangements.

3. Respondent failed to explore the patient's abdomen during the surgery through the use of a midline incision, which would have allowed a more adequate assessment and inspection of the upper abdomen for metastatic disease.

B. Respondent provided care to Patient B, a 43-year-old woman, from on or about July 17, 2006 to on or about May 31, 2007 at Respondent's Office and at Crouse Hospital. On or about February 2, 2007, Patient B was admitted to Crouse Hospital for a laparoscopic assisted vaginal hysterectomy, bilateral salpingo-oophorectomy and a trans obturator tape procedure, among others. Respondent's care of Patient B deviated from accepted standards of practice, in that:

1. Respondent failed to perform an adequate physical examination of Patient B during the office visits of July 17, 2006 and/or September 28, 2006, and/or failed to document the performance of an adequate physical examination on those dates.
2. Respondent, despite the patient's history of abnormal bleeding, failed to adequately evaluate the patient prior to proceeding with the surgical procedures of February 2, 2007, and/or failed to document an adequate evaluation.
3. Respondent failed to perform an adequate pre-operative assessment of the patient's urinary stress incontinence prior to performing a trans obturator tape procedure, and/or failed to document the performance of an adequate pre-operative assessment of the patient's urinary stress incontinence.
4. Respondent, in or about late April or May 2007, manually attempted to "adjust" Patient B's TOT sling, which was inappropriate both in the manner attempted and/or by being attempted without adequate anesthesia, and/or failed to document such adjustment attempt.
5. Respondent, between approximately May 15, 2007 and approximately August 21, 2008, materially altered Patient B's medical record relating to office visits of February 21, 2007, March 8, 2007, March 15, 2007, and/or April 26, 2007. These altered medical records were provided to the Office of Professional Medical Conduct in August 2008 (a) without notice that they had been altered, and (b) without notice that they had been created after the dates of care noted.

C. Respondent is subject to Administrative Review Board Determination and Order No. 07-271 (hereinafter "ARB Order No. 07-271"), with the effective date of on or about April 12, 2008. ARB Order No. 07-271 discussed and slightly modified the Hearing Committee Determination and Order No. 07-271, dated December 6, 2007. By the terms of ARB Order No. 07-271, Respondent's New York medical license was suspended for three (3) years, with all but the first thirty days of the suspension to be stayed. Respondent was also placed on three years' probation which required, among others, that Respondent's medical practice be monitored during the period of probation, that he have medical malpractice coverage in the amount of \$2 million per event and \$6 million overall, and that he maintain accurate records of his care and treatment of patients. Respondent, on or about February, 1, 2010, reported to OPMC that he had to "temporarily close [his] practice) due to "financial inability to cover [his] quarterly malpractice premium." Respondent promised to advise of any change in these circumstances. Respondent subsequently represented, by statement sworn to on or about September 4, 2012, that he was "out of practice" from January 2010 through June 2012. Accordingly, by letter dated March 11, 2010, OPMC advised Respondent that the probation provisions would now be tolled pursuant to Paragraph "5" of the Order. Thus, during the time when he was not practicing, Respondent was not required to have a practice monitor or maintain the medical malpractice coverage. Respondent has violated the terms of his probation as follows:

1. Respondent, despite (a) intentionally representing that he was not practicing medicine from on or about February 2010 through on or about June 2012, (b) having no practice monitor in place, nor (c) having the required medical malpractice insurance, issued prescriptions for Cephalexin for Patient C that were issued and/or thereafter filled on or about the dates noted: 9/24/10, 10/18/11, 3/14/11, 11/18/11, 12/20/11, 1/17/12, 2/15/12, and/or 3/17/12. Respondent's conduct in fact was the practice of medicine, and also violated Paragraph "8" of ARB Order No. 07-271.
2. Respondent, despite issuing prescriptions as shown in paragraph "1," above, failed to advise Patient C's treating physician of the medications so prescribed, and/or failed to maintain an accurate medical record of his evaluation and

treatment of the patient, or the medications for which he issued prescriptions. Respondent's actions violated Paragraph "7" of ARB Order No. 07-271.

3. Respondent, despite (a) intentionally representing that he was not practicing medicine from on or about February 2010 through on or about June 2012, (b) having no practice monitor in place, nor (c) having the required medical malpractice insurance, issued prescriptions for Ciproflaxin for Patient D that were issued and/or thereafter filled on or about 8/1/11. Respondent's conduct in fact was the practice of medicine, and also violated Paragraph "8" of ARB Order No. 07-271.
4. Respondent, despite issuing prescriptions as shown in paragraph "3," above, failed to maintain an accurate medical record of his evaluation and treatment of the patient, or the medications for which he issued prescriptions. Respondent's actions violated Paragraph "7" of ARB Order No. 07-271.
5. Respondent, despite (a) intentionally representing that he was not practicing medicine from on or about February 2010 through on or about June 2012, (b) having no practice monitor in place, nor (c) having the required medical malpractice insurance, issued prescriptions for Ativan (Lorazepam) for Patient E that were issued and/or thereafter filled on or about the dates noted: Ativan (Lorazepam), 12/12/11. Respondent's conduct in fact was the practice of medicine, and also violated Paragraph "8" of ARB Order No. 07-271.
6. Respondent, despite issuing prescriptions as shown in paragraph "5," above, failed to maintain an accurate medical record of his evaluation and treatment of the patient, or the medications for which he issued prescriptions. Respondent's actions violated Paragraph "7" of ARB Order No. 07-271.
7. Respondent, despite (a) intentionally representing that he was not practicing medicine from on or about February 2010 through on or about June 2012, (b) having no practice monitor in place, nor (c) having the required medical malpractice insurance, issued prescriptions for Amoxicillin for Patient F that were issued and/or thereafter filled on or about the dates noted: 1/29/11; 6/22/11. Respondent's conduct in fact was the practice of medicine, and also violated Paragraph "8" of ARB Order No. 07-271.
8. Respondent, despite issuing prescriptions as shown in paragraph "7," above, failed to maintain an accurate medical record of his evaluation and treatment of the patient, or the medications for which he issued prescriptions. Respondent's actions violated Paragraph "7" of ARB Order No. 07-271.

9. Respondent, despite (a) intentionally representing that he was not practicing medicine from on or about February 2010 through on or about June 2012, (b) having no practice monitor in place, nor (c) having the required medical malpractice insurance, issued prescriptions for Terazol (Terconazole) for Patient G that were issued and/or thereafter filled on or about 6/11/11. Respondent's conduct in fact was the practice of medicine, and also violated Paragraph "8" of ARB Order No. 07-271.
10. Respondent, despite issuing prescriptions as shown in paragraph "9," above, failed to maintain an accurate medical record of his evaluation and treatment of the patient, or the medications for which he issued prescriptions. Respondent's actions violated Paragraph "7" of ARB Order No. 07-271.
11. Respondent, despite (a) intentionally representing that he was not practicing medicine from on or about February 2010 through on or about June 2012, (b) having no practice monitor in place, nor (c) having the required medical malpractice insurance, issued prescriptions for Lybrel for Patient H that were issued and/or thereafter filled on or about 4/7/10. Respondent's conduct in fact was the practice of medicine, and also violated Paragraph "8" of ARB Order No. 07-271.
12. Respondent, despite issuing prescriptions as shown in paragraph "11," above, failed to maintain an accurate medical record of his evaluation and treatment of the patient, or the medications for which he issued prescriptions. Respondent's actions violated Paragraph "7" of ARB Order No. 07-271.
13. Respondent, despite (a) intentionally representing that he was not practicing medicine from on or about February 2010 through on or about June 2012, (b) having no practice monitor in place, nor (c) having the required medical malpractice insurance, issued prescriptions for Patient I for Polytrim (Polymyxin B-TMP (Trimethoprim)), Tylenol #3, Amoxicillin, Metformin, and/or One Touch System(s), that were issued and/or thereafter were filled on or about the dates noted: Polytrim (Polymyxin B-TMP (Trimethoprim)), 9/7/11; Tylenol #3 (Acedtaminophen-Codeine #3), 1/28/11; Amoxicillin, 1/28/11; Metformin, 4/4/12; and/or One Touch System(s), (3 prescriptions) 8/2/11. Respondent's conduct in fact was the practice of medicine, and also violated Paragraph "8" of ARB Order No. 07-271.
14. Respondent, despite writing prescriptions as shown in paragraph "13," above, failed to maintain an accurate medical record of his evaluation and treatment of the patient, or the medications for which he issued prescriptions. Respondent's actions violated Paragraph "7" of ARB Order No. 07-271.

15. Respondent, despite (a) intentionally representing that he was not practicing medicine from on or about February 2010 through on or about June 2012, (b) having no practice monitor in place, nor (c) having the required medical malpractice insurance, issued prescriptions for Patient J for Ativan (Lorazepam), Flexeril (Cyclobenzaprine), Keflex (Cephalexin), Kenalog, Lidocaine, Biaxin (Clarithromycin), Diprolene, Zithromax (Azithromycin), Doxycycline, and/or Nizoral (Ketoconazole), that were issued and/or thereafter filled on or about the dates noted: Ativan (Lorazepam), 5/31/11; Flexeril (Cyclobenzaprine), 5/14/11; Keflex (Cephalexin), 12/14/11; Kenalog, 6/21/11; Lidocaine, 6/21/11, 3/28/12; Biaxin (Clarithromycin), 1/18/11; 7/27/11; Diprolene, 4/14/11; Zithromax (Azithromycin), 5/31/11; Doxycycline, 5/31/11; and/or Nizoral (Ketoconazole) 11/11/11. Respondent's conduct in fact was the practice of medicine, and also violated Paragraph "8" of ARB Order No. 07-271.
16. Respondent, despite writing prescriptions as shown in paragraph "15," above, failed to maintain an accurate medical record of his evaluation and treatment of the patient, or the medications for which he issued prescriptions. Respondent's actions violated Paragraph "7" of ARB Order No. 07-271.

SPECIFICATION OF CHARGES

FIRST AND SECOND SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

1. The facts in Paragraphs A and A.1, and/or A and A.2.
2. The facts in Paragraphs B and B.1, B and B.2, B and B.3, and/or B and B.4.

THIRD AND FOURTH SPECIFICATIONS

GROSS INCOMPETENCE

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

3. The facts in Paragraphs A and A.1, and/or A and A.2.
4. The facts in Paragraphs B and B.1, B and B.2, B and B.3, and/or B and B.4.

FIFTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

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

5. The facts in paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2, B and B.3, B and B.4, C and C.2, C and C.4, C and C.6, C and C.8, C and C.10, C and C.12, C and C.14 and/or C and C.16.

SIXTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of:

6. The facts in paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2, B and B.3, B and B.4, C and C.2, C and C.4, C and C.6, C and C.8, C and C.10, C and C.12, C and C.14 and/or C and C.16.

SEVENTH AND EIGHTH SPECIFICATIONS

FRAUDULENT PRACTICE

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

7. The facts in paragraphs B and B.6.
8. The facts in Paragraphs C and C.1, C and C.3, C and C.5, C and C.7, C and C.9, C and C.11, C and C.13, and/or C and C.15.

NINTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

9. The facts in paragraphs B and B.5.

TENTH SPECIFICATION

VIOLATING ANY TERM OF PROBATION OR CONDITION OR LIMITATION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(29) by violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred thirty of the public health law, as alleged in the facts of the following:

10. The facts in paragraphs C and C.1, C and C.2, C and C.3, C and C.4, C and C.5, C and C.6, C and C.7, C and C.8, C and C.9, C and C.10, C and C.11, C and C.12, C and C.13, C and C.14, C and C.15, and/or C and C.16.

ELEVENTH SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

11. The facts in paragraphs A and A.1, A and A.2, B and B.1, B and B.2, B and B.3, B and B.4, B and B.5, C and C.2, C and C.4, C and C.6, C and C.8, C and C.10, C and C.12, C and C.14, and/or C and C.16.

DATE: April 24, 2014
Albany, New York

SIGNATURE REDACTED

MICHAEL A. FISER
Deputy Counsel
Bureau of Professional Medical Conduct

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

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

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

of which the Licensee is found guilty, and may include revocation of a suspended license.