



Department  
of Health

Public

ANDREW M. CUOMO  
Governor

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

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

May 13, 2015

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Richard G. Ochrym, M.D.



Re: License No. 193854

Dear Dr. Ochrym:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 15-125. This order and any penalty provided therein goes into effect May 20, 2015.

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,



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

Enclosure

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IN THE MATTER  
OF  
RICHARD OCHRYM, M.D.

SECOND  
MODIFICATION  
ORDER

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Upon the proposed Application for a Second Modification Order of RICHARD OCHRYM, M.D. (Respondent), 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 Second Modification Order shall be effective upon issuance by the Board, either

by mailing of a copy of this Second Modification Order, either by first class mail to Respondent at the address in the attached Application or by certified mail to Respondent's attorney, OR

upon facsimile or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 5/13/2015

  
Carmela Torrelli  
Vice Chair  
State Board for Professional  
Medical Conduct

**IN THE MATTER  
OF  
RICHARD OCHRYM, M.D.**

**SECOND  
MODIFICATION  
AGREEMENT  
AND  
ORDER**

RICHARD OCHRYM, M.D., represents that all of the following statements are true:

That on or about October 5, 1993, I was licensed to practice as a physician in the State of New York, and issued License No. 193854 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 BPMC Order # BPMC 14-264 (Attachment I) (henceforth "First Modification Order"), which was issued on or about October 24, 2014 by the State Board of Professional Medical Conduct, as a modification to BPMC Order # BPMC 14-215.

I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Second Modification Order"), which modifies the First Modification Order, as follows: to delete the paragraphs in the First Modification Order that state:

My license suspension will be stayed for three years, and to place me on Probation for a period of three years; to delete the provision that requires the presence of a chaperone; and to replace the probation terms included in Appendix II of the Order with the terms included in the new Appendix II, attached Terms of Probation. The new Appendix II shall substitute completely for the Appendix II attached to the Original Order. Respondent shall comply with all conditions set forth in attached Appendix II.

The following additional condition shall apply:

That 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 shall continue at all times 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, regardless of tolling.

Substituting for the above paragraphs:

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.

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 Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further

understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE

5/3/15



RICHARD OCHRYM, M.D.  
RESPONDENT



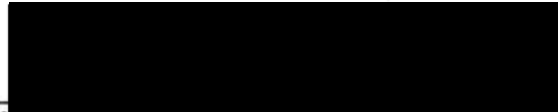
The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: MAY 7, 2015



MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct

DATE: 5/12/15



KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

## ATTACHMENT I

**IN THE MATTER  
OF  
RICHARD OCHRYM, M.D.**

**MODIFICATION  
ORDER**

Upon the proposed Application for a Modification Order of Richard Ochrym, M.D., Respondent, 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: 10/23/2014

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

**IN THE MATTER  
OF  
RICHARD OCHRYM, M.D.**

**MODIFICATION  
AGREEMENT  
AND  
ORDER**

Richard Ochrym, M.D., represents that all of the following statements are true:

That on or about October 5, 1993 I was licensed to practice as a physician in the State of New York, and issued License No. 193854 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 BPMC Order # BPMC 14-215 (Attachment I) (henceforth "Original Order"), which was issued following a direct referral proceeding and consideration by a Direct Referral Committee. I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order, as follows: My license suspension will be stayed for three years, and to place me on probation for a period of three years; to delete the provision that requires the presence of a chaperone; and to replace the probation terms included in Appendix II of the Order with the terms included in the new Appendix II, attached Terms of Probation. The new Appendix II shall substitute completely for the Appendix II attached to the Original Order. Respondent shall comply with all conditions set forth in attached Appendix II.

The following additional condition shall apply:

That 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 shall continue at all times 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, regardless of tolling.

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 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

9/17/2014



~~RICHARD OCHRYM, M.D.  
RESIDENT~~




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

DATE: 10/17/14

  
JUDE BREARTON MULVEY, ESQ.  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 10/17/14

  
KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

# Attachment I

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

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IN THE MATTER  
OF  
RICHARD OCHRYM, M.D.  
CO-13-08-4364A

DETERMINATION  
AND  
ORDER  
BPMC #14-215

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COPY

A hearing was held on July 24, 2014, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and Statement of Charges, both dated May 20, 2014, were served upon the Respondent, **Richard Ochrym, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **William P. Dillon, M.D.**, Chair, **Gail S. Homick Herrling**, and **Trevor A. Litchmore, M.D.**, 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, **Richard Ochrym, 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 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. Respondent is also charged pursuant to Education Law §6530(9)(d) for having his license revoked or having other disciplinary action taken by the State of Connecticut 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.

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:

Richard Ochrym, 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. **Richard Ochrym, M.D.**, the Respondent, did appear at the hearing, *pro se*, and was duly served by personal service on June 2, 2014. (Petitioner's Exhibit 2)
2. **Richard Ochrym, M.D.**, the Respondent, was authorized to practice medicine in New York State on October 5, 1993, by the issuance of license number 193854 by the New York State Education Department. (Petitioner's Exhibit 3)
3. On or about July 16, 2013, the State of Connecticut, Department of Public Health, Healthcare Quality and Safety Branch, Connecticut Medical Examining Board (hereinafter "Connecticut Board"), by a Consent Order (hereinafter "Connecticut Order"), *inter alia*, issued a reprimand to Respondent, ordered Respondent to pay a fine of \$2,000 and placed him on probation until he successfully completes pre-approved coursework in standards of prescribing and documenting controlled substances, and the standards of securing, transporting, documenting and disposing of controlled substances, based on his

prescribing of controlled substances to his wife without adequate documentation, possession of, or dispensing of, various schedule III controlled substances without adequate security or documentation and possession of a class III controlled substance that another physician had prescribed to two of his patients.

4. The conduct resulting in the Connecticut Board's 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(3) (negligence on more than one occasion); and/or

2. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

#### **VOTE OF THE HEARING COMMITTEE**

#### **FIRST SPECIFICATION**

"Respondent violated New York State 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, in that Respondent..."

**VOTE: Sustained (3-0)**

## HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, *pro se*. It is noted that there was no dispute about jurisdiction and the Respondent was personally served with process. (Petitioner's Exhibit 2),

The panel reviewed the extensive documentation from the Connecticut proceedings submitted by the Department. The panel noted the Respondent's different business model for his practice. (T. 10) The Respondent, according to his testimony, has no secretary, office manager or nurse. The Respondent's practice is done in his patients' homes and at various schools in his area of Connecticut which is near the New York border. (T. 11)

At the hearing, the Respondent admitted his storage and dispensing of drugs was wrongful and contrary to the rules of the DEA but stated that he was "honestly ignorant"

(T. 12) of the DEA regulations and stated for the record that he would not dispense drugs again. The Respondent stated that he has learned his lesson by the Connecticut discipline and will no longer give out pills as he has done in the past and, in the future, will only give written prescriptions.

The panel appreciated what this Doctor was trying to do with his different business model and recognized that many patients could be served who would otherwise go without treatment. Nevertheless the panel was concerned that this circuit riding physician crosses over the border into New York state and his informal and sloppy mode of practice would indeed put New York patients at risk.

The panel wanted to insure that this physician's drugs were properly stored and accounted for and that DEA regulations were followed. At the same time, the panel did not want to thwart this Doctor's efforts to bring medicine to an underserved population.

Accordingly, as to the penalty, the Hearing Committee determined that the people of New York state would be protected by a Stayed three year Suspension with a probation that would require a practice monitor to ensure that drugs would be properly administered and stored. The panel also insisted that the Respondent complete 50 CMEs per year in Family Practice during the period of his probation. The panel was satisfied that a monitored probation and a stayed suspension will be adequate protection for the people of the State of New York given the circumstances of this case.



ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are SUSTAINED
2. The license of the Respondent to practice medicine in New York State is SUSPENDED for a period of three years and this Suspension, is STAYED. The terms of this Probation are attached hereto as Appendix II.
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Buffalo, New York

SEPTEMBER  
August 3, 2014

  
William P. Dillon, M.D.

Gail S. Homick Herrling  
Trevor A. Litchmore, M.D.

To: Richard Ochrym, M.D.  


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

APPENDIX I

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IN THE MATTER  
OF  
RICHARD OCHRYM, M.D.  
CO-13-08-4364A

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NOTICE OF  
REFERRAL  
PROCEEDING

TO: Richard Ochrym, M.D.  
[REDACTED]

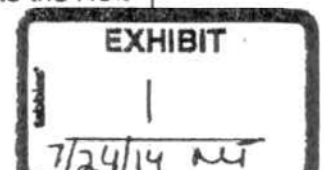
**PLEASE TAKE NOTICE THAT:**

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 24<sup>th</sup> of July, 2014, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Albany, NY 12204-2719.

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, Riverview Center, 150 Broadway, Suite 510, Albany, NY 12204-2719, 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

May 20, 2014

  
MICHAEL A. HÍSER  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

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

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IN THE MATTER  
OF  
RICHARD OCHRYM, M.D.  
CO-13-08-4364A

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STATEMENT  
OF  
CHARGES

RICHARD OCHRYM, M.D., Respondent, was authorized to practice medicine in New York State on October 5, 1993, by the issuance of license number 193854 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about July 16, 2013, the State of Connecticut, Department of Public Health, Healthcare Quality and Safety Branch, Connecticut Medical Examining Board (hereinafter "Connecticut Board"), by a Consent Order (hereinafter "Connecticut Order"), *inter alia*, issued a reprimand to Respondent, ordered Respondent to pay a fine of \$2,000 and placed him on probation until he successfully completes pre-approved coursework in standards of prescribing and documenting controlled substances, and the standards of securing, transporting, documenting and disposing of controlled substances, based on his prescribing of controlled substances to his wife without adequate documentation, possession of, or dispensing of, various schedule III controlled substances without adequate security or documentation and possession of a class III controlled substance that another physician had prescribed to two of his patients.

B. The conduct resulting in the Connecticut Board's 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(3) (negligence on more than one occasion);  
and/or
2. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

**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 findings 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 B.

**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 New York state, in that Petitioner charges:

: facts in Paragraphs A and B.

DATED: *May 20*, 2014  
Albany, New York

  
MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct

## APPENDIX II



## Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Albany, New York 12204-2719; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Throughout the period of probation, Respondent shall engage a practice monitor to review, periodically, his prescribing and storing of medications. The practice monitor shall perform this function on a schedule determined by the Director of OPMC. The practice monitor shall be proposed by the Respondent and subject to the written approval of the Director of OPMC. The practice monitor shall not be a family member or personal friend, or be in a professional relationship, which could pose a conflict with supervision responsibilities.
4. Respondent shall ensure that the practice monitor is familiar with the Order and terms of probation, and be willing to report to OPMC. Respondent shall ensure that the practice monitor is in a position to regularly observe and assess Respondent's medical practice and conduct. Respondent shall cause the practice monitor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
5. Respondent shall authorize the practice monitor to have access to patient records and to submit quarterly written reports to the Director of OPMC, regarding Respondent's practice, including, but not limited to procedures for obtaining written consent to procedures and appropriate chaperoning of patients. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, general demeanor, and other such on-duty conduct as the practice monitor deems appropriate to report under the circumstances of this case.
6. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**
2. The license of the Respondent to practice medicine in New York State is **SUSPENDED** for a period of three years and this Suspension, is **STAYED**. The terms of this Probation are attached hereto as Appendix II.
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

**DATED: Buffalo, New York**

**August \_\_\_\_\_, 2014**

  
\_\_\_\_\_  
**William P. Dillon, M.D.**

**Gail S. Homick Herrling  
Trevor A. Litchmore, M.D.**

To: **Richard Ochrym, M.D.**  


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

## APPENDIX 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) Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee. Within thirty days of the Consent Order's effective date, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.
  - a) Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation and his prescription log. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
  - b) Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - c) Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
  - d) Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law.

Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

- 3) Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
- 4) Respondent shall enroll in and complete continuing education programs in Prescribing and Maintaining Medical Records. This continuing education program is subject to the prior written approval of the Director, OPMC and shall be complete within six months of the effective date of the Order.
- 5) The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active 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 Exhibit "A" or as are necessary to protect the public health.
- 6) The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
- 7) Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.
- 8) Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances. In addition, Respondent shall maintain a log of all prescriptions in a form to be approved by the

Director of OPMC, with a minimum to include the patient name, date, medication, and dose. Respondent shall make this log available to the practice monitor.

#### COMPLIANCE WITH OUT-OF-STATE BOARD ORDER

- 9) Respondent shall comply fully with the 2013 Consent Order of the Connecticut Medical Examining Board ("Connecticut Board") any extension or modification thereof.
- 10) Respondent shall provide a written authorization for the Connecticut Board to provide the Director of OPMC with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the Connecticut Board Order.
- 11) Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC, which truthfully attests whether Respondent has been in compliance with the Connecticut Board during the declaration period specified.
- 12) Respondent shall comply with this Consent 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.

EXHIBIT B

## 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 persons 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 fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her 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. Licensee shall destroy all prescription pads bearing Licensee's name. 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 of 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.