



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H.

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NYS Department of Health*

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NYS Department of Health*

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Office of Professional Medical Conduct

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Denise M. Bolan, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

December 31, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Eric G. Shmookler, M.D.
6903 Tilden Lane
Rockville, MD 20852

RE: Unlicensed Resident

Dear Dr. Shmookler:

Enclosed please find Order #BPMC 99-333 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 31, 1999.**

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: Marjorie J. Pearce, Esq.
Samantha J. Leventhal, Esq.
Stillman & Friedman, P.C.
425 Park Avenue
New York, NY 10022

Barry Plunkett, Esq.

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

IN THE MATTER
OF
ERIC GARY SHMOOKLER, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC# 99-333

ERIC GARY SHMOOKLER, M.D., (Respondent) says:

That on or about July 1, 1999, I completed a one year medical internship at Mary Imogene Bassett Hospital, Atwell Road, Cooperstown, New York 13326. I am authorized to practice medicine in New York State as part of an authorized residency program pursuant to N.Y. Education Law §6526(1).

My current address is 6903 Tilden Lane, Rockville, MD 20852, and I will advise the Director of the Office of Professional Medical Conduct (hereafter "Director") of any change of my address.

I understand that the New York State Board for Professional Medical Conduct (hereafter "Board") has charged me with twenty-one specifications of professional misconduct. A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I do not contest the allegations to the charges contained in the twenty-one specifications of professional misconduct made against me, and I hereby agree to the following:

I shall be limited from the issuance of any further license to practice medicine in the State of New York pursuant to Section 230(a)(6) of the New York Public Health Law or to participate in an authorized medical residency program for a minimum of six months and shall remain so limited

until a Committee on Professional Conduct of the Board for Professional Medical Conduct (hereafter "Committee") determines that I am not incapacitated for the active practice of medicine or to participate in an authorized medical residency program. Said period of limitation shall be effective upon the execution of this Agreement and Order by all necessary parties and upon the effecting of service of this Agreement and Order upon me and/or my attorney. I shall not practice medicine in New York State while I am under this limitation. I expressly acknowledge that this limitation on the issuance to me of any further license to practice medicine or to participate in an authorized medical residency program in New York State as stated in all terms and conditions set forth in this Consent Agreement and Order constitutes a public disciplinary order.

After the expiration of the minimum six month period of limitation, I may apply to the Board for restoration of my ability to seek issuance of a license to practice medicine or to participate in an authorized medical residency program in New York State. I understand that this limitation will be released only if I make a showing to a Committee that I am not incapacitated for the active practice of medicine or to participate in an authorized medical residency program. This showing shall include proof that I have successfully completed a course of therapy or treatment approved by the Board. I understand and hereby agree that whether I have successfully completed the approved course of treatment shall be determined in the sole reasonable discretion of the Board, exercised by a Committee, after I have met a burden of proof and persuasion by a preponderance of the evidence in a proceeding as set forth in this Agreement and Order. I understand and agree that the Committee's decision shall not be reviewable through recourse to the Administrative

Review Board, or otherwise.

I understand and agree that my application will not be submitted to a Committee until I have provided certain minimum evidence of my fitness and competence as set forth in Exhibit B. The Board will make reasonable attempts to convene a Committee no later than 90 days after my request, which shall not be deemed to have been perfected until receipt by the Director of all that is required to be provided by me pursuant to Exhibit B. I understand and agree that proceedings before said Committee shall not be in the nature of a hearing pursuant to New York State Public Health Law §230, but shall, instead, be informal and intended only for the purpose of addressing any and all facts, evidence, circumstances, or issues which do or may relate to the advisability of terminating the limitation of my ability to seek issuance of a license to practice medicine or to participate in an authorized medical residency program in New York State. I understand and agree that the procedural nature of said proceeding shall be determined by the Board through the discretion of the Office of Professional Medical Conduct. In the event that my application for restoration of my ability to seek issuance of a license to practice medicine or to participate in an authorized medical residency program in New York State is denied, I understand and agree that I may make a further application for restoration only after a period of six months from the date of denial.

I agree that should the Committee determine that I am no longer incapacitated for the active practice of medicine and I return to the practice of medicine by licensure or by participating in an authorized residency program, I shall be subject to a term of probation for a period of five (5)

years which shall include impairment monitoring in accordance with the terms and conditions set forth in Exhibit C.

I agree to the payment of a monetary fine in the amount of \$2,500.00 to be paid in accordance with the terms and conditions set forth in Exhibit C.

I agree to take one hundred (100) hours of continuing medical education in accordance with the terms and conditions set forth in Exhibit B.

I understand that the terms and conditions contained in Exhibits B and C are prerequisites to my application for restoration of ability to seek issuance of a license to practice medicine or to participate in an authorized medical residency program in New York State. Nothing herein shall require me to apply for said restoration of my ability to seek issuance of a license to practice medicine or to participate in an authorized medical residency program in New York State. Should I decide to apply for such restoration of my ability to seek issuance of a license to practice medicine or to participate in an authorized medical residency program in New York State, I am required to strictly comply with all of the terms and conditions contained in Exhibits B and C. I shall send by Certified Mail Return Receipt Requested to the Director of the Office of Professional Medical Conduct, Hedley Park Place, 4th Floor, 433 River Street, Troy, New York 12180, my written intent to apply for restoration of my ability to seek issuance of a license to practice medicine or to participate in an authorized medical residency program in New York State.

I understand that any failure by me to comply with the terms and conditions of this Agreement and Order, including all conditions imposed upon my practice at the time of termination of my limitation, may result in further disciplinary action

being brought against me charging professional misconduct as defined by the New York State Education Law, including but not limited to, N.Y. Educ. Law §6530(29). That section defines professional misconduct to include "violating any... condition... imposed on the licensee pursuant to §230 of the New York Public Health Law."

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

I understand that I cannot engage in the practice of medicine in New York State before complying with and otherwise satisfying all of the terms and conditions of this Agreement and Order required before I may apply for a license to practice medicine or to participate in an authorized medical residency program in New York State. Should I engage in the practice of medicine in New York State or participate in an authorized medical residency program before complying with such conditions, I acknowledge that I will be guilty of the unauthorized practice of medicine and will be subject to all administrative, civil, criminal, and other penalties prescribed by law.

I agree to submit signed statements to the Director of OPMC on an annual basis, or on such other basis or bases as required by the Director of OPMC, certifying that I have not practiced medicine or participated in an authorized medical residency program in New York State, at any locations, at any time while I am under this limitation.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I acknowledge that I have consulted with and have had the benefit of the advice of an attorney of my choice prior to my executing this Agreement and Order. I acknowledge that I understand and comprehend the language, meaning, terms, and effect of this Agreement and Order.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

AFFIRMED:

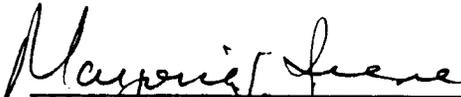
DATED 12/9/99



ERIC GARY SHMOOKLER, M.D.
Respondent

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 12/10/99


MARJORIE J. PEARCE, ESQ
Attorney for Respondent

DATE: 12/20/99


BARRY C. PLUNKETT, ESQ.
Associate Counsel
Bureau of Professional Medical Conduct

DATE: December 23, 1999


ANNE F. SAILE
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
ERIC GARY SHMOOKLER, M.D.

CONSENT
ORDER

Upon the proposed agreement of ERIC GARY SHMOOKLER, M.D., (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 12/27/99

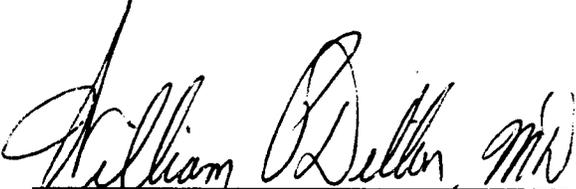

WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

EXHIBIT A

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

-----X

IN THE MATTER : STATEMENT
OF : OF
ERIC GARY SHMOOKLER, M.D. : CHARGES

-----X

ERIC GARY SHMOOKLER, M.D., the Respondent, completed a one year medical internship at Mary Imogene Bassett Hospital (Bassett Hospital) in Cooperstown, New York, and is an unlicensed physician in New York State who was authorized to practice medicine in New York State as part of an authorized residency program pursuant to N.Y. Education law §6526(1). Respondent's address is 6903 Tilden Lane, Rockville, MD 20852. Disciplinary authority over Respondent is established under N.Y. Public Health law §230(7) read in conjunction with §230(a).

FACTUAL ALLEGATIONS

FALSE AND ALTERED PRESCRIPTIONS

A. Respondent, on or about July 21, 1998 and September 25, 1998, fraudulently wrote and signed controlled prescriptions for Tylenol with Codeine #4, Quantity (QTY) 90 for a person identified as Patient "A".

1. The prescriptions were fraudulent, as Patient "A" was never a patient of the Respondent and was never a patient of Respondent at Bassett Hospital/Healthcare, and was a person for whom Respondent maintained no medical records of any medical treatment and/or medications, and Respondent knew this.

2. The prescriptions, though written by Respondent ostensibly for Patient "A", were intended to be for Respondent at the time said prescriptions were made. The July 21, 1998 prescription was obtained by Respondent when it was filled on July 22, 1998, and when it was re-filled on August 6, 1998 and again on September 4, 1998, and the September 25, 1998 prescription was obtained by the Respondent when it was filled on September 26, 1998, at the CVS Pharmacy located on Main Street, Cooperstown, New York, and Respondent knew this.
3. Respondent, after obtaining the prescriptions and refills on each date, hereinabove stated, utilized the medications by administering them to himself, and Respondent knew this.

B. Respondent, on or about January 5, 1999, fraudulently wrote and signed a controlled prescription for Tylenol with Codeine #4, Quantity (QTY) 125, for the person identified as Patient "A".

1. The prescription was fraudulent, as Patient A was never a patient of the Respondent and was never a patient of Respondent at Bassett Hospital/Healthcare, and was a person for whom Respondent maintained no medical records of any medical treatment and/or medications, and Respondent knew this.
2. The prescription, though written by Respondent ostensibly for Patient "A", was intended to be for Respondent at the time said prescription was made. The January 5, 1999 prescription was obtained by Respondent when it was filled on January 7, 1999, and when it was re-filled on February 15, 1999, March 15, 1999, and April 8, 1999, at the Church and Scott Pharmacy located on Route 28 in Cooperstown, New York, and Respondent knew this.
3. Respondent, after obtaining the prescriptions and refills on each date, hereinabove stated, utilized the medications by administering them to himself, and Respondent knew this.

C. Respondent, on or about July 28, 1998, fraudulently ordered by telephone a controlled prescription for Tylenol with Codeine #4 for a person identified as Patient "B".

1. The prescription was fraudulent, as Patient "B" was never a patient of the Respondent and was never a patient of Respondent at Bassett Hospital/Healthcare, and was a person for whom Respondent maintained no medical records of any medical treatment and/or medications, and Respondent knew this.

2. The prescription, though written by Respondent ostensibly for Patient "B", was intended to be for Respondent at the time said prescription was made. The July 28, 1998 prescription ordered by telephone by Respondent was obtained by the Respondent when it was filled on July 28, 1998, at the P & C Ford Pharmacy located on Route 28 in Cooperstown, New York, and Respondent knew this.
3. Respondent after obtaining the prescription on July 28, 1998, utilized the medications by administering them to himself, and Respondent knew this.

D. Respondent, on or about June 11, 1999, fraudulently wrote and signed a controlled prescription for Tylenol with Codeine #4, Quantity (QTY) 70, for the person identified as Patient "C".

1. The prescription was fraudulent, as Patient "C" was never a patient of the Respondent and was never a patient of Respondent at Bassett Hospital/Healthcare, and was a person for whom Respondent maintained no medical records of any medical treatment and/or medications, and Respondent knew this.
2. The prescription, though written by Respondent ostensibly for Patient "C", was intended to be for the Respondent at the time said prescription was made. The June 11, 1999 prescription was obtained by Respondent when it was filled on June 12, 1999, and when it was re-filled on June 25, 1999, at the Eckerd Pharmacy located on Route 7 in Cobleskill, New York, and Respondent knew this.
3. Respondent, after obtaining the prescription and refill on each date, hereinabove stated, utilized the medications by administering them to himself, and Respondent knew this.

E. Respondent, on or about October 21, 1998, fraudulently wrote and signed a controlled prescription for Tylenol with Codeine #4, Quantity (QTY) 120 for the person identified as Patient "D".

1. The prescription was fraudulent, as Patient "D" was never a patient of the Respondent and was never a patient of Respondent at Bassett Hospital/Healthcare, and was a person for whom Respondent maintained no medical records of any medical treatment and/or medications, and Respondent knew this.
2. The prescription, though written by Respondent ostensibly for Patient "D", was intended to be for the Respondent at the time said prescription was made. The October 21, 1998 prescription was obtained by the Respondent when it was filled on October 25, 1998, and when it was refilled on December 29, 1998 and again on February 1, 1999, at the Price Chopper Pharmacy located

on Route 7, Cobleskill, New York.

3. Respondent, after obtaining the prescription and refills on each date, hereinabove stated, utilized the medications by administering them to himself, and Respondent knew this.

F. Respondent, on or about January 21, 1999 and June 11, 1999, wrote and signed controlled prescriptions for Tylenol with Codeine #4, Quantity (QTY) 60-70 for a patient identified as Patient "E".

1. The prescriptions were fraudulent, as Patient "E" was never a patient of the Respondent and was never a patient of Respondent at Bassett Hospital/Healthcare, and was a person for whom Respondent maintained no medical records of any medical treatment and/or medications, and Respondent knew this.
2. The prescriptions, though written by Respondent ostensibly for Patient "E", were intended to be for Respondent at the time said prescriptions were made. The January 21, 1999 prescription was obtained by the Respondent when it was filled on July 22, 1999, and when it was refilled on March 10, 1999, and again on April 25, 1999, and the June 11, 1999 prescription was obtained by the Respondent when it was filled on June 12, 1999 and when it was refilled on June 25, 1999 and again on July 10-11, 1999, at the Wal-Mart Pharmacy, located on Route 7 in Cobleskill, New York, and Respondent knew this.
3. Respondent, after obtaining the prescriptions and refills on each date, hereinabove stated, utilized the medications by administering them to himself and Respondent knew this.

G. Respondent, on or about July 28, 1998, fraudulently wrote and signed a controlled prescription for Tylenol with Codeine #4, Quantity (QTY) 90, for a person identified as Patient "F".

1. The prescription was fraudulent, as Patient "F" was never a patient of the Respondent and was never a patient of Respondent at Bassett Hospital/Healthcare, and was a person for whom Respondent maintained no medical records of any medical treatment and/or medications, and Respondent knew this.
2. The prescription, though written by Respondent ostensibly for Patient "F", was intended to be for Respondent at the time said prescription was made. The July 28, 1998 prescription was obtained by Respondent when it was filled on July 28, 1998, and when it was refilled on August 22, 1998 and again on October 7, 1998, at the Church and Scott Pharmacy located on Route

28, Cooperstown, New York, and Respondent knew this.

3. Respondent, after obtaining the prescription and refills on each date, hereinabove stated, utilized the medications by administering them to himself, and Respondent knew this.

SPECIFICATIONS

FIRST THROUGH SEVENTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with professional misconduct in violation of New York Education Law §6530(2) by reason of his having practiced the profession of medicine fraudulently, in that petitioner charges:

1. The facts in Paragraph A.1, A.2 and A.3.
2. The facts in Paragraph B.1, B.2 and B.3.
3. The facts in Paragraph C.1, C.2 and C.3.
4. The facts in Paragraph D.1, D.2 and D.3.
5. The facts in Paragraph E.1, E.2 and E.3.
6. The facts in Paragraph F.1, F.2 and F.3.
7. The facts in Paragraph G.1, G.2 and G.3.

EIGHTH THROUGH FOURTEENTH SPECIFICATIONS

FILING A FALSE REPORT

Respondent is charged with professional misconduct in violation of New York Education Law §6530(21) by reason of his having willfully made or filed a false report, in that Petitioner charges:

8. The facts in Paragraph A.1, A.2 and A.3.
9. The facts in Paragraph B.1, B.2 and B.3.

10. The facts in Paragraph C.1, C.2 and C.3.
11. The facts in Paragraph D.1, D.2 and D.3.
12. The facts in Paragraph E.1, E.2 and E.3.
13. The facts in Paragraph F.1, F.2 and F.3.
14. The facts in Paragraph G.1, G.2 and G.3.

FIFTEENTH THROUGH TWENTY-FIRST SPECIFICATIONS
HABITUAL USE/ABUSE AND DEPENDENCY ON DRUGS

Respondent is charged with professional misconduct under New York Education Law §6530(8) by reason of his being a habitual user of and/or by reason of his dependency upon narcotics and/or other drugs which are not part of a therapeutic regimen, in that Petitioner charges:

15. The facts in Paragraph A.1, A.2 and A.3.
16. The facts in Paragraph B.1, B.2 and B.3.
17. The facts in Paragraph C.1, C.2 and C.3.
18. The facts in Paragraph D.1, D.2 and D.3.
19. The facts in Paragraph E.1, E.2 and E.3.
20. The facts in Paragraph F.1, F.2 and F.3.
21. The facts in Paragraph G.1, G.2 and G.3.

DATED: *December 20,* 1999
Albany, New York


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

EXHIBIT B

1. I agree and understand that the limitation on my ability to seek issuance of any further license to practice medicine in New York State or to participate in an authorized medical residency program shall be in effect for a minimum period of time of six (6) months and I shall remain so limited from the effective date of this Agreement and Order until I show to the satisfaction of a Committee on Professional Conduct of the State Board for Professional Medical Conduct (hereafter "Committee") that I am no longer incapacitated for the active practice of medicine or to participate in an authorized medical residency program. I understand that the determination that I am no longer incapacitated for the active practice of medicine or to participate in an authorized medical residency program shall be made solely by the Committee, and shall include, but not be limited to, a determination of successful completion of an approved course of therapy.

2. I agree and understand that at the time that I request that a meeting of a Committee be scheduled, pursuant to paragraph 1, I will provide the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299, with the following:

- a. The signed acknowledgement form from the sobriety monitor referred to in Exhibit C paragraph 4.
- b. The signed acknowledgement form from the supervising physician referred to in Exhibit C paragraph 5.
- c. The signed acknowledgement form from the health care professional referred to in Exhibit C paragraph 6.
- d. Certified true and complete copies of records of all evaluation and treatment, relating to my impairment, whether that evaluation and treatment occurred prior to or during the time this limitation on licensure is in effect. These records shall include documentation of the results of all urine/blood/breath tests conducted to detect the presence of drugs and/or alcohol. Such records shall include documentation of participation in the program of the Committee for Physicians' Health of the Medical Society of the State of New York, or other equivalent program.
- e. Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records.
- f. A current in-depth chemical dependency evaluation by a health care professional in a licensed facility. Also, upon request of the Director of OPMC, an independent current psychiatric evaluation by a board certified psychiatrist.
- g. My attendance at, participation in, and cooperation with any interview conducted by personnel of OPMC, upon the request of the Director thereof.
- h. Documentation and proof of my completion of 100 hours of continuing medical education in the fields of medical ethics, pain management, and the prescribing of controlled substances. Said medical education and study shall be subject to the prior written approval of the Director of OPMC and be completed within the period

of the limitation on issuance of a medical license to me.

Provision of the aforesaid documents does not constitute a showing that I am no longer incapacitated for the active practice of medicine or can participate in an authorized medical residency program.

3. At the proceeding referred to in paragraph 1, I will provide the committee, at a minimum, with the following:

- a. Certified true and complete and current records of all psychiatric, psychological, and/or any other mental health treatment, evaluation, and/or testing, whether in an out-patient, in-patient, office, consultation setting.
- b. Evidence of compliance with the terms of a continuing after-care out-patient treatment plan that addresses the major problems associated with my illness.
- c. Evidence that I have maintained adequate knowledge and competence to practice as a physician. Such evidence shall include documentation of continuing medical education and, if so requested by the Director of OPMC, a report of an independent evaluation of my medical knowledge and competence.

Submission of the aforesaid evidence does not constitute a showing that I am no longer incapacitated for the active practice of medicine or can participate in an authorized medical residency program.

4. I agree and understand that if the Chairperson of the Committee issues an Order finding that I am no longer incapacitated for the active practice of medicine or participate in an authorized medical residency program, thereby terminating the limitation on my ability to seek licensure to practice medicine in New York State or participate in an authorized medical residency program, the Order shall further impose a period of probation of no less than five (5) years, pursuant to New York Public Health Law §230-a, during which my practice of medicine shall be subject to conditions as described in Exhibit C.

**EXHIBIT C
TERMS OF PROBATION**

My practice shall be subject to the following terms of probation for a period of no less than five (5) years:

1. I will remain drug and alcohol free with the exception of prescribed drugs that are part of an approved therapeutic regimen.
2. I will comply with the terms of a continuing after-care treatment plan that addresses the major problems associated with my illness.
3. At the direction of the Director of OPMC, I will submit to periodic interviews with, and evaluations by, a board certified psychiatrist or other licensed mental health practitioner designated by the Director. Said practitioner shall report to the Director regarding my condition and my fitness or incapacity to practice medicine and/or participate in an authorized medical residency program.
4. My sobriety will be monitored by a health care professional proposed by me and approved in writing by the Director of OPMC.
 - a. Said monitor shall be familiar with my history of chemical dependence, with this suspension and with the terms of probation to be set forth.
 - b. Said monitor shall see me at least twice during each month.
 - c. Said monitor shall direct me to submit to unannounced tests of my blood, breath and/or urine for the presence of drugs or alcohol and shall report to OPMC within 24 hours if at any time such a test is refused by me or is positive.
 - d. Said monitor shall report to OPMC any noncompliance with the imposed conditions.
 - e. Said monitor shall not be a personal friend.
 - f. Said monitor shall submit to OPMC quarterly reports certifying my compliance or detailing my failure to comply with each of the conditions imposed. The reports shall include the results of all body fluid and/or breath tests for drugs and/or alcohol performed during that quarter.
5. I will be supervised in my medical practice by a licensed physician, proposed by me and approved in writing by the Director of OPMC. Said supervising physician shall be familiar with my history of chemical dependency, with this limitation on my licensure and to my participating in an authorized medical residency program and with the terms of probation to be set forth. Said supervising physician shall supervise my compliance with the conditions of practice to be imposed. Said supervising physician shall be in a position regularly to observe and assess my medical practice and/or participate in an authorized medical residency program.
 - a. Said supervising physician shall have the authority to direct me to submit to unannounced tests of my blood, breath, and/or urine for the presence of drugs or alcohol and shall report to OPMC within 24 hours if at any time such a test is refused by me or is positive.
 - b. Said supervising physician shall submit to OPMC quarterly reports

regarding the quality of my medical practice, any unexplained absences from work and certifying my compliance or detailing my failure to comply with each condition imposed.

- c. Said supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practices or possible misconduct to OPMC.
6. I will continue in treatment with a health care professional, proposed by me and approved, in writing, by the Director of OPMC, for as long as the health care professional determines it is necessary.
 - a. My treating health care professional or program shall submit to OPMC quarterly reports certifying that I am complying with the treatment.
 - b. Said treating health care professional shall report to OPMC immediately if I am noncompliant with my treatment plan or if I demonstrate any significant pattern of absences.
7. I agree that I will pay a monetary fine in the principal amount of \$2,500.00 to the New York State Department of Health. My obligation to pay said monetary fine shall commence upon removing the limitation on the issuance of any further license to practice medicine in New York State. Said monetary fine shall be paid in four (4) equal installments of \$625.00. The first of said payments shall be paid no later than thirty calendar days after the date removing the limitation on the issuance of any further license to practice medicine in New York State. Each subsequent payment shall be paid by me on the first day of each succeeding month.
8. I agree that in addition to the terms set out in paragraphs 1-7 and any other terms imposed by added by the Committee upon removal of the limitation on license issuance, and I return to the practice of medicine by licensure or by participating in an authorized residency program, I shall also be subject to the following standard terms of probation:
 - a. I shall conduct myself in all ways in a manner befitting my professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by my profession.
 - b. I shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
 - c. I shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of my compliance with the terms of this Order. I shall personally meet with a person designated by the Director of OPMC as requested by the Director.
 - d. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York

State. This includes but is 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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].

- e. The period of probation shall be tolled during periods in which I am not engaged in the active practice of medicine in New York State or participating in an authorized medical residency program. I shall notify the Director of OPMC, in writing, if I am not currently engaged in or intend to leave the active practice of medicine in New York State or to participate in an authorized medical residency program for a period of thirty (30) consecutive days or more. I shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon my return to practice in New York State or my return to participating in an authorized medical residency program. The tolling provision set forth in this paragraph may be waived by the Director of the OPMC, in the Director's discretion.
- f. My professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with me and my staff at practice locations or OPMC offices.
- g. I shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.

9. I agree that the preceding terms shall be the minimum probation terms, related to my fitness to practice, to be imposed on my practice, and that other terms may be added by the Committee at the time of termination of my limitation on licensure, and that the costs of complying with all such terms will be my responsibility. I understand that any failure by me to comply with the conditions imposed upon my practice at the time of termination of my limitation on licensure, may result in further disciplinary action being brought against me charging professional misconduct as defined by the New York State Education law, including but not limited to N.Y. Educ. Law §6530(29). That section defines professional misconduct to include "violating any... condition... imposed on the licensee pursuant to §230 of the Public Health Law".