



# Department of Health

ANDREW M. CUOMO  
Governor

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

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

May 9, 2019

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

Bryan G. Eggert, M.D.  

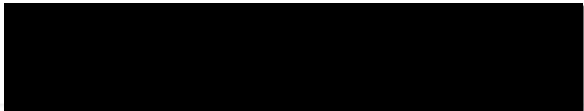

Re: License No. 175874

Dear Dr. Eggert:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 19-112. This order and any penalty provided therein goes into effect May 16, 2019.

Please direct any questions to: Board for Professional Medical Conduct, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204, telephone # 518-402-0846.

Sincerely,

  
Robert A. Catalano, M.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

IN THE MATTER  
OF  
BRYAN EGGERT, M.D.

MODIFICATION  
ORDER

Upon the proposed Application for a Modification Order Pursuant to N.Y. Pub. Health Law § 230(10)(q) of BRYAN EGGERT, M.D. (LICENSEE), which is made a part of this Modification Order, it is agreed to and

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

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

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

SO ORDERED.

DATE: 05/08/2019

  
ARTHUR S. HENGERER, M.D.  
Chair  
State Board for Professional Medical Conduct

1

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

IN THE MATTER  
OF  
BRYAN EGGERT, M.D.

APPLICATION  
FOR  
MODIFICATION  
ORDER

BRYAN EGGERT, M.D., represents that all of the following statements are true:

That on or about August 16, 1988, I was licensed to practice as a physician in the State of New York, and issued License No. 175874 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 am currently subject to a Determination and Order (BPMC Order (No. 13-07) of the Professional Medical Conduct Administrative Review Board (Attachment I) (henceforth "Original Order"), which went into effect on January 11, 2013, following the Administrative Review Board's review of a Hearing Committee on Professional Medical Conduct's Determination finding Licensee guilty of professional misconduct in a case brought pursuant to Public Health Law § 230(10)(p) and Education Law §§ 6530(9)(b) and (d). Pursuant to N.Y. Pub. Health Law § 230(10)(q), I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order, as follows:

The sanction imposed in the Original Order was:

- Probation for ten years under such terms as the Director of the Office of Professional Medical Conduct ("Director") may impose pursuant to the Director's authority under Public Health Law § 18(a).
- A limitation on the Respondent's future registration of his license, pursuant to Public Health Law § 230-a(6), to require the Respondent to provide notice to the Director no less than ninety days prior to the time that the Respondent intends to return to the practice of medicine in New York State.

The sanction imposed shall be modified to read as follows:

- Probation for three years under such terms as the Director of the Office of Professional Medical Conduct ("Director") may impose pursuant to the Director's authority under Public Health Law § 230(18)(a). Since Respondent is currently not practicing medicine in New York, upon the effective date of this Modification Order, the terms of probation are tolled. The minimum terms of probation to be imposed upon Respondent upon his return to the practice of medicine in New York are set forth in Terms of Probation, Attachment II of this Modification Order; however, upon Respondent's return to active practice in New York, the Director, in the exercise of his sole discretion, may impose such additional terms as he deems necessary pursuant to his authority under Public Health Law § 230(18)(a).

- The requirement that the Respondent provide the Director with notice no less than ninety days prior to the time that the Respondent intends to return to the practice of medicine in New York State shall no longer constitute a Limitation on the Respondent's future registration of his license, pursuant to Public Health Law § 230-a(6). Upon the effective date of this Modification Order, the requirement that the Respondent provide the Director with notice no less than ninety days prior to the time that the Respondent intends to return to the practice of medicine in New York State shall constitute a Condition of this Modification Order.
- Respondent shall be subject to the following Conditions, which shall take effect upon the Board's issuance of the Modification Order and will continue so long as Respondent remains licensed in New York State, except as otherwise provided below:
  - Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, 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. This Condition shall take effect 30 days after the Order's

effective date and continue until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order.

- Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order, and shall respond in a timely manner to OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Modification Order and with any other sister state Order to which Respondent is subject. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed.
- Respondent shall remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that during all periods of active license registration, a licensee shall: report to the department all information required by the Department to develop a public physician profile for the licensee; continue to notify the department of any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his profile information within six months

prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department.

and

All remaining Terms and Conditions will continue as written in the Original Order.

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

I understand and agree that the attorney for the Bureau of Professional Medical Conduct, 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 03/15/11

  
BRYAN EGGERT, M.D.  
RESPONDENT

The undersigned agree to Respondent's attached Application for Modification Order and to its proposed penalty, terms and conditions.

DATE: \_\_\_\_\_

\_\_\_\_\_, ESQ.  
Attorney for Respondent

DATE: 5/8/19

  
~~KEITH W. SERVIS~~ PAULA BRENN  
Acting Director  
Office of Professional Medical Conduct



**ATTACHMENT I**

PUBLIC

NEW YORK  
state department of  
HEALTH

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

January 4, 2013

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Bryan Eggert, M.D.

REDACTED

Jude B. Mulvey, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2512  
Albany, New York 12237

**RE: In the Matter of Bryan Eggert, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 13-07) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

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

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

HEALTH.NY.GOV  
facebook.com/NYSDOH  
twitter.com/HealthNYGov

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

This exhausts all administrative remedies in this matter [PHL §250-c(5)].

Sincerely,

REDACTED  
James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH:cah

Enclosure

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

In the Matter of

Bryan Eggert, M.D. (Respondent)

Administrative Review Board (ARB)

A proceeding to review a Determination by a Committee  
(Committee) from the Board for Professional Medical  
Conduct (BPMC)

Determination and Order No. 13-07

Before ARB Members D'Anna, Koenig, Wagle, Wilson and Milone  
Administrative Law Judge James F. Horan drafted the Determination

For the Department of Health (Petitioner): Jude Mulvey, Esq.  
For the Respondent: Pro Se

The Respondent holds medical licenses in Texas and New Jersey, in addition to the Respondent's license to practice medicine in New York State (License). In this proceeding pursuant to New York Public Health Law (PHL) § 230-c (4)(a)(McKinney 2012), the ARB considers whether to impose a sanction against the Respondent's License following an Agreed Order against the Respondent's license in Texas. After a hearing below, a BPMC Committee sustained charges that the Respondent engaged in conduct in Texas that made the Respondent liable for disciplinary action in New York. The Committee voted to suspend the Respondent's License indefinitely, until 1.) the Respondent completed satisfactorily a ten year disciplinary penalty from Texas and 2.) then petitioned for reinstatement in New York. The Respondent now asks that the ARB modify the Committee's Determination to remove the provision that binds the New York penalty to the Texas penalty and to withdraw the sustained charges. After considering the record below and the parties review submissions, the ARB votes to overturn the suspension. The ARB places the Respondent on probation for ten years and requires the Respondent to provide advance notice concerning his future plans to return to practice in New York.

### Committee Determination on the Charges

Pursuant to PHL § 230 *et seq.*, BPMC and its Committees function as a duly authorized professional disciplinary agency of the State of New York. The BPMC Committee in this case conducted a hearing under the expedited hearing procedures (Direct Referral Hearing) in PHL §230(10)(p). The Petitioner charged that the Respondent violated New York Education Law (EL) §§ 6530(9)(b) & 6530(9)(d) by committing professional misconduct, because the duly authorized professional disciplinary agency from another state, Texas,

- found the Respondent guilty for improper professional conduct [6530(9)(b)], and/or,
- took disciplinary action against the Respondent's medical license in that state [6530(9)(d)],

for conduct that would constitute professional misconduct, if the Respondent had committed such conduct in New York. The Petitioner's Statement of Charges [Direct Referral Hearing Exhibit 1] alleged that the Respondent's misconduct in Texas would constitute misconduct if committed in New York, under the following specifications:

- habitually abusing alcohol or drugs, a violation under EL § 6530(8); and,
- engaging in conduct in the practice of the profession that evidences moral unfitness, a violation under EL § 6530(20).

Following the Direct Referral Proceeding, the Committee rendered the Determination now on review. In the Proceeding, the statute limits the Committee to determining the nature and severity for the penalty to impose against the licensee, see In the Matter of Wolkoff v. Chassin, 89 N.Y.2d 250 (1996).

The evidence before the Committee demonstrated that the Respondent began suffering substance abuse problems in high school and that the problems worsened during the

Respondent's residency at Baylor College of Medicine in Texas [2009 Texas Agreed Order, Hearing Exhibit 4]. The Texas Medical Board placed restrictions on the Respondent's license in that State in 1986 due to the Respondent's substance abuse while practicing medicine and the Texas Board suspended the Respondent's Texas license in 2000. The Respondent entered the 2009 Texas Agreed Order that allowed the Respondent to regain a Texas license, with certain terms and conditions. The Texas Board required first that the Respondent complete successfully a mini-residency. The Respondent then received a license with restrictions for a ten year period. The restrictions included abstinence, drug testing and participation in Alcoholics Anonymous (AA) or Narcotics Anonymous (NA). The 2009 Texas Agreed provided the basis for the New York Direct Referral Hearing.

The Committee determined that the Respondent's conduct in Texas would have constituted misconduct in New York as practicing while impaired and engaging in conduct that evidenced moral unfitness. The Committee determined further that the Respondent's conduct made the Respondent liable for disciplinary action against his license under PHL §§ 6530(9)(b) and 6530(9)(d). The Committee found further that the Respondent's testimony and supporting documentation established that the Respondent has been in sustained recovery in New Jersey.

The Committee voted to suspend the Respondent's License indefinitely during the period of the 2009 Texas Agreed Order. The Committee expressed concern over the Respondent's many problems with sobriety over the years and the Committee concluded that the Respondent should satisfy the Texas restrictions before New York should consider restoring the Respondent's License. The Committee provided that the following satisfaction of the restrictions in the 2009 Texas Agreed Order, the Respondent could petition BPMC for removal of the indefinite suspension.

### Review History and Issues

The Committee rendered their Determination on August 7, 2012. This proceeding commenced on August 15, 2012, when the ARB received the Respondent's Notice requesting a Review. The record for review contained the Committee's Determination, the hearing record, the Respondent's notice and brief and the Petitioner's reply brief. The record closed when the ARB received the reply brief on or about September 28, 2012.

The Respondent argued that he no longer practices in Texas and that he can never satisfy the Texas restrictions while practicing in New Jersey, because the restrictions in Texas are tolled while the Respondent remains outside that state. The Respondent requested that the ARB remove any conditions that bind the New York sanction to the 2009 Texas Agreed Order. The Respondent indicated that, although he practices in New Jersey now, he plans to return to practice in New York eventually. The Respondent notes that he now practices under restrictions in New Jersey that include abstinence, drug testing and attendance at AA meetings. The Respondent requests that the ARB remove the suspension against his License and that the ARB withdraw the specifications of professional misconduct as set forth in the charges.

The Petitioner asks that the ARB leave the Committee's Determination untouched. The Petitioner argues that the Respondent left Texas to escape the strict terms of the 2009 Texas Agreed Order and that the restrictions on the Respondent's New Jersey license result from a letter agreement rather than a disciplinary order. The Petitioner contends that the Respondent's history of substance abuse requires extensive restrictions to protect medical consumers in New York. The Petitioner asks that, if the ARB does disturb the Committee's Determination, the ARB suspend the Respondent's License for an indefinite period of not less than three years and that the ARB then establish procedures for the Respondent to seek a modification in the suspension.

### ARB Authority

Under PHL §§ 230(10)(i), 230-c(1) and 230-c(4)(b), the ARB may review Determinations by Hearing Committees to determine whether the Determination and Penalty are consistent with the Committee's findings of fact and conclusions of law and whether the Penalty is appropriate and within the scope of penalties which PHL §230-a permits. The ARB may substitute our judgment for that of the Committee, in deciding upon a penalty Matter of Bogdan v. Med. Conduct Bd. 195 A.D.2d 86, 606 N.Y.S.2d 381 (3<sup>rd</sup> Dept. 1993); in determining guilt on the charges, Matter of Spartalis v. State Bd. for Prof. Med. Conduct 205 A.D.2d 940, 613 NYS 2d 759 (3<sup>rd</sup> Dept. 1994); and in determining credibility, Matter of Minielly v. Comm. of Health, 222 A.D.2d 750, 634 N.Y.S.2d 856 (3<sup>rd</sup> Dept. 1995). The ARB may choose to substitute our judgment and impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate, Matter of Kabnick v. Chassin, 89 N.Y.2d 828 (1996). In determining the appropriate penalty in a case, the ARB may consider both aggravating and mitigating circumstances, as well as considering the protection of society, rehabilitation and deterrence, Matter of Brigham v. DeBuono, 228 A.D.2d 870, 644 N.Y.S.2d 413 (1996).

The statute provides no rules as to the form for briefs, but the statute limits the review to only the record below and the briefs [PHL § 230-c(4)(a)], so the ARB will consider no evidence from outside the hearing record, Matter of Ramos v. DeBuono, 243 A.D.2d 847, 663 N.Y.S.2d 361 (3<sup>rd</sup> Dept. 1997).

A party aggrieved by an administrative decision holds no inherent right to an administrative appeal from that decision, and that party may seek administrative review only



pursuant to statute or agency rules, Rooney v. New York State Department of Civil Service, 124 Misc. 2d 866, 477 N.Y.S.2d 939 (Westchester Co. Sup. Ct. 1984). The provisions in PHL §230-c provide the only rules on ARB reviews.

#### Determination

The ARB has considered the record and the parties' briefs. We affirm the Committee's Determination that the Respondent's conduct in Texas made the Respondent liable for disciplinary action against his License under EL §§ 6530(b) & 6530(d). The ARB overturns the Determination to suspend the Respondent's License indefinitely. We place the Respondent on probation for ten years and we place a condition on the Respondent's License to require the Respondent to provide notice at least ninety days prior to the time that the Respondent intends to return to practice in New York.

The Respondent requested that the ARB withdraw the misconduct charges that the Committee affirmed on grounds that the Respondent has maintained his sobriety over the last six years and is in compliance with the terms under the Letter Agreement with New Jersey. The ARB rejects that request. The Respondent engaged in conduct in Texas for which the Texas Board disciplined the Respondent. That conduct would have amounted to misconduct in New York and that conduct and the 2009 Texas Agreed Order provide the grounds to take disciplinary action against the Respondent's License. The ARB agrees with the Committee that the Respondent's continuing pattern of substance abuse requires New York to impose restrictions on the Respondent's future practice in this State that will assure that the Respondent continues to remain sober and safe to practice.

The ARB overturns the Committee's Determination to suspend the Respondent indefinitely and to bind any penalty in New York to the Respondent's compliance with the sanctions under the 2009 Texas Agreed Order. The ARB also rejects the Petitioner's request that we impose an indefinite suspension on the Respondent's License and establish a procedure for the Respondent to seek modification on that suspension. Neither a Committee nor the ARB may impose an indefinite suspension of a medical license under PHL § 230-a, Ostad v NYS Dept. of Health, 309 A.D.2d 989, 766 N.Y.S.2d 441 (3d Dept. 2003). As PHL §230-a provides no authorization to suspend a license indefinitely, neither that statute nor PHL §230 provide procedures for modifications in indefinite suspensions. The ARB overturns the provision in the Committee's Determination that binds the New York penalty to compliance with the Texas penalty. The ARB agrees with the Respondent that there is no way the Respondent can satisfy the Texas penalty if the Respondent no longer practices in that state, because the Texas penalty would be tolled during the Respondent's absence from that state. Although the Committee made clear their intent to impose protections for the Respondent's continued sobriety, the Committee's Determination gave no indication that the Committee intended to ban the Respondent from any future practice in New York. Binding the New York sanction to satisfaction of the Texas penalty would mean that the Respondent would be unable to ever return to practice in New York.

The ARB votes to place the Respondent on probation for a period of ten years under such terms as the Director of the Office of Professional Medical Conduct (Director) may impose pursuant to the Director's authority under PHL §18(a). The ARB votes further to place a limitation on the registration of the Respondent's License, pursuant to PHL § 230-a(6), to require that the Respondent provide the Director with notice concerning the Respondent's intent to

return to practice in New York, no less than ninety days prior to the date that the Respondent intends to resume practice. The ten year probation will provide a sufficient time to assure that the Respondent can maintain sobriety. The ninety-day notice period will allow the Director to verify that the Respondent has remained compliant with any disciplinary conditions in his prior practice locations. The notice period would also provide the Director the opportunity to convene a BPMC Committee pursuant to PHL § 230(7)(a) to determine if the Respondent should submit to an evaluation to determine if the Respondent continues to suffer from impairment to alcohol or drugs.

ORDER

NOW, with this Determination as our basis, the ARB renders the following ORDER:

1. The ARB affirms the Committee's Determination that the Respondent committed professional misconduct.
2. The ARB overturns the Committee's Determination to suspend the Respondent's License.
3. The ARB places the Respondent on probation for ten years as we specified in our Determination.
4. The ARB places a limitation on the Respondent's future registration of his License to require the Respondent to provide notice to the Director no less than ninety days prior to the time that the Respondent intends to return to the practice of medicine in New York State.

Peter S. Koenig, Sr.  
Datta G. Wagle, M.D.  
Linda Prescott Wilson  
John A. D'Anna, M.D.  
Richard D. Milone, M.D.

In the Matter of Bryan Eggert, M.D.

Linda Prescott Wilson, an ARB Member concurs in the Determination and Order in the  
Matter of Dr. Eggert.

Done at Albany, New York, 2012

REDACTED

Linda Prescott Wilson

In the Matter of Bryan Eggert, M.D.

Peter S. Koenig, Sr., an ARB Member concurs in the Determination and Order in the  
Matter of Dr. Eggert.

Dated, \_\_ December 20, 2012

REDACTED

\_\_\_\_\_  
Peter S. Koenig, Sr.

In the Matter of Bryan Eggert, M.D.

Datta G. Wagle, M.D., an ARB Member concurs in the Determination and Order in the

Matter of Dr. Eggert

Dated: 12/19/ 2012

REDACTED

~~\_\_\_\_\_~~

Datta G. Wagle, M.D. \_\_\_\_\_

In the Matter of Bryan Eggert, M.D.

Richard D. Milone, an ARB Member concurs in the Determination and Order in the

Matter of Dr. Eggert.

Date December 9, 2012

REDACTED

Richard D. Milone, M.D.



In the Matter of Bryan Eggert, M.D.

John A. D'Anna, M.D., an ARB Member concurs in the Determination and Order in the  
Matter of Dr. Eggert.

Dated: Dec 21, 2012

REDACTED

\_\_\_\_\_  
John A. D'Anna, M.D.

**NEW YORK**  
state department of  
**HEALTH**

Public

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

August 7, 2012

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Bryan Eggert, M.D.  
REDACTED

Jude B. Mulvey, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2512  
Albany, New York 12237

**RE: In the Matter of Bryan Eggert, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 12-155) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

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

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

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

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twitter.com/HealthNYGov

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

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

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

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

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

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

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

Sincerely,

REDACTED

James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH:cah

Enclosure

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

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IN THE MATTER  
OF  
BRYAN EGGERT, M.D.  
CO- 11-02-0681-A

DETERMINATION

AND

ORDER

BPMC #12-155

COPY

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A hearing was held on June 14, 2012 at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated March 13, 2012, were served upon the Respondent, Bryan Eggert, M.D.

Pursuant to Section 230(10)(e) of the Public Health Law, C. Deborah Cross, M.D., Chair, Arlle A.C. Cameron, M.D. and Paul J. Lamblase, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. David A. Lenihan, Esq., Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by James E. Dering, Esq., General Counsel, by Jude B. Mulvey, Esq., of Counsel. The Respondent, Bryan Eggert, M.D., did appear *pro se* and was duly served. Evidence was received and transcripts of these proceedings were made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

### STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10) (p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law §6530(9) (b) by having been found guilty of improper professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state. Respondent is also charged with violation of New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state. Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner: None  
For the Respondent: Bryan Eggert, M.D.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Bryan Eggert, M.D., the Respondent, did appear at the hearing, *pro se*, and was duly served and notified of the hearing, by personal service of process, on March 22, 2012. (Petitioner's Exhibit 2)
2. Bryan Eggert, M.D., the Respondent, was authorized to practice medicine in New York State on August 16, 1988, by the issuance of license number 175874 by the New York State Education Department. (Petitioner's Ex. 3)
3. On or about November 23, 2010, the State of Texas, (hereinafter "Texas Board"), by an Agreed Order (hereinafter "Texas Order"), *inter alia*, issued Respondent a medical license for ten (10) years subject to restrictions after a disciplinary finding that Respondent was unable to practice medicine with reasonable skill and safety due to substance abuse

and unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public. The conditions placed on his license require, among others, abstinence from prohibited substances, participation in the Texas Board's drug testing program, and participation in AA or NA. The Texas conditions go on to require that the Respondent may not unilaterally withdraw from treatment and may not possess drugs with addictive potential. Finally, the Texas provisions stipulate that the Respondent may not self-treat or self-prescribe. (The Texas Order is attached to this Determination and Order as Appendix 2)

4. The conduct resulting in the Texas Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York State Law:

1. New York Education Law §6530(8) (habitual abuse of alcohol or drugs);
2. New York Education Law §6530(20) (moral unfitness);

### VOTE OF THE HEARING COMMITTEE

#### SPECIFICATIONS

#### FIRST SPECIFICATION

"Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State..."

VOTE: Sustained (3-0)

## SECOND SPECIFICATION

"Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State..."

VOTE: Sustained (3-0)

## HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, *pro se*. The Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Personal Service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Exhibit 2) ruled that the Petitioner had met the requirements of law for service of process and that jurisdiction had been established over the Respondent.

The record in this case indicates that the State of Texas, by an Agreed Order, issued Respondent a medical license for ten (10) years subject to restrictions after a disciplinary finding that Respondent was unable to practice medicine with reasonable skill and safety due to substance abuse and unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public. The Texas order placed conditions on Respondent's license that require, among others, abstinence from prohibited substance, participation in the Texas Board's drug testing program, participation in AA or NA. The Texas order goes on to stipulate that the Respondent may



not unilaterally withdraw from treatment, may not possess drugs with addictive potential, and may not self-treat or self-prescribe.

At the present hearing, the Respondent testified about his struggle with substance abuse and did not dispute the facts presented by the Department. (T. 19 – 21) The Respondent testified that he is now involved with an AA group in New Jersey and works with a caduceus group and is involved with a recovery support group for physicians and has a wonderful sponsor. (T. 19)

As to his medical practice, the Respondent indicated that he is now working with a radiation oncologist in New Jersey who is happy with his work and there have been no problems with his medical practice. The Respondent was remorseful and apologized to the board and the people of New York for his actions. (T. 21) The Respondent went on to testify that he was ashamed for what had occurred. (T. 21)

The panel appreciated the Respondent's candor but recognized that the record is showing serious problems with substance abuse dating back to the nineteen eighties. His DEA license had to be surrendered in 1986 and in 1990 his Texas license was again suspended for relapse. (See Appendix 2, page 2) The Respondent presented extensive documentation (Respondent's Exhibits A to L) showing his involvement with the Professional Assistance Program of New Jersey and proof of recovery and sobriety for the last six years. In addition, the Respondent set forth his current academic credentials showing his completion of a Refresher/Reentry program for Physicians, conducted by the Drexel University College of Medicine. (Exhibit B) The submitted record from Dr. Eggert shows an impressive Continuing Education program followed by the Respondent. (Exhibits C through K)

The most recent submission, the letter of May 16, 2012, from the Professional Assistance Program of New Jersey, shows that the Respondent has been in sustained and documented recovery for almost six years. The panel was impressed with the dedication the Respondent has shown to continue to work on his sobriety over the last six years. The Respondent's problem with sobriety, however, goes back several decades and the panel determined that the Texas limitations on his license would need to be satisfied and removed before New York would consider removing the indefinite suspension on his license. After considering all the options available, the panel was unanimous in sustaining the charges and agreed, again unanimously, that the Agreed Texas Order should be followed as it puts in place necessary protections for his continued sobriety.

The panel concluded that the people of New York would be protected by an indefinite suspension during the term of the Texas Order. If and when the Texas Order is satisfied and all its restrictions are removed, the Respondent may then petition for a lifting of this New York suspension upon a showing that he is fit and competent to resume practice in New York.

#### ORDER

#### IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are SUSTAINED.

2. The Respondent's license to practice medicine is suspended until such time as the conditions imposed on his license by the State of Texas are satisfied and removed. The terms of the conditions of the Texas Board are attached hereto as Appendix 2.
3. Upon the removal of the terms and conditions on his Texas license, the Respondent may petition the New York State Board for the removal of this indefinite suspension of his license.
4. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Elmsford, New York

August 2, 2012

REDACTED

C. Deborah Cross, M.D., Chair

Arle A.C. Cameron, M.D.  
Paul J. Lambiase,

To:  
Bryan Eggert, M.D., Respondent  
REDACTED

Jude B. Mulvey, Esq., Attorney for Petitioner  
Associate Counsel  
NYS Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower, Room 2512  
Empire State Plaza  
Albany, New York 12237

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

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IN THE MATTER	NOTICE OF
OF	REFERRAL
BRYAN EGGERT, M.D. CO-11-02-0681-A	PROCEEDING

---

TO: Bryan Eggert, M.D.  
REDACTED

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 14<sup>th</sup> day of June, 2012, at 10:30 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, NY 12180.

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

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

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten (10) days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten (10) days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health, whose name appears below. You may file a written brief and affidavits with the Committee. Six (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney, indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide, at no charge, a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner demands, hereby, disclosure of the evidence that Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence, and a description of physical and/or other evidence that cannot be photocopied.

**YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.**

Department attorney: Initial here \_\_\_\_\_

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five (5) days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

**SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.**

DATED: Albany, New York

*March 13, 2012*

REDACTED

PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Jude B. Mulvey  
Associate Counsel  
Bureau of Professional Medical Conduct  
Coming Tower - Room 2512  
Empire State Plaza  
Albany, NY 12237  
(518) 473-4282

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

IN THE MATTER  
OF  
BRYAN EGGERT, M.D.  
CO-11-02-0681-A

STATEMENT  
OF  
CHARGES

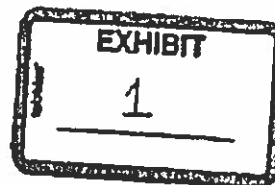
BRYAN EGGERT, M.D., Respondent, was authorized to practice medicine in New York state on August 16, 1988, by the issuance of license number 175874 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 23, 2010, the State of Texas, (hereinafter "Texas Board"), by an Agreed Order (hereinafter "Texas Order"), Inter alia, issued Respondent a medical license for ten (10) years subject to restrictions after a disciplinary finding that Respondent was unable to practice medicine with reasonable skill and safety due to substance abuse and unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public. The conditions placed on his license require, among others, abstinence from prohibited substance, participate in the Texas Board's drug testing program, participate in AA or NA, may not unilaterally withdraw from treatment, may not possess drugs with addictive potential, and may not self-treat or self-prescribe.

B. The conduct resulting in the ~~New Jersey~~ <sup>TEXAS</sup> Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state law:

1. New York Education Law §6530(8) (habitual abuse of alcohol or drugs).
2. New York Education Law §6530(20) (moral unfitness).



**SPECIFICATIONS**  
**FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

**SECOND SPECIFICATION**

Respondent violated New York State Education Law §6530 (9)(d) by having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B.

DATED: *March 13*, 2012  
Albany, New York

REDACTED

\_\_\_\_\_  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical Conduct



## APPENDIX 2

IN THE MATTER OF

THE LICENSE OF

BRYAN GEORGE EGGERT, M.D.

BEFORE THE

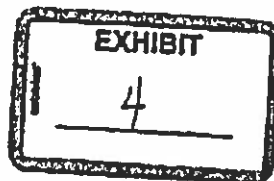
TEXAS MEDICAL BOARD

AGREED ORDER

On the 6th day of November 2009, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the application for a Texas medical license by Bryan George Eggert, M.D. ("Respondent").

On November 5, 2009, Respondent appeared in person, without counsel, before the Licensure Committee of the Board. The Committee, after hearing from Respondent and after considering Respondent's application, recommended that Respondent's application be deferred until Respondent completed a mini-residency, and upon successful completion, be granted a Texas medical license with certain terms and conditions, as set forth below, subject to the consideration and approval of the Board.

Based on the recommendation of the Committee, and with the consent of Respondent, as evidenced by Respondent's signature on this Agreed Order, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order.



### FINDINGS OF FACT

The Board finds that:

1. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under TEX. OCC. CODE ANN. Title 3, Subtitle B (the "Act") or the Rules of the Board.
2. Respondent is 53 years of age.
3. Respondent graduated from the University of Washington School of Medicine in 1983.
4. Respondent was previously board certified by the American Board of Radiation Oncology in 1990.
5. Respondent is not licensed in any other state.
6. Respondent was previously licensed by the Board in 1985 and the subject of Board action on his license including the following:
  - a. In June 1986, the Board entered into an Agreed Order with Respondent requiring him to surrender his DEA and Texas Controlled Substance registrations; surrender his triplicate prescription; undergo a psychiatric evaluation and begin psychiatric treatment; submit to monthly drug testing; and not practice in Texas until a personal interview was conducted and the Board approved his return.
  - b. In August 1988, the Board modified Respondent's 1986 order and allowed him to reapply for DEA and Texas controlled substance registrations.
  - c. In December 1990, all restrictions on Respondent's license were terminated.
  - d. Based on Respondent's self-report of his drug relapse, Respondent's license was suspended under a non-public agreed rehabilitation order in 2000. Terms of the order included that Respondent had to request in writing his request to have the suspension stayed or lifted, and personally appear before the Board and demonstrate that he is physically, mentally, and otherwise competent to safely practice medicine.
  - e. Respondent's license was subsequently cancelled in September 2001 for non-payment.
7. Respondent's substance abuse problems began in high school. During his medical residency at Baylor College of Medicine, he developed a back problem and was prescribed Tylox

and Percocet. He gradually began to self-medicate with methadone. He was ultimately confronted by a pharmacist and entered counseling with a psychiatrist.

8. Respondent's residency program director reported Respondent's drug dependency to the Board in May 1986, after being notified that Respondent had procured narcotic drugs for his own use by writing a prescription for narcotic drugs for patients and then having the patient return the drugs to Respondent. As a result, Respondent was suspended from the residency program and referred to a psychiatrist for twice weekly psychotherapy, and entered an agreed order with the Board.

9. In 1990, Respondent joined a group practice in Dallas and began taking Lortab due to recurrence of back pain and this triggered a relapse. Respondent subsequently became dependent, reaching a peak consumption of 33 Lortab 10 tablets per day. In addition, Respondent's drinking escalated during this time.

10. In February 1999, Respondent's partners confronted him after patients complained of alcohol on his breath. Respondent went to the Dallas County Medical Society Physician Health Committee, and as a result underwent an evaluation and long-term inpatient treatment.

11. Respondent entered Baylor Richardson Medical Center, on March 12, 1999, for five days detox under the care of Dr. Healy. Dr. Healy noted that Dr. Egert had taken 4- 10 mg Hydrocodone on the way to the hospital for admission. He also noted history of multiple drug use for many years. Detox was completed and he was discharged on March 18, 1999, with instructions to go directly to the COPAC treatment center in Mississippi.

12. On March 19, 1999, Respondent was admitted to COPAC for long-term residential treatment of opioid dependence. Records indicate that soon after admission, he began making plans to leave. It is noted that he entered treatment with "a poor attitude towards treatment" and refused to allow the staff to contact family members or Dr. Healy. He was discharged Against Medical Advice (AMA) on March 23, 1999. As a result, Dallas County Medical Society withdrew their support of Respondent.

13. On March 26, 1999, Respondent entered an outpatient program at Green Oaks Hospital under the care of Edgar Nace, M.D. He was discharged from the program on June 17, 1999, and returned to practice on July 26, 1999 after signing a Reinstatement Agreement with his group practice, which allowed him to return to work, and he was enrolled in the Texas Medical Association (TMA) Drug Screening Program.

14. On December 8, 1999 TMA reported a urine drug screen as positive for Codeine. Respondent was notified and asked to meet with the monitoring committee established with his group; he refused, and was subsequently terminated from the group effective December 20, 1999. On December 27, 1999, Respondent reported to the Board that he had relapsed which resulted in his 2000 Order.

15. Respondent reports that he continued to abuse alcohol until his sobriety date of July 5, 2006. Respondent has been under the care Philip Harrison, an addiction therapist, since 2001.

16. In 2006, Respondent entered the New Jersey Program for Professional Assistance Program (PAP) and was randomly screened for drugs and alcohol two times per week since 2006, and all screenings have been negative. Respondent states that he has been actively involved with the PAP in speaking engagements to speak with the medical students at The University of Medicine and Dentistry of New Jersey. His random screening tests have been decreased to one time per month. He states that he is also actively involved in the AA Recovery Program and has been attending several meetings per week for close to 3 years. He also attends a physician's AA meeting every Wednesday evening and has done so for approximately 2 years.

17. Respondent has been out of the practice of medicine since December 1999. Upon the approval of the Licensure Committee, Respondent completed a 180-day (24 week) Drexel University Physician Re-Entry Preceptorship. The program included 12 weeks of Inpatient Internal Medicine. The director of the Drexel program, Dr. Nicluser Varjavand, states that "It was a pleasure to have Dr. Eggert as a physician trainee. He was a model trainee - eager to learn, participating and volunteering at every opportunity, making extra effort with every assignment and showing significant improvement at every step. At every encounter he demonstrated professionalism, interest and was a positive contributing member of the team. Improvement was consistently demonstrated in history and physical encounters with the SPs, patient/physician communication, medical documentation, presentations, teaching skills and clinical reasoning. He not only completed the course successfully, he exceeded their expectations."

18. From June 8, 2010 to September 24, 2010, Respondent completed a twelve-week mini-residency in the office of Dr. Angelo Chinnici, which is affiliated with Jersey Shore University Medical Center in Neptune, New Jersey. Dr. Chinnici states that "based on his clinical rotations, he would highly recommend Respondent for relicensure. He writes that Dr. Eggert is firm evidence that dedication to field of medicine is a quality unique to gifted individuals. His

commitment to humanity, unfortunately temporarily sidetracked, has given him the strength and experience to overcome the many obstacles physicians often face. Dr. Eggert will undoubtedly reenter the field of medicine with a renewed sense of responsibility and compassion. "

19. Respondent has cooperated with Board staff in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 of the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under Section 164.052 of the Act.
2. Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers.
3. Sections 164.051(a)(4) and 164.056 of the Act authorize the Board to take disciplinary action against Respondent based on Respondent's inability to practice medicine with reasonable skill and safety to patients because of illness; drunkenness; excessive use of drugs, narcotics, chemicals, or another substance; or as a result of any mental or physical condition.
4. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.
5. Board rule 22 T.A.C. 163.11(c) authorizes the Board to place conditions on an person's license based on failure to demonstrate the active practice of medicine in either of the two years prior to the date of application.

6. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

7. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

#### ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent be issued a Texas medical license under the following terms and conditions for ten (10) years:

1. Abstain from Prohibited Substances/Drug Testing. Respondent shall abstain from the consumption of prohibited substances as defined below, except as prescribed by another physician to Respondent for legitimate and documented therapeutic purposes. As used in this provision, "consumption" means any manner of ingestion, including oral, injection, topical, inhalation, or otherwise.

a. Prohibited substances, as used in this order, includes:

- (1) Alcohol in any form;
- (2) Dangerous drugs, as defined in Chapter 483, TEX. HEALTH & SAFETY CODE;
- (3) Controlled substances, as defined in Chapter 481, TEX. HEALTH & SAFETY CODE;
- (4) any substance, in any form, including over-the-counter (OTC) agents and food products, that may cause a positive drug or alcohol test.

b. The following is an illustrative, but not exclusive, list of prohibited substances:

- (1) Stimulants
- (2) appetite suppressants
- (3) medication for ADD/ADHD
- (4) Anti-anxiety agents
- (5) Antidepressants
- (6) Antihistamines
- (7) Anticholinergics
- (8) Antispasmodics
- (9) Recreational, mind-altering drugs
- (10) Any product containing pseudoephedrine or epinephrine
- (11) Alcohol

(12) Any product containing alcohol, including mouthwashes, cough medicines, after shave lotions, colognes, hand sanitizing formulas, and dietary and herbal supplements

(13) Food containing any of the above and/or poppy seeds.

c. Within five days after receipt of this Order, Respondent shall:

(1) provide to the Compliance Division of the Board a list of all prohibited substances that Respondent is currently consuming, whether by prescription or otherwise;

(2) give any treating physician a copy of this Order;

(3) cause any treating physician to report all prescriptions and orders for any prohibited substance within five days after the treating physician receives this Order. The report shall include the medical condition being treated; the substance prescribed, dispensed or administered; the amount of such substance; and any refills authorized.

d. During the term of this Order, Respondent shall:

(1) provide to the Compliance Division of the Board a list of all subsequent prescriptions and any subsequent orders for prohibited substances within 24 hours after receipt of the subsequent prescription or order; and

(2) give any subsequent treating physician a copy of this Order within five days after the initiation of treatment, and Respondent shall cause the subsequent treating physician(s) to report all prescriptions and any orders for prohibited substances to the Compliance Division of the Board no later than five days after receipt of this Order by the treating physician. The report shall include the medical condition being treated; the substance prescribed, dispensed or administered; the amount of such substance; and any refills authorized.

e. If Respondent consumes any prohibited substance in any form without a prescription or order authorized by a physician for a legitimate medical purpose, Respondent shall immediately report Respondent's consumption in writing within 24 hours to the Compliance Division of the Board.

f. The Respondent shall participate in the Board's drug testing program. In addition, at the request of a representative of the Board, with or without prior



notice, Respondent shall submit to appropriate examinations, including screenings for alcohol and drugs, through either a saliva, urine, blood, sweat, or hair specimen, to determine by laboratory analysis whether Respondent is free of prohibited drugs and alcohol. Respondent shall pay any costs associated with these analyses.

8. A violation of this Order under this provision shall include: (i) a positive or a positive-dilute screen for prohibited drugs or alcohol, or a metabolite of prohibited drugs or alcohol; (ii) an adulterated specimen; (iii) a substituted specimen; or (iv) a refusal or failure to submit to random screenings. Should a specimen be reported as negative-dilute, Respondent may be required to undergo additional testing and may be subject to further Board action. A violation may be based on drug and alcohol screening under the Board's program or any other drug and/or alcohol testing.

(1) Evidence of a violation of this Order under this provision and any other information related to Respondent's violation of this Order may be presented to Board representatives at a Probationer's Show Compliance Proceeding, held in accordance with 22 TEX. ADMIN. CODE, §187.44.

(2) If the Board representatives at such Probationer's Show Compliance Proceeding determine that Respondent is in violation of this Order pursuant to this provision, the Board representatives may direct the Executive Director to immediately SUSPEND Respondent's medical license. **THIS SUSPENSION SHALL BE EFFECTIVE IMMEDIATELY WITHOUT THE NEED FOR A FORMAL HEARING BEFORE THE BOARD, A PANEL OF THE BOARD, OR THE STATE OFFICE OF ADMINISTRATIVE HEARINGS OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE MEDICAL PRACTICE ACT OR THE ADMINISTRATIVE PROCEDURE ACT. RESPONDENT WAIVES ANY SUCH HEARING OR ANY SUCH DUE PROCESS AND ALL RIGHTS OF APPEAL IN REGARD TO THE SUSPENSION.**

If Respondent is suspended under this provision, a Board representative shall file a formal complaint under Section 164.005 of the Medical Practice Act as soon as practicable, alleging the violations of this Order under this provision and seeking such disciplinary action as may be appropriate, including revocation of Respondent's license. The formal complaint may also include allegations of other violations of this Order and other violations of the Medical Practice Act. The parties may resolve the issues by an agreed order, either before or after the filing of a formal complaint. **RESPONDENT DOES NOT WAIVE AND SPECIFICALLY RESERVES THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS, WITH ALL RIGHTS PROVIDED BY THE MEDICAL PRACTICE ACT OR THE ADMINISTRATIVE PROCEDURE ACT AND THE RIGHT TO SEEK JUDICIAL REVIEW OF THE FINAL ORDER.**

2. AA/NA Attendance. The Respondent shall participate in the activities and programs of Alcoholics Anonymous ("AA") or Narcotics Anonymous, (or any other substantially similar program that has been approved in writing by the Executive Director of the Board), on a regular basis of not less than 4 times a week. Respondent shall maintain documentation as to the number and location of meetings attended and make such documentation available to the Board staff upon request.

3. Reports to the Board. When requested by the Board or Board staff, Respondent shall provide to Board staff complete legible written reports regarding any aspect of Respondent's physical or mental condition and Respondent's compliance with the terms of this Order.

4. No Withdrawal from Treatment. Respondent shall not unilaterally withdraw from the evaluation, care, or treatment required by this Order, and shall request and authorize in writing that Respondent's physician or any other individuals involved in Respondent's care and treatment immediately report to the Compliance Division of the Board any unilateral withdrawal from treatment by Respondent. Respondent's unilateral withdrawal from evaluation, treatment, or medical care required by this Order shall constitute unprofessional and dishonorable conduct, a violation of this Order, and shall be justification for further action under the Act.

5. No Possession of Drugs with Addictive Potential. Except as otherwise provided for by the terms of this Order, Respondent shall not possess alcohol, controlled substances, or dangerous drugs with addictive potential or potential for abuse. If Respondent has not already done so, Respondent shall surrender to a representative of the Texas Department of Public Safety Narcotic Service, within seven days of the entry of this Order, all controlled substances and dangerous drugs with potential for abuse, including samples, which are in Respondent's actual possession, Respondent's home or office, or otherwise in Respondent's constructive possession, unless such possession is authorized by other provisions of this Order. Respondent shall provide objective evidence of said surrender within seven days. Respondent shall not obtain or possess alcohol, controlled substances, or dangerous drugs with potential for abuse or addictive potential unless authorized to do so by the terms of this Order.

6. No Self-Treatment. Respondent shall not treat or otherwise serve as a physician for Respondent's immediate family, and Respondent shall not prescribe, dispense, administer or authorize controlled substances or dangerous drugs with addictive potential or potential for abuse to Respondent or Respondent's immediate family. Respondent may self-administer or administer to Respondent's immediate family only such drugs as prescribed by another physician for legitimate medical purposes and in compliance with the orders and directions of such physician.

7. No Self-Prescription. Respondent shall not, by telephone to a pharmacy, prescribe or refill a prescription for controlled substances or dangerous drugs with addictive potential or potential for abuse, and Respondent shall not permit any individual under Respondent's supervision or control to facilitate such a prescription or refill to a pharmacy, other than by written prescription.

8. Log of Medications. Separate from patient records, Respondent shall maintain a file consisting of a copy of every prescription written by Respondent for controlled substances or dangerous drugs with addictive potential or potential for abuse in chronological order by date issued. This file of prescription copies shall be available for inspection by compliance officers, investigators, and other representatives of the Board during regular office hours, with or without notice to Respondent. Respondent shall not, by telephone to a pharmacy, prescribe or refill a prescription for such drugs.

9. Supervision of Midlevels. Respondent may supervise and delegate prescriptive authority to physician assistants and advance practice nurses.

10. Probation Appearances. Respondent shall personally appear before the Board, a committee of the Board, or a panel of Board representatives at least one time the first year and each year thereafter that this Order is in effect upon written request, mailed to Respondent's last known address on file with the Board at least 10 calendar days before the requested appearance date. Such appearances shall be for the purpose of reporting on and addressing issues related to Respondent's compliance with the terms and conditions of this Order.

11. Cooperation with the Board. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

12. Compliance with the Law. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

13. Violation of the Law. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public or injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

14. Change of Address. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days after the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a violation of this Order and a basis for disciplinary action by the Board against Respondent pursuant to the Act.

15. Tolling. The time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas; (b) Respondent's license is subsequently cancelled for nonpayment of licensure fees; (c) this

Order is stayed or enjoined by Court Order, or (d) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine. If Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days, Respondent shall immediately notify the Compliance Division of the Board in writing. Upon Respondent's return to active practice or return to practice in Texas, Respondent shall notify the Compliance Division of the Board in writing. When the period of extension ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, BRYAN GEORGE EGGERT, M.D., HAVE READ AND UNDERSTAND THIS AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 11-23-10

REDACTED

BRYAN GEORGE EGGERT, M.D.  
RESPONDENT

STATE OF New Jersey §

§

COUNTY OF Monmouth §

§

BEFORE ME, the undersigned Notary Public, on this day personally appeared BRYAN GEORGE EGGERT, M.D., known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated that he/she executed the same for all purposes expressed therein.

Given under my hand and official seal and office this 23rd day of November 2010.

NOTARY SEAL

REDACTED

Signature of Notary Public

CAROLYN S. RUSSELL  
Notary Public of New Jersey  
My Commission Expires Nov. 28, 2014 13

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SIGNED AND ENTERED by the providing officer of the Texas Medical Board on this  
17th day of November 2010.

REDACTED

Irvin E. Zeldin, Jr., D.O., President  
Texas Medical Board

ATTACHMENT II



## ATTACHMENT "II"

### Terms of Probation

- 1) Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
- 2) Since, upon the effective date of this Modification Order, the Respondent is not engaged in the practice of medicine in New York, the probation period shall toll upon the effective date of this Modification Order. A Condition of this Order requires the Respondent to provide the Director with notice no less than ninety days prior to the time that the Respondent intends to return to the practice of medicine in New York State. In the event that Respondent satisfies these requirements and returns to the practice of medicine in New York, thereafter, Respondent shall then notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, medical practice in New York State for a consecutive 30 day period, and the probation period shall toll when Respondent is not engaged in medical practice in New York State for a period of 30 consecutive days or more. Respondent shall then notify the Director again at least 90 days before returning to medical practice in New York. Upon Respondent's return to medical practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Attachment "I" or as are necessary to protect the public health.
- 3) 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.
- 4) Respondent shall remain free from alcohol and all other mood-altering substances other than those prescribed for Respondent 's treatment by a licensed health care professional aware of Respondent 's history of chemical dependency and/or mental illness. Respondent shall not self-prescribe any medications.
- 5) Respondent shall remain active in self-help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
- 6) Respondent shall notify all treating physicians of Respondent's history of substance abuse. Respondent shall advise OPMC of any controlled or mood-altering substance given or prescribed by treating health care professionals.

- 7) Respondent shall not be permitted to practice medicine except when monitored by qualified health care professional monitors: a Toxicology Monitor and a Practice Supervisor, proposed by Respondent and approved, in writing, by the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine,

Within seven days of learning an approved monitor is no longer willing or able to serve, Respondent shall submit the name of a proposed successor to the Director of OPMC. Monitors shall not be family members or personal friends or be in professional relationships that would pose a conflict with monitoring responsibilities. All monitors shall execute acknowledgment forms provided by OPMC certifying familiarity with Respondent's history of substance abuse, with this Order and its terms, and acknowledging a willingness to comply with the monitor's reporting responsibilities regarding Respondent's compliance with the terms of this Order.

- a) Respondent shall ensure that the monitors are familiar with Respondent's history of substance abuse 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.
- b) Respondent shall submit to random, unannounced observed blood, breath, hair, and/or urine screens for the presence of drugs and alcohol (hereafter "drug screen"), when requested by a monitor. The monitoring shall be on a random, unannounced, directly-observed, 7-day-a-week, 24-hour-a-day basis. Respondent shall report for a drug screen within 8 hours of being contacted by a monitor. Monitors shall report to OPMC immediately if Respondent refuses or delays a test or if a test is positive for alcohol, or any other unauthorized drug or substance. Respondent shall avoid all substances that may cause positive urine drug screens, such as poppy seeds, mouthwash or cough medicine. Any positive test result shall constitute a violation of the terms of this Order.
- c) Respondent shall meet regularly with a Toxicology Monitor. During the first 12 months of monitoring, Respondent shall cause the Toxicology Monitor to obtain drug screens at a frequency of no less than 6 times per month. If Respondent is compliant throughout the first 12-month period, subsequent drug screens shall be obtained at a frequency to be proposed by the Toxicology Monitor and approved by OPMC. Respondent shall cause the Toxicology Monitor to submit quarterly reports to OPMC certifying Respondent's sobriety or lack of sobriety. These reports are to include forensically valid results of all drug screens performed and an assessment of self-help group (e.g., AA/NA/Caduceus) attendance and 12-step progress.

d) Respondent shall practice only when supervised in medical practice by a licensed physician (hereafter "Practice Supervisor"). The Practice Supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC, and shall be in a position to regularly observe and assess Respondent's medical practice. The Practice Supervisor shall oversee Respondent's compliance with the terms of practice imposed by the Order and Respondent's prescribing, administering, dispensing, inventorying, wasting and disposal of controlled substances. Respondent shall cause the Practice Supervisor to report to OPMC immediately any suspected impairment, inappropriate behavior, questionable medical practice, possible misconduct, or violation by Respondent of any of the terms of this Order. Respondent shall cause the Practice Supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical practice and prescribing practices, any unexplained absences from work, and certifying Respondent's compliance or detailing Respondent's failure to comply with each term imposed.

- 8) At the direction of the Director of OPMC, Respondent shall submit to evaluations by a board-certified psychiatrist, licensed mental health practitioner or other health care professional or program designated by the Director (hereafter "Evaluator.") Respondent shall provide the Evaluator with a copy of this Order and copies of all previous treatment records. OPMC, at its discretion, may provide information or documentation from its investigative files concerning Respondent to Respondent's Evaluator. The Evaluator shall report to the Director regarding Respondent's condition and fitness or incapacity to practice medicine. Respondent shall comply with all treatment recommendations based upon the evaluation; failure to comply with such treatment recommendations shall constitute professional misconduct.
- 9) Respondent shall enroll, or continue enrollment, in the Committee for Physician Health (CPH) and shall engage in a contract with CPH that defines the terms, conditions and duration of Respondent's recovery program. Respondent shall comply with the contract. Respondent shall give written authorization for CPH to provide the Director of OPMC with all information or documentation requested by OPMC to determine whether Respondent is in compliance with the contract and with this Order, including full access to all records maintained by CPH with respect to Respondent.
- a) Respondent shall cause CPH to report to OPMC promptly if Respondent refuses to comply with the contract, refuses to submit to treatment or if Respondent's impairment is not substantially alleviated by treatment.

b) Respondent shall cause CPH to report immediately to OPMC if Respondent is regarded at any time to be an imminent danger to the public.

10) Respondent shall comply with this Modification Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.