

May 13, 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Torin J. Finver, M.D.
REDACTED

Re: License No. 200101

Dear Dr. Finver:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 13-135. This order and any penalty provided therein goes into effect May 20, 2013.

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

**IN THE MATTER
OF
TORIN JONATHAN FINVER, M.D.**

**SECOND
MODIFICATION
ORDER**

Upon the proposed Application for a Second Modification Order Pursuant to N.Y. Pub. Health Law § 230(10)(q) of TORIN JONATHAN FINVER, M.D. (LICENSEE), which is made a part of this Second 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 to Licensee at the address in the attached Application or by certified mail to Licensee's attorney, OR
- upon facsimile transmission to Licensee or Licensee's attorney, whichever is first.

SO ORDERED.

DATE: 5/11/2013

REDACTED

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

IN THE MATTER
OF
TORIN JONATHAN FINVER, M.D.

APPLICATION FOR A
SECOND
MODIFICATION
ORDER

TORIN JONATHAN FINVER, M.D., represents that all of the following statements are true:

That on or about July 11, 1995, I was licensed to practice as a physician in the State of New York, and issued License No. 200101 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 Modification Order No. 08-141 (Attachment I, hereafter referred to as "First Modification Order"), which went into effect on October 5, 2012, and which modified Consent Order BPMC No. 08-141, which went into effect on August 8, 2008. The First Modification Order is an order of the State Board for Professional Medical Conduct, which issued following a proceeding before a Committee of the Board for Professional Medical Conduct, pursuant to the terms of the Consent Order and N.Y. Pub. Health Law § 230. 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 "Second Modification Order"), modifying the First Modification Order, as follows:

The First Modification Order stayed the suspension of Licensee's license to practice medicine and imposed various conditions on his practice. Upon the effective date of this Second Modification Order, the conditions imposed pursuant to the First Modification Order are modified only to the limited extent indicated below:

- The First Modification Order imposed a condition requiring that, prior to returning to the active practice of medicine in New York State, Licensee must either become certified by the American Board of Family Medicine, demonstrate board eligibility in any other medical subspecialty, or undergo a clinical competency assessment and successfully complete any directed retraining . The Second Modification Order shall modify this condition only to the limited extent that Licensee may participate in the State University of New York at Buffalo Addiction Medicine Fellowship Program without first fulfilling the requirements of this condition, and may manage patients as part of his training process. With respect to any other medical practice, Licensee must still fulfill the terms of this condition.

- The First Modification Order imposed terms of probation upon Licensee for seven years, unless otherwise indicated. Among the terms of probation imposed was one that precluded Licensee from prescribing benzodiazepines and Schedule II and Schedule III controlled substances for the duration of the First Modification Order. The Second Modification

Order shall modify this term of probation and its preclusions only to the limited extent that Licensee:

- having obtained the appropriate DEA registration, and in the course of fulfilling his responsibilities as an Addiction Medicine Fellow under the terms of the State University of New York at Buffalo Addiction Medicine Fellowship Program, may prescribe the medications Methadone, buprenorphine, diazepam, and phenobarbital, only for the detoxification treatment of patients while Licensee is on educational clinical rotations at Erie County Medical Center and while working under the direct supervision of a faculty physician on the detoxification unit; and
- having obtained the appropriate DEA registration and appropriate “waiver” and separate DEA number (“the X number”), and in the course of fulfilling his responsibilities as an Addiction Medicine Fellow under the terms of the State University of New York at Buffalo Addiction Medicine Fellowship Program, may follow up to 30 patients in an outpatient continuity clinic, under the supervision of a faculty physician of the State University of New York at Buffalo, and may prescribe the medications buprenorphine/naloxone to these patients.

- The Second Modification Order shall impose an additional term of probation upon Licensee in addition to the ones imposed pursuant to the First Modification Order. Commencing upon the effective date of the Second Modification Order, Licensee shall maintain, in a format that is acceptable to OPMC, a log of all ordering, prescribing, administering and/or dispensing of all controlled substances. This log shall include the following information: the drug, the dose, the patient, the diagnosis, the date that the drug was prescribed, and such other information related to ordering, prescribing, administering and/or dispensing as may be requested by OPMC. This log shall be subject to review by the Licensee's Practice Supervisor (as required under the terms of paragraph 6 of the First Modification Order, and its subparagraphs) and Licensee shall make this log, and the records of any patient referenced in this log, immediately available to OPMC, upon demand. The Practice Supervisor shall examine this log, and shall include, as part of the Practice Supervisor's review of the medical records of patients treated by Licensee, an examination of at least 10 medical records per month obtained through examination of the log entries.

- The First Modification Order imposed a term of probation that restricted Licensee's practice of medicine to a group setting for the duration of the Order. Licensee may participate in the State University of New York at

Buffalo Addiction Medicine Fellowship Program consistent with this term of probation.

and

All remaining Terms and Conditions will continue as written in the First Modification 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 5/7/13

REDACTED

TORIN JONATHAN FINVER, M.D.
RESPONDENT

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

DATE: 5/7/13

I DO NOT HAVE AN ATTORNEY ~~OR~~
_____, ESQ.

Attorney for Licensee

DATE: 5/10/13

REDACTED

KEITH W. SERVIS

Director

Office of Professional Medical Conduct

ATTACHMENT "I"
(First Modification Order)

September 28, 2012

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Torin J. Finver, M.D.
REDACTED

Re: License No. 200101

Dear Dr. Finver:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 08-141. This order and any penalty provided therein goes into effect October 5, 2012.

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: Wilfred T. Friedman, Esq.
60 East 42nd Street, 40th Floor
New York, NY 10165

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

IN THE MATTER	MODIFICATION
OF	OF
TORIN J. FINVER, M.D.	CONSENT ORDER

This matter was brought to the New York State Board for Professional Medical Conduct (BPMC) for decision at the request of Torin J. Finver, M.D., (Licensee), License No. 200101. Licensee was subject to BPMC Order No. 08-141 (Order), effective August 8, 2008. The Order suspended Licensee's license to practice medicine for an indefinite period of no less than twelve months. The purpose of this proceeding was to determine whether the suspension was to be stayed upon the satisfaction of a Committee on Professional Conduct of the State Board for Professional Medical Conduct that Licensee, among other things, has successfully complied with or completed a course of therapy and ongoing evaluation, which includes a determination that Licensee is no longer incapacitated for the active practice of medicine and that he is both fit and competent to practice as a physician.

A meeting of the Committee was held in the above-entitled proceeding on April 5, 2012. Licensee appeared with his attorney, Wilfred T. Friedman, Esq., before a Committee of the State Board for Professional Medical Conduct consisting of William M. Bisordi, M.D., Chair, Krishna R. S. Gujavarty, M.D., and Thea Graves Pellman. The Committee determined, by unanimous decision, after review of the documents submitted for the petition and careful consideration of all evidence and testimony provided that the suspension of Licensee's license shall be stayed and he shall be allowed

to practice medicine subject to the following conditions.

THEREFORE, IT IS HEREBY ORDERED THAT:

The suspension on the Licensee's license to practice medicine in the State of New York is stayed and that he shall be subject to the following conditions. Licensee shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters concerning Licensee. Licensee shall respond in a timely manner to all OPMC requests for written periodic verification of Licensee's compliance with this Order. Licensee shall meet with a person designated by the Director of OPMC, as directed. Licensee shall respond promptly and provide all documents and information within Licensee's control, as directed. These conditions shall take effect upon the Board's issuance of this Order and will continue so long as Licensee remains licensed in New York State.

Licensee shall maintain active registration of his license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect thirty (30) days after the effective date of the Order and will continue for as long as Licensee remains licensed in New York State.

Licensee shall provide the Director of OPMC with the following information and shall ensure that such information is kept current: a full description of Licensee's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; all current and past hospital, facility, medical practice affiliations and/or applications for such affiliations; all professional licenses held and applied for; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility.

Licensee shall notify OPMC, in writing, within thirty (30) days of any additions to or changes in the required information.

Prior to returning to the active practice of medicine in New York State, Licensee must either become recertified by the American Board of Family Medicine, demonstrate board eligibility in any other medical subspecialty, or undergo a clinical competency assessment and successfully complete any directed retraining.

Licensee's return to practice is subject to the following terms of probation. Unless otherwise indicated, these terms shall remain in effect for a period lasting **seven (7) years** from the effective date of this Order.

Licensee may not commence the practice of medicine in New York State until all proposed monitors have been approved in writing by the Director of OPMC.

1. The period of probation, including some or all of the terms and conditions described herein, may be tolled, at the discretion of the Director of OPMC, during periods in which the Licensee is not engaged in the active practice of medicine in New York State. Licensee shall notify the Director, in writing, if he is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Licensee shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon the Licensee's return to active practice in New York State, the period of probation shall resume and the Licensee shall fulfill any unfulfilled probation terms and such additional requirements as the Director may reasonably impose or as are necessary to protect the public health.

2. Licensee shall remain free from alcohol and all other mood altering substances other than those prescribed for Licensee's treatment by a physician or other licensed health care practitioner aware of Licensee's history of chemical dependency and mental illness. Licensee shall not self-prescribe any medications.

3. Licensee shall be monitored by a qualified health care professional (Sobriety Monitor) proposed by Licensee and approved in writing by the Director of the OPMC. The Sobriety Monitor is to be familiar with Licensee's history of chemical dependency, mental illness and with the terms of this Order. Licensee shall submit the name of a proposed successor within seven (7) days of learning that the approved Sobriety Monitor is no longer willing or able to serve.

a. The Sobriety Monitor shall oversee Licensee's compliance with the terms and conditions imposed herein and shall cause to be performed forensically valid, random, directly observed, unannounced hair, blood, breath, oral fluid and/or urine tests for the presence of alcohol and other drugs in Licensee. **Licensee shall provide drug screens at a frequency of no less than six (6) times per month for the first twelve (12) months.** The Licensee shall be called on a seven day a week basis and drug screens must include weekend and evening collections. After twelve (12) months, if Licensee has been fully compliant with this Order, a request for a reduction in the number of drug screens may be submitted for approval in writing by the Director of OPMC.

b. The Sobriety Monitor shall notify OPMC immediately if Licensee refuses such a test.

c. The Sobriety Monitor shall notify OPMC immediately if any drug screen reveals, or if

the monitor otherwise learns, the Licensee is not alcohol/drug free.

d. Every three (3) months, the Sobriety Monitor shall submit to OPMC a report certifying compliance with each of the terms of this Order or describing in detail any failure to comply. The quarterly reports shall include forensically valid results of all tests for the presence of alcohol and other drugs performed during that quarter.

e. Licensee shall report to the Sobriety Monitor **within four (4) hours** of being contacted by the Sobriety Monitor to submit a hair, blood, breath oral fluid and/or urine specimen.

f. Licensee shall avoid all substances that may cause positive results such as poppy seeds/mouthwash/cough medication/hand sanitizer/herbal teas. **Any positive result will be considered a violation of this Order.**

g. If Licensee is to be unavailable for sobriety monitoring for a period of 15 days or more, Licensee shall notify his Sobriety Monitor and seek and receive prior written permission from the Director of OPMC subject to any additional terms and conditions required by the OPMC.

h. Following completion of the seven (7) year period of probation, Licensee shall be required to provide drug screens under the auspices of the Committee for Physician Health (CPH) for as long as he remains licensed in New York State, with any positive drug screen result to be immediately reported to the Director of OPMC.

4. Licensee shall be precluded from prescribing benzodiazepines and Schedule II and Schedule III controlled substances for the duration of the Order.
5. Licensee shall practice medicine only in a group setting for the duration of the Order.
6. Licensee shall be supervised in his practice by a licensed physician (Practice Supervisor) proposed by Licensee and approved in writing by the Director of OPMC. 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 Licensee's medical practice. The Licensee shall make available to the Practice Supervisor any and all records or access to the practice requested by the Practice Supervisor. The Practice Supervisor is to be familiar with Licensee's history of chemical dependency, mental illness and with the terms of this Order. Licensee shall submit the name of a proposed successor within seven (7) days of becoming aware that Licensee's approved Practice Supervisor is no longer willing or able to serve in that capacity.
 - a. The Practice Supervisor shall submit a report to OPMC every three (3) months regarding the quality of Licensee's practice, any unexplained absences from work, and Licensee's compliance or failure to comply with each condition described within this Order.
 - b. The Practice Supervisor shall review a random selection of no less than twenty (20) medical records each month for the first six (6) months of practice. The review will determine whether the Licensee's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Based on the reviews, the Director of OPMC may continue this requirement for an additional period of time.

c. The Practice Supervisor shall establish the capability of immediately obtaining a drug screen on Licensee in response to any complaint or observation that indicates Licensee may not be drug or alcohol free

d. The Practice Supervisor shall oversee the Licensee's prescribing, administering, dispensing, ordering, inventory and wasting of controlled substances.

e. The Practice Supervisor shall immediately report any suspected or actual impairment, inappropriate behavior, perceived deviation from accepted standards of medical care or possible misconduct to OPMC.

f. The Practice Supervisor shall notify OPMC immediately if Licensee violates any term(s) of this Order

7. Licensee shall not treat nor prescribe medications for any friends or family members.

8. Licensee shall continue in treatment with qualified health care professionals (Therapists) proposed by Licensee and approved in writing by the Director of OPMC. The Therapists are to be familiar with the Licensee's history of chemical dependency, mental illness and the terms of this Order. Licensee shall continue in treatment for the duration of the Order, under a treatment plan approved by the Director of OPMC. OPMC, at its discretion, may provide information or documentation from its investigation files concerning Licensee to Licensee's Therapists. Licensee shall submit the name of a proposed successor within seven (7) days of becoming aware that an approved Therapist is no longer willing or able to serve in that capacity.

- a. The Therapists shall submit reports to OPMC every three (3) months certifying compliance with treatment by Licensee and describing in detail any failure to comply.
- b. The Therapists shall report immediately to OPMC any significant pattern of absences, suspected or actual impairment, failure to comply with or discontinuation of recommended treatment, including any prescribed medications, by Licensee.

9. The Director of OPMC shall reserve the authority to direct the Licensee to undergo an independent evaluation by a practitioner or facility (Evaluator) approved by the Director of OPMC that specializes in alcohol/chemical dependency issues and/or mental illness. The Licensee shall execute authorizations to provide the Evaluator with copies of all previous treatment records and provide the Evaluator with a copy of this Order. The Licensee shall execute authorizations, and keep said authorizations active, allowing the Evaluator to obtain collateral information and communicate with the Director of OPMC or his designee. OPMC, at its discretion, may provide information or documentation from its investigation files concerning the Licensee to the Evaluator. Reports of such evaluations shall be submitted directly to the Director of OPMC. Licensee shall follow treatment recommendations made by the Evaluator. If the Evaluator determines that the Licensee is not fit to practice, the Licensee shall immediately cease practice until it is determined he is fit to resume practice. Failure to comply with the treatment recommendations will be considered a violation of this Order.

10. Licensee shall continue participation in self-help fellowship (e.g., AA, NA, Caduceus, other). Licensee shall maintain an ongoing relationship with a sponsor.

11. Licensee shall continue enrollment in the Committee for Physicians Health (CPH) and

shall engage in a contract with CPH that fully describes the terms, conditions and duration of a recovery program. Respondent shall fully comply with the contract.

a. Licensee shall provide a written authorization for CPH to provide to the Director of OPMC with any/all information or documentation requested by OPMC to determine whether Licensee is in compliance with the CPH contract and with this Order, including full access to all records maintained by CPH with respect to Licensee.

b. Licensee shall cause CPH to report to OPMC if Licensee refuses to comply with the contract, refuses to submit to treatment or if his impairment is not substantially alleviated by treatment. CPH shall report immediately to OPMC if Licensee is regarded at any time to be an imminent danger to the public.

12. Licensee shall inform all treating physicians or other health care practitioners of Licensee's history of chemical dependency and mental illness. Licensee shall advise OPMC, within seven (7) days, of any controlled or mood-altering substances dispensed, administered or prescribed by any treating physician or other health care practitioner to him.

13. The Director of OPMC shall reserve the right to review Licensee's professional performance. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts (inclusive of electronic records), and interviews with or periodic visits with Licensee and staff at his practice locations or OPMC offices.

14. Licensee shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of all patients. The medical records shall contain all information

required by State rules and regulations regarding controlled substances.

15. Licensee shall adhere to Federal and State guidelines and professional standards of care with respect to infection control practices. Licensee shall ensure education, training, and oversight of all office personnel involved in medical care, with respect to those practices.

16. Licensee 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.

17. Licensee shall personally meet with a person designated by the Director of OPMC as requested by the Director, at a time and location determined by OPMC.

18. Should Licensee practice medicine in another state, he shall provide written authorizations for the State Medical Board and/or the Physician Health Program to provide the Director of OPMC with any/all information or documentation as requested by OPMC.

19. Licensee shall comply with all terms, conditions, restrictions and limitations to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance of the Order. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Licensee as may be authorized pursuant to the law.

As Licensee agreed in the Consent Order, failure to comply with any of the conditions described above may result in disciplinary action.

This Order shall be effective upon issuance.

Dated: 9/28/12

REDACTED

William M. Bisordi, M.D.
Committee Chair
NYS Board for Professional Medical Conduct