Public

NEW YORK
state department of
HEALTH

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

Sue Kelly
Executive Deputy Commissioner

June 28, 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Ross Eli Levatter, M.D.
NMCD #71854
Central New Mexico Correctional Facility
Level 11
1525 Morris Road
Los Lunas, NM 87031

Re: License No. 250607

Dear Dr. Levatter:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 11-157. This order and any penalty provided therein goes into effect July 5, 2011.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to: Office of Professional Medical Conduct, c/o Physician Monitoring Unit, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Please direct any questions to: Board for Professional Medical Conduct, 433 River Street, Suite 303, Troy, NY 12180, telephone # (518)402-0863.

Sincerely,

REDACTED

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

Enclosure

cc: Jonathan H. Rose, Esq.
Hines Smith Carder Dincel
25 Metro Drive, Suite 600
San Jose, CA 95110

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

IN THE MATTER

OF

ROSS ELI LEVATTER, M.D.
CO-10-04-2519-A

SURRENDER

ORDER

BPMC No. 11-157

Upon the application of **ROSS ELI LEVATTER, M.D.,** (Respondent), to Surrender his license to practice medicine in the State of New York, which is made a part of this Surrender Order, it is

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

ORDERED, that Respondent's name be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Surrender Order shall be effective upon issuance by the Board, either by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender of License or by certified mail to Respondent's attorney, or upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 6/27/11

REDACTED

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional Medical Conduct

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

IN THE MATTER	**SURRENDER**
OF	**OF**
ROSS ELI LEVATTER, M.D. **CO-10-04-2519-A**	**LICENSE**

ROSS ELI LEVATTER, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about October 1, 2008, I was licensed to practice medicine in the State of New York and issued license number 250607 by the New York State Education Department.

My current address is Central New Mexico Correctional Facility Level II, NMCD #71854, 1525 Morris Road, Los Lunas, NM 87031.

I understand that the New York State Board for Professional Medical Conduct has charged me with three (3) Specifications of professional misconduct.

A copy of the Amended Statement of Charges, marked as Exhibit "A," is attached to and part of this Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license to practice medicine in the State of New York on the grounds that I do not contest the three (3) Specifications.

I ask the Board to accept the surrender of my license, and I agree to be bound by all of the terms set forth in attached Exhibit "B."

I understand that if the Board does not accept my Surrender of License none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Surrender

of License shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts the surrender of my license, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that the Surrender Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender Order, this Surrender of License, 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.

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department of Health, 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 Surrender of License and Surrender Order, 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: 6/13, 2011

REDACTED

ROSS ELI LEVATTER, M.D.
Respondent

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

Date: June 21 ,2011

REDACTED

JONATHAN H. ROSE
Attorney for Respondent

Date: June 22 ,2011

REDACTED

JOEL ABELOVE
Associate Counsel
Bureau of Professional Medical Conduct

Date: 6/23 ,2011

REDACTED

KEITH W. SERVIS
Director, Office of Professional
Medical Conduct

EXHIBIT A

STATE OF NEW YORK DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER OF ROSS ELI LEVATTER, M.D. CO-10-04-2519-A	STATEMENT OF CHARGES

ROSS ELI LEVATTER, M.D., Respondent, was authorized to practice medicine in New York state on October 1, 2008, by the issuance of license number 250607 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 15, 2010, in the State of New Mexico, Second Judicial District Court, Respondent pled nolo contendre to one (1) count of Money Laundering, and two (2) counts of Conspiracy to Commit Promoting Prostitution, in violation of §30-51-4, NMSA 1978 and §30-28-2, §30-9-4.A, §30-9-4C, NMSA 1978, felonies, and sentenced on April 8, 2010, to 3 years incarceration and 5 years probation, provide a DNA sample with a $100.00 fee, $5.00 domestic violence fund fee, refrain from any contact with the co-defendants, and refrain from possessing any pornography.

B On or about September 8, 2010, the State Medical Board of Ohio (hereinafter "Ohio Board"), permanently revoked Respondent's certificate to practice medicine and surgery, pursuant to Section 473.122(B)(9), Ohio Revised Code, based on his conviction of felonies as set forth in Paragraph A, above.

C. On or about November 16, 2010, the Commonwealth of Pennsylvania State Board of Medicine (hereinafter "Pennsylvania Board"), by Final Order, revoked Respondent's license to practice medicine and surgery, pursuant to Section 41(3) of the Medical Practice Act of December 20, 1985, 63 P.S. §422.41(3), based on his conviction of the felonies as set forth in Paragraph A, above.

D. The conduct resulting in the Ohio and Pennsylvania Board disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(9)(a)(iii) (being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law.

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(iii) by being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B and/or C and/or D.

THIRD SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

3. The facts in Paragraphs A and/or B and/or C and/or D.

DATED: March 12, 2011
Albany, New York

REDACTED

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

REQUIREMENTS FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of six months or more) OF A MEDICAL LICENSE

1. Respondent shall immediately cease and desist from engaging in the practice of medicine (in New York State) in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.

2. Respondent shall have delivered, to OPMC at Hedley Park Place, 433 River Street Suite 303, Troy, NY 12180-2299, Respondent's original license to practice medicine in New York State and current biennial registration within five (5) days of the effective date of the Order.

3. Respondent shall within fifteen (15) days of the Order, notify all patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.

4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient and/or his/her authorized representative requests a copy of the patient's medical record, or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic, and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of his/her inability to pay.

5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate for New York State, Respondent shall, within fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges for New York State to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.

6. Respondent shall within fifteen (15) days of the Order's effective date, return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement, New York State Department of Health at 433 River Street, Suite 303, Troy, NY 12180-2299.

Respondent shall cause all prescription pads bearing his/her name to be destroyed. If no other licensee is providing services at Respondent's practice location, all medications shall be properly disposed of.

7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories, on the internet or otherwise, professional stationery or billings by which his/her eligibility to practice is represented.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by Respondent or others) while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if Respondent's license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself/herself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within ninety (90) days of the effective date of this Order. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in Section 230-a of the Public Health Law, which includes fines of up to $10,000 for each specification of charges of which Respondent is found guilty and may include revocation of a suspended license.