



# Department of Health

ANDREW M. CUOMO  
Governor

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

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

December 1, 2015

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

Nathaniel White, Esq.  
NYS Department of Health  
ESP-Corning Tower-Room 2512  
Albany, New York 12237

Doron Feldman, M.D.  
#23618-055  
FCI McKean  
P.O. Box 8000  
Bradford, Pennsylvania 16701

Michelle L. Merola, Esq.  
William J. Comiskey, Esq.  
Hodgson Russ LLP  
677 Broadway – Suite 301  
Albany, New York 12207

**RE: In the Matter of Doron Feldman, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 15-283) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

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

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

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

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

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

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

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

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

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

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

Sincerely,

  
James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH:cah  
Enclosure

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

**COPY**

**IN THE MATTER  
OF  
DORON FELDMAN, M.D.**

**DETERMINATION  
AND  
ORDER**

**BPMC #15-283**

This case was brought by the New York State Department of Health, Bureau of Professional Medical Conduct ("the Department"). A July 2, 2015 Commissioner's Order and Notice of Referral Proceeding with a Statement of Charges ("Order, Notice and SOC") was served upon Doron Feldman, M.D. ("Respondent") and is attached to this Determination and Order as Appendix 1. A hearing, pursuant to N.Y. Public Health Law ("PHL") §230 and New York State Admin. Proc. Act §§301-307 and 401, was held on September 17, 2015 at the Department's offices at 150 Broadway, Albany, New York.

Jill M. Rabin, M.D., Sanford H. Levy, M.D., and Randolph H. Manning, Ph.D., duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee ("Committee") in this matter. Administrative Law Judge Ann H. Gayle served as the administrative officer. The Department appeared by Nathaniel White, Assistant Counsel. The Respondent appeared by Michelle L. Merola, Esq., and William J. Comiskey, Esq., of Hodgson Russ LLP.

**STATEMENT OF CASE**

Respondent is charged with professional misconduct pursuant to N.Y. Education Law ("Educ. Law") §6530(9)(a)(ii) for having been convicted of a crime under federal law. When a licensee is charged with misconduct under Educ. Law §6530(9), the scope of the hearing is

limited to a determination of the penalty, if any, to be imposed upon the licensee (PHL §230(10)(p)). All Committee findings, conclusions, determinations and orders in this matter were unanimous.

### FINDINGS OF FACT

Citations in brackets refer to transcript page numbers ["T"] and exhibits ["Ex"] found persuasive by the Committee in arriving at the following Findings of Fact:

1. Respondent was authorized to practice medicine in New York State on March 3, 1993, by the issuance of license number 191612, by the New York State Education Department. [Ex 3]
2. On June 24, 2014, Respondent was adjudicated guilty based on a guilty plea to one count of a charge of Conspiracy to Commit Mail Fraud under 18 U.S.C. §1349 by the United States District Court, Western District of New York, in case number 14-CR-6092FPG, and Respondent agreed that prior to sentencing in this matter, he would also plead guilty to a violation of 26 U.S.C. §7206(1) for filing a false tax return. [Ex 5.1; Ex G, p 41]
3. On February 18, 2015, Respondent was adjudicated guilty based on a guilty plea to one count of a charge of Filing a False Tax Return under 26 U.S.C. §7206(1) by the United States District Court, Western District of New York, in case number 15-CR-6016FPG. [Ex 5.2; Ex G, p 18-19, 42]
4. Respondent's February 18, 2015 sentence included a total of twenty-four months imprisonment for the two counts, to run consecutively, two years supervised release upon his release from imprisonment, restitution in the amount of \$1,617,561.00 which is comprised of \$1,460,000.00 for his conspiracy to commit mail fraud and \$157,561.00 for his filing a false tax return, plus interest (which interest, as of February 18, 2015, was

\$34,347), and a forfeiture of his interest in accounts valued at \$86,573.00, \$400,997.53, and \$508,370.12. [Ex 5.1; Ex 5.2; Ex G, p 14, 22, 47-49]

5. On July 2, 2015, Respondent's license to practice medicine in New York state was summarily suspended pursuant to PHL §230(12)(b). [Ex 1]
6. Respondent was properly served with the Order, Notice and SOC, and he admitted the charges. Respondent did not appear at the September 17, 2015 hearing but his position, applications and requests were presented at the hearing by his attorneys and witnesses who testified in his behalf. [Ex 1; Ex 2; Ex E]

### **CONCLUSIONS OF LAW**

Respondent was charged with professional misconduct under Educ. Law §6530(9)(a)(ii) for having been convicted of committing acts constituting crimes under federal law (First Specification of Charges), and Respondent admitted the charges. As such, the First Specification is sustained.

### **DETERMINATION AS TO PENALTY**

Respondent's counsel proposed the imposition of a penalty that would "sanction him, but ... give him a life line" [T 96] and that such penalty might include an actual suspension of Respondent's license, protective oversight when he returns to practice, and a limitation that could prevent him from running a practice group again [T 90, 95-96]. The Department argued that the only appropriate penalty is a revocation of Respondent's license [T 99]. The Committee, in considering the full range of penalties available pursuant to PHL Law §230-a, including: (1) censure and reprimand; (2) suspension of the license, wholly or partially; (3) limitation on practice; (4) revocation of the license; (5) annulment of the license or registration; (6) limitation on registration or further licensure; (7) a fine up to \$10,000 per specification sustained; (8) a

course of education or training; (9) performance of public service; and, (10) probation, concludes that the appropriate penalty for Respondent's wrongdoing is a suspension of Respondent's license, a limitation on his license, a course of education comprised of continuing medical education ("CME"), and probation which will include both clinical supervision and a practice monitor.

Respondent's scheme with his co-conspirators went on for several years until he and they were caught. The Honorable Frank P. Geraci, Jr., United States District Judge, said "I think you understand what you've done to your family, to your community, to your reputation and to yourself" [Ex G, p 45-46], "I have no reason to believe you will be back here" [Ex G, p 46], "I have no reason to believe that you would engage in further criminal activity" [Ex G, p 47], "There's no reason why you cannot practice your profession at some point" [Ex G, p 47], and "there's no reason why you can't come out of jail and be in a situation where you can return to your profession at some point and be a constructive member of this community. I see no reason why that can't and shouldn't occur." [Ex G, p 50]. This Committee, while not quite as certain as they believe Judge Geraci is that Respondent won't ever do this again, is more convinced that Respondent is not a threat to commit such devious acts again than they are that he would. The Committee, therefore, does not believe revocation is warranted at this time.

Judge Geraci had 128 letters written by Respondent's family members, friends, acquaintances, and former colleagues and patients before him, and this Committee had 30 of those letters. The Committee also heard the testimony of Respondent's witnesses, Philomena Behar, M.D., a physician who has known and worked with Respondent since 2001, and Tomer Feldman, M.D., Respondent's younger brother. The witnesses and letters attested to Respondent's character and contributions to society, and they were consistent with Respondent's

urgings (as presented by his counsel) that he be given the opportunity to practice medicine again and contribute to society.

Judge Geraci heard a statement written by Dr. Michael P. Eaton, chair of the Department of Anesthesiology of the University of Rochester Medical Center ("U of R"), read by U of R's senior counsel, Deirdre Flynn. Judge Geraci also had two other letters before him but considered only one of those letters. The letter Judge Geraci considered indicated that Respondent "really misled some people who trusted in [him] [Ex G, p 46]. The statement, read by Ms. Flynn at pages 34 to 36 of Exhibit G, and the letter before the Committee from James P. Houck, M.D. [Ex 6] urge that Respondent's long-lasting scheme and the serious impact it had on the U of R, his former colleagues, and the Anesthesia Department be considered in determining penalty.

The Committee is aware that there were an additional 98 letters supporting Respondent [Ex G, p 25; T 92] and a letter not supporting Respondent before Judge Geraci that were not in evidence before this Committee [Ex G, p 25-26, 34-36, 46]. The Committee, although aware that there were more letters in support and not in support of Respondent, considered only the 30 letters in support of Respondent [Ex B; Ex C], the letters not supporting Respondent [Ex 6; Ex G p 34-36], together with the testimony of Respondent's witnesses, and the seriousness of the long-standing scheme found in Exhibits 4, 5.1, 5.2, and G, in determining the penalty to be imposed upon Respondent. In so doing, the Committee unanimously concluded that a very serious penalty must be imposed to address Respondent's very serious wrongdoing, but revocation is not the only serious penalty to consider for Respondent's crimes that resulted in felony convictions.

Respondent's heinous acts warrant a five-year suspension of his license. The first year will be served as an actual suspension commencing on the day Respondent is released from his incarceration, and the remaining four years of the five-year suspension will be stayed.

By the time he is released from prison, Respondent will not have practiced medicine for several years. Although Respondent completed 300 CME credits in the six-month period prior to his incarceration and he is studying medicine to keep current in anesthesiology by reading textbooks brought to him in prison by his family [T 63, 80-82], Respondent must complete an additional 300 hours of CME during his one-year actual suspension in preparation for his return to practice.

Respondent's license to practice medicine will be placed on probation for a period of five years. One condition of that probation will be a requirement of clinical supervision commencing on the first day Respondent returns to practice. Respondent's first two weeks or first 25 clinical cases (whichever comes last) must be actually physically supervised. Another condition of probation will be a requirement for a practice monitor for one year, also commencing on the first day Respondent returns to practice.

As a final measure to protect the public, there shall be a limitation on Respondent's license that as part of his medical practice, Respondent (1) shall not engage in billing, (2) shall not hold an administrative position or any positions of authority, and (3) must practice in a group of at least one other anesthesiologist.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

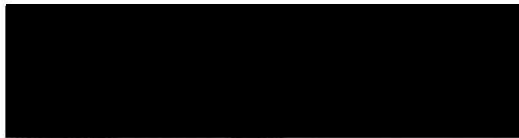
1. The charge of misconduct under Educ. Law §6530(9)(a)(ii) for having been convicted of a crime under federal law is sustained.
2. Pursuant to PHL §230-a (2)(a), Respondent's license to practice medicine shall be suspended, wholly, for five years commencing on the day Respondent is released from incarceration. The first year will be actual and the remaining four years will be stayed.
3. Pursuant to PHL §230-a (3), there shall be a permanent limitation on Respondent's license (1) precluding him from billing as part of his medical practice, (2) precluding him from holding any administrative position or positions of authority as part of his medical



practice, and (3) requiring him to practice medicine in a medical office practice that has at least one other anesthesiologist. Respondent shall not engage in any billing in any setting, and he shall not practice medicine in a medical practice as a sole practitioner or as the sole anesthesiologist in the practice.

4. Pursuant to PHL §230-a (8), Respondent is required to pursue a course of education by completing 300 hours of CME courses in the one-year period when his license to practice medicine is wholly and actually suspended. Once he returns to practice, Respondent is required to continue to complete the standard CME requirements for licensure and his specialty.
5. Pursuant to PHL §230-a (9), Respondent shall be placed on Probation for a period of five (5) years. Terms of Probation are attached to this Determination and Order as Appendix 2. Probation will include a supervisor for Respondent's first two weeks or first 25 clinical cases (whichever comes last) when Respondent returns to practice following the one-year actual suspension and a practice monitor for one year, both commencing immediately upon Respondent's return to practice.
6. This order shall be effective upon service on the Respondent by personal service or by certified mail as required under PHL §230(10)(h)

DATED: New York, New York  
November 13, 2015



JILL M. RABIN, M.D., Chair  
SANFORD H. LEVY, M.D.  
RANDOLPH H. MANNING, Ph.D.

To: Nathaniel White  
Assistant Counsel  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Room 2512, Corning Tower  
Empire State Plaza  
Albany, New York 12237

Doron Feldman, M.D.  
#23618-055  
FCI McKean  
P.O. Box 8000  
Bradford, Pennsylvania 16701

Michelle L. Merola, Esq.  
William J. Comiskey, Esq.  
Hodgson Russ LLP  
677 Broadway, Suite 301  
Albany, New York 12207

# APPENDIX 1

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



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IN THE MATTER  
OF  
DORON FELDMAN, M.D.  
CO-14-06-3728A

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COMMISSIONER'S  
ORDER  
AND  
NOTICE OF  
REFERRAL  
PROCEEDING

TO: Doron Feldman, M.D.  
#23618-055  
McKean FCI  
6975 Route 59  
Lewis Run, PA 16738

The undersigned, Howard A. Zucker, M.D., J.D., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that DORON FELDMAN, M.D., Respondent, New York license number 191612, was found guilty of committing an act constituting a felony under federal law.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately, DORON FELDMAN, M.D., shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

ANY PRACTICE OF MEDICINE IN VIOLATION OF THIS COMMISSIONER'S ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY, DEFINED BY NEW YORK EDUCATION LAW §6512.

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230 and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 17<sup>th</sup> day of September, 2015, at 10:30 a.m., at Riverview Center, 150 Broadway, Suite 510, Menands (Albany), New York 12204-2719<sup>1</sup>, at the offices of the New York State Health Department and at such other adjourned dates, times, and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. Respondent shall appear in person at the hearing and may be represented by counsel who shall be an attorney admitted to practice in New York state. Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. The licensee may file a brief and affidavits with the Committee on Professional Conduct. A summary of the Department of Health Hearing Rules is enclosed. 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.

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:

<sup>1</sup> For GPS purposes, enter "Menands", not "Albany".

(Telephone: 518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than then (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 no less than ten (10) days prior 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 of 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.

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, conclusion as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

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

**THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.**

DATED: Albany, New York

July 2, 2015

  
Howard A. Zucker, M.D., J.D.  
Commissioner of Health  
New York State Department of Health

Inquiries should be addressed to:

Nathaniel C. White  
Assistant Counsel  
Bureau of Professional Medical Conduct  
Corning Tower - Room 2512  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282

IN THE MATTER  
OF  
DORON FELDMAN, M.D.

STATEMENT  
OF  
CHARGES

DORON FELDMAN, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 3, 1993, by the issuance of license number 191612 by the New York State Education Department.

FACTUAL ALLEGATIONS

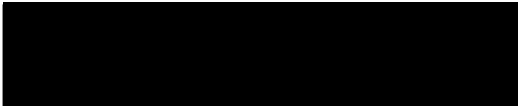
A. On or about June 24, 2014, in the United States District Court, Western District of New York, Respondent pleaded guilty to one count of Conspiracy to Commit Mail Fraud in violation of 18 U.S.C. § 1349, a felony, and one count of Filing a False Tax Return in violation of 26 U.S.C. § 7206(1), a felony. On or about February 18, 2015, Respondent was sentenced to twenty-four (24) months imprisonment for each count and for the terms of incarceration to run concurrently. Respondent was also sentenced to two years of supervised release, required to pay \$1,617,561.00 in restitution and forfeit his interest in accounts valued at \$86,573.00, \$400,997.53 and \$508,370.12.

SPECIFICATION OF CHARGES

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. The facts in paragraph A.

DATE: ~~June~~ <sup>July</sup> 2, 2015  
Albany, New York

  
MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct



## **APPENDIX 2**

## TERMS OF PROBATION

1. Respondent's conduct shall conform to moral and professional standards of conduct and to governing law. Any act of professional misconduct by Respondent as defined by New York Education Law §§6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York Public Health Law §230 (10) or (19), or both.
2. Respondent shall remain in continuous compliance with all requirements of New York Education Law §6502, including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in New York Education Law §6502(4) to avoid registration and payment of fees.
3. Respondent shall provide to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, Suite 355, 150 Broadway, Albany, New York, 12204, at least every six months and as otherwise requested, or within thirty days of any change in the information, the following information in writing:
  - a. a full description of the Respondent's employment and practice;
  - b. all professional and residential addresses and telephone numbers within and outside of New York State;
  - c. any and all information concerning investigations, arrests, charges, convictions or disciplinary actions by any local, state, or federal agency;
  - d. any and all information concerning investigations, terminations, or disciplinary matters by any institution or facility.
4. Respondent shall provide to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, Suite 355, 150 Broadway, Albany, New York, 12204, copies of all applications relating to the practice of medicine, including but not limited to, privileges, insurance, and licensure, in any jurisdiction, concurrent with their submission.
5. Respondent shall cooperate fully with, and will respond within two weeks to, OPMC requests to provide written periodic verification of Respondent's compliance with these terms of probation. Upon the Director of OPMC's request, Respondent shall meet personally with a person designated by the Director.

6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty 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 thirty-day period. Respondent shall notify the Director at least fourteen 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 the Determination and Order or as are necessary to protect the public health.
7. The Director of OPMC, or his/her designee, may review Respondent's professional performance. This review may include but shall not be limited to:
  - a. A review of office records, patient records, hospital charts, and/or electronic records;
  - b. Interviews with or periodic visits with Respondent and/or staff at practice locations or at OPMC offices.
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.
9. Respondent shall provide the Director of OPMC with 60 days' notice prior to his return to practice medicine in New York State following the Board-ordered one-year actual suspension of his license.
10. Immediately upon Respondent's return to practice following the Board-ordered one-year actual suspension of his license, and continuing for one year, Respondent shall practice only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to written approval of the Director of OPMC.
  - 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. The practice monitor shall visit Respondent's medical practice on a random unannounced basis at least monthly and shall examine a selection (no less than 20) of records

maintained by Respondent. The review will determine whether Respondent's charting 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 within 30 days after the effective date of this Determination and Order.
11. For the first two weeks or first 25 clinical cases (whichever comes last when Respondent returns to practice following the one-year actual suspension), Respondent shall practice medicine only when actually physically supervised as he is administering anesthesia to patients. The practice supervisor shall be board certified and be on-site at all locations, unless determined otherwise by the Director of OPMC. The practice supervisor shall be proposed by Respondent and subject to the written approval of the Director. The practice supervisor shall not be a family member or personal friend, or be in a professional relationship which could pose a conflict with supervision responsibilities.
- a. Respondent shall ensure that the practice supervisor is familiar with the Order and terms of probation, and willing to report to OPMC. Respondent shall ensure that the practice supervisor is in a position to observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected questionable medical practice or possible misconduct to OPMC.
  - b. Respondent shall authorize the practice supervisor to have access to his patient records and to the room where he is administering anesthesia during those first two weeks or first 25 clinical cases and to submit a written report within 30 days

of the last case supervised to the Director of OPMC, regarding Respondent's practice. This narrative report shall address all aspects of Respondent's clinical practice including but not limited to the evaluation and treatment of patients, and other such on-duty conduct as the supervisor deems appropriate to report.

12. Respondent shall comply with these Terms of Probation, 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 for Professional Medical Conduct may initiate a violation of probation proceeding, and/or any other proceeding authorized by law, against the Respondent.