



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Executive Deputy Commissioner

February 13, 2024

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

David Mun, M.D.



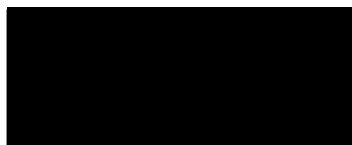
Re: License No. 234121

Dear Dr. Mun:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 24-036. This order and any penalty provided therein goes into effect February 20, 2024.

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

Sincerely,



David Besser, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Edward V. Sapone, Esq.
Sapone & Petrillo, LLP.
40 Fulton Street, 17th Floor
New York, New York 10038

IN THE MATTER
OF
DAVID MUN, M.D.

MODIFICATION
ORDER

Upon the proposed Application for a Modification Order of David Mun, 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: 2/12/2024


THOMAS T. LEE, M.D.
Chair
State Board for Professional Medical Conduct

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

IN THE MATTER
OF
DAVID MUN, M.D.

MODIFICATION
AGREEMENT
AND
ORDER

David Mun, M.D., represents that all of the following statements are true:

That on or about October 1, 2004, I was licensed to practice as a physician in the State of New York and issued License No. 234121 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 16-331 (Attachment I) (henceforth "Original Order"), which was issued upon an Application For Consent Order signed by me on October 5, 2016 (henceforth Original Application"), adopted by the Original Order. I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order, as follows:

The sanction imposed in the Original Order was:

- License Suspension for a period of three years, with the entire period stayed.
- Probation for a period of three years, subject to the terms set forth in Appendix A of the Original Order.
- Fine in the amount of \$100,000.

The Original Order also imposed certain conditions, which became effective from the effective date of the Original Order and continuing as long as Respondent remains a licensee in the State of New York, including:

- That Respondent shall be precluded, either individually or through a professional corporation, from evaluating, treating or billing patients whose medical services are reimbursed through either No-Fault insurance or Workers' Compensation. Such condition shall not preclude Respondent from receiving compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the effective date of this Order. This condition shall take effect immediately upon the effective date of this Order and shall continue as long as Respondent remains a licensee in New York State; and
- That Respondent shall refrain from ordering, performing and/or interpreting electro diagnostic nerve and muscle studies. Any patient for whom such a study may be indicated shall be referred to an appropriate physician with whom Respondent has no financial relationship, who shall be directed, by Respondent, to exercise his/her independent judgment as to whether or not such testing is indicated. This condition shall take effect immediately upon the effective date of this Order and shall continue as long as Respondent remains a licensee in New York State; and
- That Respondent shall form, own, or control no more than one professional medical corporation or other professional practice entity at any time.
Respondent may form, own, or control any such single professional practice

entity ("SPPE") if and only if his own medical practice is performed at the practice site of that SPPE. Neither the Respondent nor any other practitioner employed by Respondent, may evaluate, treat or bill patients whose services are reimbursed through either No-Fault insurance or Workers' Compensation. This condition shall take effect immediately upon the effective date of this Order and shall continue as long as Respondent remains a licensee in New York State.

All of the conditions imposed by the Original Order shall remain in effect. Further, the Original Order shall be modified, from the effective date of this Modification Order, to impose an additional continued three-year period of monitoring, which includes the following conditions:

- 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); and
- 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 Modification Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee; and
- 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]; and

- The monitoring 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 monitoring period shall resume and Respondent shall fulfill any unfulfilled monitoring 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; and
- 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; and

- 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; and
- 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; and
- Respondent shall enroll in and successfully complete continuing education as directed by the Office of Professional Medical Conduct, subject to the Director of OPMC's prior written approval; and
- No more than 30 days after 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 Director of OPMC's written approval. No more than 30 days after learning that the approved practice monitor is no longer willing or able to serve or no more than 30 days after having been notified by the Director that the practice monitor has been discharged for cause, which shall include but not be limited to the inadequacy of the practice monitor's reports and/or performance, Respondent shall have an approved successor in place, subject to the Director's written approval. Upon approval, the new practice monitor shall perform the duties described in (a) and (c) below. Regardless of the

reason necessitating a replacement, if the Director does not approve Respondent's proposed new practice monitor, Respondent shall immediately cease the practice of medicine, unless notified by the Director, in writing, of an extension, which may be granted at the Director's discretion. In that event, Respondent shall propose another practice monitor, which the Director has 30 days to approve or disapprove until a practice monitor is accepted. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine; and

- 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 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; and
- Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician; and

- Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC; and
- 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; and
- Respondent shall comply with all requirements of Article 33 of the Public Health Law and of New York State Department of Health regulations, including but not limited to all requirements related to consultation of the iStop / Prescription Monitoring Program (PMP) Registry when writing prescriptions for Schedule II, III, and/or IV controlled substances, pursuant to Public Health Law Section 3343-a and 10 NYCRR 80.63. Respondent shall meet as requested with OPMC to provide proof of compliance; and
- Respondent shall maintain, in a format that is acceptable to OPMC, a log of all ordering, prescribing, administering and/or dispensing of all controlled substances; and
- 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. The log shall also include all information related to compliance with iStop /PMP Registry consultation

requirements, as set forth in paragraph 10(a) above, including a notation of all iStop / PMP Registry consultations performed, including the date and time performed, and the information contained in the registry upon each consultation. The log entry shall not, by itself, satisfy Respondent's obligation to document consultation with the iStop / PMP Registry in a patient's medical chart; and

- This log shall be subject to review by Respondent's Practice Monitor and Respondent shall make this log, and the records of any patient referenced in this log, immediately available to OPMC, upon demand; and
- Respondent shall cause the Practice Monitor to examine this log, and include, as part of the Practice Monitor's review of the medical records of patients treated by Respondent, an examination of at least 10 medical records per month obtained through examination of the log entries.

I stipulate that my failure to comply with any conditions of this Modification Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Modification Agreement and Order shall be admitted into evidence in that proceeding and:

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

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I

I agree that, if I am charged with professional misconduct in future, this Modification Agreement and Order **shall** be admitted into evidence in that proceeding and:

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

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

I understand and agree that the attorney for the 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 1/9/2024



DAVID MUN, M.D.
RESPONDENT

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

DATE: 1/25/24


EDWARD SAPONE, ESQ.
Attorney for Respondent

DATE: 1/25/24


CHRISTINE M. RADMAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 2-12-2024


SHELLY WANG BANDAGO
Director
Office of Professional Medical Conduct

ATTACHMENT I



**Department
of Health**

ANDREW M. CUOMO
Governor

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

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

October 11, 2016

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

David Mun, M.D.


RE: License No. 234121

Dear Dr. Mun:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 16-331. This Order and any penalty provided therein goes into effect October 18, 2016.

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 2784
Empire State Plaza
Albany, New York 12237

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,



Henry Spector, M.D.
Acting Executive Secretary
Board for Professional Medical Conduct

cc: David N. Voza, Esq.
Kern Augustine
190 Willis Avenue
Mineola, New York 11501

Enclosure

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

IN THE MATTER
OF
DAVID MUN, M.D.

BPMC No. 16-331
CONSENT
ORDER

Upon the application of (Respondent) DAVID MUN, M D in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and
it is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board.

either

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

upon facsimile transmission to Respondent or Respondent's attorney,

whichever is first.

SO ORDERED.

DATE. 10/06/2016


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

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

IN THE MATTER
OF
DAVID MUN, M.D.

CONSENT
AGREEMENT

DAVID MUN, M.D., represents that all of the following statements are true:

That on or about October 1, 2004, I was licensed to practice as a physician in the State of New York, and issued License No. 234121 by the New York State Education Department.

My current address is [REDACTED], New York 11109, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement.

I assert that I cannot successfully defend against at least one of the acts of misconduct alleged, and agree to the following penalty in full satisfaction of the charges against me:

Pursuant to New York Pub. Health Law § 230-a (2) my license to practice medicine in New York State shall be suspended for thirty-six (36) months, with the entire period stayed

Pursuant to New York Pub. Health Law § 230-a(9). I shall be placed on probation for thirty-six (36) months, subject to the terms set forth in attached Exhibit "B."

Pursuant to N Y Pub. Health Law §§ 230-a (7) and (9), I shall be subject to a fine in the amount of \$100,000. An initial payment of \$40,000 is to be paid within thirty days effective date of this Order. Thereafter, \$30,000 is to be paid within nine months and the final \$30,000 is to be paid within eighteen months of the effective date of this Order respectively. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 2784
Albany, New York 12237

In making such payment, Respondent shall indicate the order number of this Order both on the payment check submitted and on the cover letter accompanying payment. Additionally, Respondent shall simultaneously mail a photocopy of the check and cover letter to:

Physician Monitoring Program

Office of Professional Medical Conduct

Riverview Center

150 Broadway, suite 355

Albany, New York 12204-2719

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall be precluded, either individually or through a professional corporation, from evaluating, treating or billing patients whose medical services are reimbursed through either No-Fault insurance or Workers' Compensation. Such condition shall not preclude Respondent from receiving compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the effective date of this Order. This condition shall take

effect immediately upon the effective date of this Order and shall continue as long as Respondent remains a licensee in New York State; and

That Respondent shall refrain from ordering, performing and/or interpreting electro diagnostic nerve and muscle studies. Any patient for whom such a study may be indicated shall be referred to an appropriate physician with whom Respondent has no financial relationship, who shall be directed, by Respondent, to exercise his/her independent judgment as to whether or not such testing is indicated. This condition shall take effect immediately upon the effective date of this Order and shall continue as long as Respondent remains a licensee in New York State; and

That Respondent shall form, own, or control no more than one professional medical corporation or other professional practice entity at any time. Respondent may form, own, or control any such single professional practice entity ("SPPE") if and only if his own medical practice is performed at the practice site of that SPPE. Neither the Respondent nor any other practitioner employed by Respondent, may evaluate, treat or bill patients whose services are reimbursed through either No-Fault insurance or Workers' Compensation. This condition shall take effect immediately upon the effective date of this Order and shall continue as long as Respondent remains a licensee in New York State; and

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall comply with each and every penalty imposed by this Order pursuant to N.Y. Pub. Health Law § 230-a; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ. 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 N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall: report to the department all information required by the Department to develop a public physician profile for the licensee; continue to notify the department of any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his

or her profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his or her physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent remains a licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(21) and N.Y. Educ. Law § 6530(29). Potential penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law §230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand, probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

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; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Order.

Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29)

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement 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 N.Y. Pub. Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Consent 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. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, 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 Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent 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 9/30/2016



DAVID MUÑ, M.D.
RESPONDENT

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

DATE: 10/3/16



DAVID VOZZA, ESQ.
Attorney for Respondent

DATE: 10/4/16



CHRISTINE M RADMAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 10/5/16



KETH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER
OF
DAVID MUN, M.D.

STATEMENT
OF
CHARGES

DAVID MUN, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 1, 2004, by the issuance of license number 234121 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. From on or about November 9, 2010 through on or about June 20, 2011, Respondent treated Patients A and B at his solely owned Nara Rehab Medical, P.C. office for alleged injuries reportedly sustained in two separate motor vehicle accidents. The patients' medical care was billed to the New York No-Fault Insurance Program by Respondent. Respondent deviated from medically accepted standards of care in that he:

1. Performed diagnostic testing and failed to adequately address positive electro diagnostic findings suggestive of serious disease, exposing Patients A and B to risk,
2. Purportedly obtained and documented physiologically impossible, virtually identical nerve conduction study results for Patient A and Patient B, respectively.
 - a. Respondent did so with intent to deceive.

3. Failed to maintain a record that accurately reflects the evaluation of Patients A and B, respectively and
4. Inappropriately billed for services that were not or were improperly provided.
 - a. Respondent did so with the intent to deceive.

B. From on or about December 4, 2010 through on or about January 9, 2012, Respondent treated Patients C and D at his solely owned Nara Rehab Medical, P.C. office for alleged injuries reportedly sustained in two separate motor vehicle accidents. The patients' medical care was billed to the New York No-Fault Insurance Program by Respondent. Respondent deviated from medically accepted standards of care in that he:

1. Performed diagnostic testing and failed to adequately address positive electro diagnostic findings suggestive of serious disease, exposing Patients C and D to risk,
2. Purportedly obtained and documented physiologically impossible, virtually identical nerve conduction study results for Patient C and Patient D, respectively.
 - a. Respondent did so with intent to deceive.
3. Failed to maintain a record that accurately reflects the evaluation of Patients C and D, respectively and
4. Inappropriately billed for services that were not or were improperly provided.
 - a. Respondent did so with the intent to deceive.

C. From on or about March 24, 2012 through on or about October 26, 2012, Respondent treated Patients E and F at his solely owned Nara Rehab Medical, P.C. office for alleged injuries reportedly sustained in two separate motor

vehicle accidents. The patients' medical care was billed to the New York No-Fault Insurance Program by Respondent. Respondent deviated from medically accepted standards of care in that he:

1. Performed diagnostic testing and failed to adequately address positive electro diagnostic findings suggestive of serious disease, exposing Patients E and F to risk,
2. Purportedly obtained and documented physiologically impossible, virtually identical nerve conduction study results for Patient E and Patient F, respectively.
 - a. Respondent did so with intent to deceive.
3. Failed to maintain a record that accurately reflects the evaluation of Patients E and F, respectively and
4. Inappropriately billed for services that were not or were improperly provided.
 - a. Respondent did so with the intent to deceive.

D. From on or about December 6, 2009 through on or about March 3, 2010, Respondent treated Patients G and H at his solely owned Nara Rehab Medical, P.C. office for alleged injuries reportedly sustained in two separate motor vehicle accidents. The patients' medical care was billed to the New York No-Fault Insurance Program by Respondent. Respondent deviated from medically accepted standards of care in that he:

1. Performed diagnostic testing and failed to adequately address positive electro diagnostic findings suggestive of serious disease, exposing Patients G and H to risk,
2. Purportedly obtained and documented physiologically impossible, virtually identical nerve conduction study results for Patient G and Patient H, respectively.

- a. Respondent did so with intent to deceive.
3. Failed to maintain a record that accurately reflects the evaluation of Patients G and H, respectively and
4. Inappropriately billed for services that were not or were improperly provided.
 - a. Respondent did so with the intent to deceive.

E. From on or about December 16, 2009 through on or about February 9, 2009, Respondent treated Patient I at his solely owned Nara Rehab Medical, P.C. office for alleged injuries reportedly sustained in a motor vehicle accident. The patient's medical care was billed to the New York No-Fault Insurance Program by Respondent. Respondent deviated from medically accepted standards of care in that he:

1. Performed diagnostic testing that was technically flawed and failed to adequately address the result(s) and/or properly repeat the test,
2. Performed diagnostic testing and failed to adequately address positive electro diagnostic findings suggestive of serious disease, exposing Patient I to risk,
3. Failed to maintain a record that accurately reflects the evaluation of Patient I, and
4. Inappropriately billed for services that were not or were improperly provided.

F. From on or about April 4, 2010 through on or about May 14, 2010, Respondent treated Patient J at his solely owned Nara Rehab Medical, P.C. office for alleged injuries reportedly sustained in a motor vehicle accident. The patient's medical care was billed to the New York No-Fault Insurance Program

by Respondent. Respondent deviated from medically accepted standards of care in that he:

1. Performed diagnostic testing that was technically flawed and failed to adequately address the result(s) and/or properly repeat the test,
2. Performed diagnostic testing and failed to adequately address positive electro diagnostic findings suggestive of serious disease, exposing Patient J to risk,
3. Failed to maintain a record that accurately reflects the evaluation of Patient J, and
4. Inappropriately billed for services that were not or were improperly provided.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of:

1. Paragraphs A, A(1), A(2), A(3), B, B(1), B(2), B(3), C, C(1), C(2), C(3), D, D(1), D(2), D(3), E, E(1), E(2), E(3), F, F(1), F(2) and F(3).

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of:

2. Paragraphs A, A(1), A(2), A(3), B, B(1), B(2), B(3), C, C(1), C(2), C(3), D, D(1), D(2), D(3), E, E(1), E(2), E(3), F, F(1), F(2) and F(3)

THIRD THROUGH TENTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of:

3. Paragraphs A, A(2), A(2)(a), A(4) and A(4)(a) for Patient A.
4. Paragraphs A, A(2), A(2)(a), A(4) and A(4)(a) for Patient B.
5. Paragraphs B, B(2), B(2)(a), B(4) and B(4)(a) for Patient C.
6. Paragraphs B, B(2), B(2)(a), B(4) and B(4)(a) for Patient D.
7. Paragraphs C, C(2), C(2)(a), C(4) and C(4)(a) for Patient E.
8. Paragraphs C, C(2), C(2)(a), C(4) and C(4)(a) for Patient F.
9. Paragraphs D, D(2), D(2)(a), D(4) and D(4)(a) for Patient G.
10. Paragraphs D, D(2), D(2)(a), D(4) and D(4)(a) for Patient H.

ELEVENTH THROUGH EIGHTEENTH SPECIFICATIONS

FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

11. Paragraphs A, A(2) and A(4) for Patient A
12. Paragraphs A, A(2) and A(4) for Patient B.
13. Paragraphs B, B(2) and B(4) for Patient C.
14. Paragraphs B, B(2) and B(4) for Patient D.
15. Paragraphs C, C(2) and C(4) for Patient E.
16. Paragraphs C, C(2) and C(4) for Patient F.
17. Paragraphs D, D(2) and D(4) for Patient G.
18. Paragraphs D, D(2) and D(4) for Patient H.

NINETEENETH THROUGH TWENTY-EIGHTH SPECIFICATIONS

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

19. Paragraphs A and A(3) for Patient A.
20. Paragraphs A and A(3) for Patient B.
21. Paragraphs B and B(3) for Patient C.
22. Paragraphs B and B(3) for Patient D.
23. Paragraphs C and C(3) for Patient E.
24. Paragraphs C and C(3) for Patient F.
25. Paragraphs D and D(3) for Patient G.
26. Paragraphs D and D(3) for Patient H.
27. Paragraphs E and E(3).
28. Paragraphs F and F(3).

DATE: August 16, 2016
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

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 maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
- 3) 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.
- 4) 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.
- 5) 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).
- 6) 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.

- 7) 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.
- 8) 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.
- 9) 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.
- 10) 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. 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.

- 11) Respondent shall enroll in and successfully complete a continuing education program to be specified by the Physician Monitoring Program of OPMC once the probation period begins. This continuing education program is subject to the Director of OPMC's prior written approval and shall be successfully completed within the first 90 days of the probation period.
- 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.