

NEW YORK
state department of
HEALTH

Public

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

Sue Kelly
Executive Deputy Commissioner

March 18, 2014

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mahesh Reddy Kuthuru, M.D.

REDACTED

Re: License No. 215662

Dear Dr. Kuthuru:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 14-61. This order and any penalty provided therein goes into effect March 25, 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. Enclosed for your convenience is an affidavit. 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: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED

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

Enclosure

cc: James D. Lantier, Esq.
Smith, Sovick, Kendrick & Sugnet, P.C.
250 South Clinton Street, Suite 600
Syracuse, NY 13202

**IN THE MATTER
OF
MAHESH KUTHURU, M.D.**

**SURRENDER
ORDER**

Upon the application of MAHESH KUTHURU, M.D. to Surrender his 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: 3/17/2014

REDACTED

ARTHUR S. HENGERER, M.D.

Chair

State Board for Professional Medical Conduct

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

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**IN THE MATTER
OF
MAHESH KUTHURU, M.D.**

**SURRENDER
OF
LICENSE
AND
ORDER**

MAHESH KUTHURU, M.D., represents that all of the following statements are true:

That on or about September 2, 1999, I was licensed to practice as a physician in the State of New York, and issued License No.215662 by the New York State Education Department.

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

I understand that the New York State Board for Professional Medical Conduct (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 cannot successfully defend against one or more specifications.

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".

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.

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 03/11/, 2014

REDACTED

MAHESH KUTHURU, M.D. /
RESPONDENT

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

DATE: 3/11/14

REDACTED

JAMES D. LANTIER

Counsel for Respondent

DATE: March 12, 2014

REDACTED

PAUL TSUI

Assistant Counsel

Bureau of Professional Medical Conduct

DATE: 3/14/14

REDACTED

KEITH W. SERVIS

Director

Office of Professional Medical Conduct

EXHIBIT A

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

IN THE MATTER
OF
MAHESH KUTHURU, M.D.
SY-11-05-2500-A

STATEMENT
OF
CHARGES

MAHESH KUTHURU, M.D., Respondent, was authorized to practice medicine in New York State on September 2, 1999, by the issuance of license number 215662 by the New York State Education Department.

GENERAL ALLEGATIONS

From on or about December, 2010, to on or about October 23, 2011, Respondent was engaged in the practice of medicine in the State of New York and the State of Nevada concurrently. Respondent was operating Upstate Pain Medicine, P.C. (hereinafter "UPM") located at 59 South First Street, Fulton, New York while living in Henderson, Nevada and working in Las Vegas, Nevada where he operated Desert Pain Management (hereinafter "DPM") located at 5701 West Charleston Boulevard, Suite 207, Las Vegas, Nevada. Respondent hired staff via "Skype" to operate Upstate Pain Medicine and would check in by telephone or email. Respondent came to the New York offices sporadically but not between December 2010, and May 25, 2011.

From about December, 2010, to on or about May 24, 2011, Respondent had staff at UPM send him blank prescription forms in Las Vegas where he pre-signed them and returned them to UPM. The UPM staff would periodically complete the information on the prescriptions by, among other things, adding a patient's name and address, filling in the medication name, dosage, and number of pills, and the Respondent's DEA number.

PATIENT SPECIFIC ALLEGATIONS

PATIENT A

A. Respondent treated Patient A (patients are identified in the appendix), a 22 year old male with lower back pain resulting from a motor vehicle accident, from about June 4, 2007 through May 24, 2011, at UPM. Respondent's care and treatment of Patient A failed to meet accepted standards of medical care, in that:

1. Respondent inappropriately pre-signed blank prescription forms which were subsequently completed by Respondent's staff in New York and issued to Patient A for Ultram, Percocet, and Lortab, among other medications.
2. Respondent failed to adequately order, evaluate and/or monitor urine toxicology screens for Patient A administered by office staff in New York.
3. Respondent failed to adequately evaluate Patient A's medical history prior to, and inappropriately, prescribing opiate pain medication.
4. Respondent failed to maintain accurate and/or adequate medical records with respect to Patient A's history and/or physical examinations.

PATIENT B

B. Respondent treated Patient B, a 29 year old male with lower back pain and pain in both legs resulting from a herniated disc, from July 20, 2010 through May 24, 2011, at UPM. Respondent's care and treatment of Patient B failed to meet accepted standards of medical care, in that:

1. Respondent, on one or more occasions, failed to obtain and/or document an adequate history of Patient B.
2. Respondent, on one or more occasions, failed to perform and/or document an adequate physical examination of Patient B.

3. Respondent ordered diagnostic testing without any medical indication for such testing.
4. Respondent failed to adequately order, evaluate, and/or monitor urine toxicology screens administered by office staff in New York.
5. Respondent inappropriately pre-signed blank prescription forms which were subsequently completed by Respondent's staff in New York and issued to Patient B for MS Contin and/or Soma, among other medications.
6. Respondent failed to maintain accurate and/or adequate medical records with respect to Patient B's history and/or physical examinations.

PATIENT C

C. Respondent treated Patient C, a 37 year old female with neck and back pain, from February 17, 2011, through March 15, 2011, at UPM. Respondent's care and treatment of Patient C failed to meet accepted standards of medical care, in that:

1. Respondent, on one or more occasions, failed to obtain and/or document an adequate history for Patient C.
2. Respondent, on one or more occasions, failed to perform and/or document an adequate physical examination of Patient C.
3. Respondent, on one or more occasions, failed to adequately order, evaluate, and/or monitor urine toxicology screens administered by office staff in New York.
4. Respondent inappropriately pre-signed blank prescription forms which were subsequently completed by Respondent's staff in New York and issued to Patient C for Phrenelin, Oxycodone, Soma and Lyrica, among other medications.

5. Respondent failed to maintain accurate and/or adequate medical records with respect to Patient C's history and/or physical examinations.

PATIENT D

D. Respondent treated Patient D, a 49 year old female with back, leg, shoulder, knee, and hip pain, from August 13, 2007, through March 2, 2011, at UPM. Respondent's care and treatment of Patient D failed to meet accepted standards of medical care, in that:

1. Respondent, on one or more occasions, failed to obtain and/or document an adequate history for Patient D.
2. Respondent, on one or more occasions, failed to perform and/or document an adequate physical examination of Patient D.
3. Respondent failed to adequately order, evaluate, and/or monitor urine toxicology screens administered by office staff in New York.
4. Respondent inappropriately pre-signed blank prescription forms which were subsequently completed by Respondent's staff in New York and issued to Patient D for Robaxin and Percocet.
5. Respondent inappropriately prescribed controlled substances to the patient.
6. Respondent failed to maintain accurate and/or adequate medical records with respect to Patient D's history and/or physical examinations.

PATIENT E

E. Respondent treated Patient E, a 29 year old female with neck, upper back, shoulder pain, and headaches following brain surgery, from January 20, 2011, through July 18, 2011, at UPM. Respondent's care and treatment of Patient E failed to meet accepted standards of medical care, in that:

1. Respondent, on one or more occasions, failed to obtain and/or document an adequate history of Patient E.
2. Respondent, on one or more occasions, failed to perform and/or document an adequate physical examination of Patient E.
3. Respondent failed to adequately order, evaluate, and/or monitor urine toxicology screens administered by office staff in New York.
4. Respondent inappropriately pre-signed blank prescription forms which were subsequently completed by Respondent's staff in New York and issued to Patient E for Methadone.
5. Respondent failed to adequately evaluate and/or treat issues of alcohol abuse, a history of psychosocial issues and noncompliance in Patient E's records.
6. Respondent failed to maintain accurate and/or adequate medical records with respect to Patient E's history and/or physical examinations.

PATIENT F

F. Respondent treated Patient F, a 40 year old female with neck, lower back, and extremity pain following a snowmobile accident and hip fracture, from April 29, 2009, through May 25, 2011, at UPM. Respondent's care and treatment of Patient F failed to meet accepted standards of medical care, in that:

1. Respondent, on one or more occasions, failed to obtain and/or document an adequate history of Patient F.
2. Respondent, on one or more occasions, failed to perform and/or document an adequate physical examination of Patient F.
3. Respondent failed to adequately order, evaluate, and/or monitor urine toxicology screens administered by office staff in New York

4. Respondent inappropriately pre-signed blank prescription forms which were subsequently completed by Respondent's staff in New York and issued to Patient F for Naprosyn, Oxycontin, Roxicodone, and Xanax.
5. Respondent inappropriately prescribed controlled substances to Patient F.
6. Respondent failed to maintain accurate and/or adequate medical records with respect to Patient's F's history and/or physical examinations.

PATIENT G

G. Respondent treated Patient G, a 53 year old female with neck, lower back, arm, leg, hip, and shoulder pain resulting from a fall getting out of bed, from November 3, 2010, through May 3, 2011, at UPM. Respondent's care and treatment of Patient G failed to meet accepted standards of medical care, in that:

1. Respondent, on one or more occasions, failed to obtain and/or document an adequate history of Patient G.
2. Respondent, on one or more occasions, failed to perform and/or document an adequate physical examination of Patient G.
3. Respondent failed to adequately order, evaluate, and/or monitor urine toxicology screens administered by office staff in New York.
4. Respondent inappropriately pre-signed blank prescription forms which were subsequently completed by Respondent's staff in New York and issued to Patient G for Vicodin and Duragesic patches.
5. Respondent inappropriately prescribed controlled substances to Patient G and failed to address issues of noncompliance in Patient G's records.
6. Respondent failed to maintain accurate and/or adequate medical records with respect to Patient G's history and/or physical examinations.

PATIENT H

H. Respondent treated Patient H, a 45 year old male with lower back and leg pain post laminectomy, from May 25, 2010, through May 24, 2011, at UPM. Respondent's care and treatment of Patient H failed to meet accepted standards of medical care, in that:

1. Respondent, on one or more occasions, failed to obtain and/or document an adequate history of Patient H.
2. Respondent, on one or more occasions, failed to perform and/or document an adequate physical examination of Patient H.
3. Respondent failed to adequately order, evaluate, and/or monitor urine toxicology screens administered by office staff in New York.
4. Respondent inappropriately pre-signed blank prescription forms which were subsequently completed by Respondent's staff in New York and issued to Patient H for Lortab, Ambien, and Flexeril.
5. Respondent inappropriately prescribed controlled substances to Patient H and failed to address issues of noncompliance in Patient H's records.
6. Respondent failed to maintain accurate and/or adequate medical records with respect to Patient H's history and/or physical examinations.

PATIENT I

I. Respondent treated Patient I, a 45 year old female with pain in her right arm, wrist and hand, from January 20, 2011, through May 25, 2011, at UPM. Respondent's care and treatment of Patient I failed to meet accepted standards of medical care, in that:

1. Respondent, on one or more occasions, failed to obtain and/or document an adequate history of Patient I.

2. Respondent, on one or more occasions, failed to perform and/or document an adequate physical examination of Patient I.
3. Respondent ordered diagnostic testing without any medical indication for such testing.
4. Respondent failed to adequately order, evaluate, and/or monitor urine toxicology screens administered by office staff in New York.
5. Respondent inappropriately pre-signed blank prescription forms which were subsequently completed by Respondent's staff in New York and issued to Patient I for Klonopin, Percocet, Oxycodone, and Amitriptyline.
6. Respondent inappropriately prescribed controlled substances to Patient I and failed to address issues of noncompliance and/or psychosocial issues in Patient I's records.
7. Respondent failed to maintain accurate and/or adequate medical records with respect to Patient I's history and/or physical examinations.

PATIENT J

J. Respondent treated Patient J, a 61 year old female with neck, lower back, arm, leg, shoulder, knee, hip, chest pain and headaches resulting from an injury at work, from June 10, 2010, through April 12, 2011, at UPM. Respondent's care and treatment of Patient J failed to meet accepted standards of medical care, in that:

1. Respondent failed to maintain an adequate medical record for Patient J.
2. Respondent, on one or more occasions, failed to obtain and/or document an adequate history of Patient J.
3. Respondent, on one or more occasions, failed to perform and/or document an adequate physical examination of Patient J.

4. Respondent failed to adequately order, evaluate, and/or monitor urine toxicology screens administered by office staff in New York.
5. Respondent inappropriately pre-signed blank prescription forms which were subsequently completed by Respondent's staff in New York and issued to Patient J for Duragesic patches and Vicodin.
6. Respondent inappropriately prescribed controlled substances to Patient J and failed to address issues of noncompliance in Patient J's records.
7. Respondent failed to maintain accurate and/or adequate medical records with respect to Patient J's history and/or physical examinations.

SPECIFICATIONS
FIRST THROUGH TENTH SPECIFICATIONS
FRAUD

Respondent violated New York Education Law §6530(2) (Practicing the profession fraudulently), in that Petitioner charges:

1. The facts in Paragraph A and A.1.
2. The facts in Paragraph B and B.5.
3. The facts in Paragraph C and C.4.
4. The facts in Paragraph D and D.4.
5. The facts in Paragraph E and E.4.
6. The facts in Paragraph F and F.4.
7. The facts in Paragraph G and G.4.
8. The facts in Paragraph H and H.4.
9. The facts in Paragraph I and I.5.
10. The facts in Paragraph J and J.5.

ELEVENTH SPECIFICATION
NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent violated New York Education Law §6530(3) (Practicing the profession with negligence on more than one occasion), in that Petitioner charges:

11. The facts in Paragraph A and A.1., A and A.2., A and A.3., A and A.4., B and B.1., B and B.2., B and B.3., B and B.4., B and B.5., B and B.6., C and C.1., C and C.2., C and C.3., C and C.4., C and C.5., D and D.1., D and D.2., D and D.3., D and D.4., D and D.5., D and D.6., E and E.1, E and E.2., E and E.3., E and E.4., E and E.5., E and E.6., F and F.1., F and F.2., F and F.3., F and F.4., F and F.5., F and F.6., G and G.1., G and G.2., G and G.3., G and G.4., G and G.5., G and G.6., H and H1, H and H.2., H and H.3., H and H.4., H and H.5., H and H.6., I and I.1., I and I.2., I and I.3., I and I.4., I and I.5., I and I.6., I and I.7., J and J.1., J and J.2., J and J.3., J and J.4., J and J.5., J. and J.6., and/or J and J.7.

TWELFTH THROUGH TWENTY-FIRST SPECIFICATIONS
GROSS NEGLIGENCE ON A PARTICULAR OCCASION

Respondent violated Education Law §6530(4) (Practicing the profession with gross negligence on a particular occasion), in that Petitioner charges:

12. The facts in Paragraph A and A.1., A and A.2., A and A.3., and/or A and A.4.
13. The facts in Paragraph B and B.1., B and B.2., B and B.3., B and B.4., B and B.5., and/or B and B.6.
14. The facts in Paragraph C and C.1., C and C.2., C and C.3., C and C.4., and/or C and C.5.
15. The facts in Paragraph D and D.1., D and D.2., D and D.3., D and D.4., D and D.5., and/or D and D.6.
16. The facts in Paragraph E and E.1, E and E.2., E and E.3., E and E.4., E and E.5., and/or E and E.6.
17. The facts in Paragraph F and F.1., F and F.2., F and F.3., F and F.4., F and F.5., and/or F and F.6.
18. The facts in Paragraph G and G.1., G and G.2., G and G.3., G and G.4., G and G.5., and/or G and G.6.
19. The facts in Paragraph H and H.1., H and H.2., H and H.3., H and H.4., H and H.5., and/or H and H.6.
20. The facts in Paragraph I and I.1., I and I.2., I and I.3., I and I.4., I and I.5., I and I.6., and/or I and I.7.
21. The facts in Paragraph J and J.1., J and J.2., J and J.3., J and J.4., J and J.5., J. and J.6., and/or J and J.7.

TWENTY-SECOND SPECIFICATION
INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent violated New York Education Law §6530(5) (Practicing the profession with incompetence on more than one occasion), in that Petitioner charges:

22. The facts in Paragraph A and A.1., A and A.2., A and A.3., A and A.4., B and B.1., B and B.2., B and B.3., B and B.4., B and B.5., B and B.6., C and C.1., C and C.2., C and C.3., C and C.4., C and C.5., D and D.1., D and D.2., D and D.3., D and D.4., D and D.5., D and D.6., E and E.1, E and E.2., E and E.3., E and E.4., E and E.5., E and E.6., F and F.1., F and F.2., F and F.3., F and F.4., F and F.5., F and F.6., G and G.1., G and G.2., G and G.3., G and G.4., G and G.5., G and G.6., H and H.1., H and H.2., H and H.3., H and H.4., H and H.5., H and H.6., I and I.1., I and I.2., I and I.3., I and I.4., I and I.5., I and I.6., I and I.7., J and J.1., J and J.2., J and J.3., J and J.4., J and J.5., J. and J.6., and/or J and J.7.

TWENTY-THIRD THROUGH THIRTY-SECOND SPECIFICATIONS
GROSS INCOMPETENCE

Respondent violated New York Education Law §6530(6) (Practicing the profession with gross incompetence), in that Petitioner charges:

23. The facts in Paragraph A and A.1., A and A.2, A and A.3., and/or A and A.4.
- 24.. The facts in Paragraph B and B.1., B and B.2., B and B.3, B and B.4., B and B.5., and/or B and B.6.
25. The facts in Paragraph C and C.1., C and C.2., C and C.3., C and C.4., and/or C and C.5.
26. The facts in Paragraph D and D.1., D and D.2., D and D.3., D and D.4., D and D.5., and/or D and D.6.
27. The facts in Paragraph E and E.1, E and E.2.. E and E.3., E and E.4., E and E.5., and/or E and E.6.

28. The facts in Paragraph F and F.1., F and F.2., F and F.3., F and F.4., F and F.5., and/or F and F.6.
29. The facts in Paragraph G and G.1., G and G.2., G and G.3., G and G.4., G and G.5., and/or G and G.6.
30. The facts in Paragraph H and H.1., H and H.2., H and H.3., H and H.4., H and H.5., and/or H.6.
31. The facts in Paragraph I and I.1., I and I.2., I and I.3., I and I.4., I and I.5., I and I.6., and/or I and I.7.
32. The facts in Paragraph J and J.1., J and J.2., J and J.3., J and J.4., J and J.5., J and J.6., and/or J and J.7.

THIRTY-THIRD THROUGH FORTY-SECOND SPECIFICATIONS
PERMITTING OR ABETTING UNLICENSED PRACTICE

Respondent violated New York Education Law §6530(11) (Permitting, aiding, or abetting an unlicensed person to perform activities requiring a license), in that the Petitioner charges:

33. The facts in Paragraph A and A.1.
34. The facts in Paragraph B and B.5.
35. The facts in Paragraph C and C.4.
36. The facts in Paragraph D and D.4.
37. The facts in Paragraph E and E.4.
38. The facts in Paragraph F and F.4.
39. The facts in Paragraph G and G.4.
40. The facts in Paragraph H and H.4.
41. The facts in Paragraph I and I.5.
42. The facts in Paragraph J and J.5.

FORTY-THIRD THROUGH FIFTY-SECOND SPECIFICATIONS
WILLFUL OR GROSSLY NEGLIGENT FAILURE TO COMPLY WITH LAW

Respondent violated New York Education Law §6530(16) by willfully, or with gross negligence, having failed to comply with substantial provisions of New York Public Health Law §3332(2)(d), in that Petitioner charges:

43. The facts in Paragraph A and A.1.
44. The facts in Paragraph B and B.5.
45. The facts in Paragraph C and C.4.
46. The facts in Paragraph D and D.4.
47. The facts in Paragraph E and E.4.
48. The facts in Paragraph F and F.4.
49. The facts in Paragraph G and G.4.
50. The facts in Paragraph H and H.4.
51. The facts in Paragraph I and I.5.
52. The facts in Paragraph J and J.5.

FIFTY-THIRD SPECIFICATION
MORAL UNFITNESS

Respondent violated New York Education Law §6530(20) (Conduct in the practice of medicine which evidences moral unfitness to practice medicine), in that Petitioner charges:

53. The facts in Paragraph A and A.1., A and A.2., A and A.3., A and A.4., B and B.1., B and B.2., B and B.3., B and B.4., B and B.5., B and B.6., C and C.1., C and C.2., C and C.3., C and C.4., C and C.5., D and D.1., D and D.2., D and D.3., D and D.4., D and D.5., D and D.6., E and E.1, E and E.2., E and E.3., E and E.4., E and E.5., E and E.6., F and F.1., F and F.2., F and F.3., F and F.4., F and F.5., F and F.6., G and G.1., G and G.2., G and G.3., G and G.4., G and G.5., G and G.6., H and H.1., H and H.2., H and H.3., H and H.4., H and H.5., H and H.6., I and I.1., I and I.2., I and I.3., I and I.4., I and I.5., I and I.6., I and I.7., J and J.1., J and J.2., J and J.3., J and J.4., J and J.5., J. and J.6., and/or J and J.7.

FIFTY-FOURTH THROUGH SIXTY-THIRD SPECIFICATIONS
IMPROPER DELEGATION

Respondent violated New York Education Law §6530(25) (Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, experience, or by licensure, to perform them), in that Petitioner charges:

54. The facts in Paragraph A and A.1., and/or A and A.2.
55. The facts in Paragraph B and B.4., and/or B and B.5.
56. The facts in Paragraph C and C.3., and/or C and C.4.
57. The facts in Paragraph D and D.3., and/or D and D. 4.
58. The facts in Paragraph E and E.3., and/or E. and E.4.
59. The facts in Paragraph F and F.3., and/or F. and F.4.
60. The facts in Paragraph G and G.3., and/or G. and G.4.
61. The facts in Paragraph H and H.3., and/or H. and H.4.
62. The facts in Paragraph I and I.4., and/or I and I.5.
63. The facts in Paragraph J and J.4., and/or J and J.5.

SIXTY-FOURTH SPECIFICATION
FAILING TO MAINTAIN AN ACCURATE RECORD

Respondent violated New York Education Law §6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient), in that Petitioner charges:

64. The facts in Paragraph A and A.4., B and B.1, B and B.2., B and B.6., C and C.1., C and C.2., C and C.5., D and D.1., D and D.2., D and D.6., E and E.1., E and E.2., E. and E.5., E and E.6., F and F.1., F. and F.2., F and F.6., G and G.1., G and G.2., G. and G.5., G and G.6., H and H.1., H and H.2., H and H.5., H and H.6., I and I.1., I and I.2., I and I.6., I and I.7., J and J.1., J and J.2., J and J.3., J and J.6., and/or J and J.7.

SIXTY-FIFTH SPECIFICATION
FAILING TO EXERCISE APPROPRIATE SUPERVISION

Respondent violated New York Education Law §6530(33) (Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee), in that Petitioner charges:

65. The facts in Paragraph A and A.1, A and A.2., B and B.4., B and B.5., C and C.3., C and C.4., D and D.3., D and D. 4., E and E.3., E. and E.4., F and F.3., F. and F.4., G and G.3., G. and G.4., H and H.3., H. and H.4., I and I.4., I and I.5., J and J.4., and/or J and J.5.

SIXTY-SIXTH SPECIFICATION
EXCESSIVE TESTS AND TREATMENTS

Respondent violated New York Education Law §6530(35) (Ordering of excessive tests, treatments, or use of treatment facilities not warranted by the condition of the patient), in that Petitioner charges:

66. The facts in Paragraph B and B.3., and/or I and I.3.

DATED: *Feb. 21*, 2014
Albany, New York

REDACTED

MICHAEL A. HISER
Acting 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.