



***New York State Board for Professional Medical Conduct***

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

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*Office of Professional Medical Conduct*

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

May 31, 2001

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Lowell Garner, M.D.  
202 Taughannack Blvd.  
Ithaca, NY 14850

RE: License No. 161041

Dear Dr. Garner:

Enclosed please find Order #BPMC 01-130 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect May 31, 2001.

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.

Board for Professional Medical Conduct  
New York State Department of Health  
Hedley Park Place, Suite 303  
433 River Street  
Troy, New York 12180

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 1258  
Empire State Plaza  
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read "Ansel R. Marks".

Ansel R. Marks, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Wilfred T. Friedman, Esq.  
Friedman and Mahdavian, P.C.  
The Bar Building  
36 West 44th Street, Suite 1205  
New York, NY 10036

Michael Hiser, Esq.

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

IN THE MATTER  
OF  
LOWELL GARNER, M.D.

CONSENT  
AGREEMENT  
AND

RECEIVED  
NYS DEPT. OF HEALTH  
ORDER  
BPMC No. 01-130  
MAY 2 2001  
Division of Legal Affairs  
Board of Professional Medical Conduct

*Mississippi*  
STATE OF NEW YORK )  
COUNTY OF *Rankin* ss.: )

LOWELL GARNER, M.D., (Respondent) being duly sworn, deposes and says:

That on or about December 24, 1984, I was licensed to practice as a Physician in the State of New York, having been issued License No. 161041-1, by the New York State Education Department. I am currently registered to practice that Profession.

My current address is 202 Taughannack Blvd., Ithaca, New York 14850. I will advise the Director of the Office of Professional Medical Conduct ("OPMC") of any change of my address(es).

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

A copy of the Statement of Charges is attached as Exhibit "A".

I do not contest the factual allegations and the Specifications of Misconduct, in full satisfaction of the charges against me, and I agree to the following penalty:

I shall be fined the amount of Five Thousand Dollars (\$5,000.00), and shall pay such fine in accordance with the provisions of Exhibit "C". Additionally, my license shall be suspended for an indefinite period but no less than eighteen (18) months. Upon compliance with all conditions of this Order, but no sooner than eighteen months from the effective date of this order, I may petition the Board for

a Modification Order staying the indefinite suspension of my license.

I understand and agree:

That any Modification Order the Board may issue, in the exercise of its reasonable discretion, may include terms of probation, and/or further conditions on my practice.

That the Board will exercise its reasonable discretion upon my petition for a Modification Order through a Committee on Professional Conduct, after a proceeding in which I have met a burden of proof and persuasion as further set forth in attached Exhibit "B".

That the Committee's exercise of discretion shall not be reviewable by the Administrative Review Board.

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

That, I shall return any and all official New York State prescriptions to the Bureau of Controlled Substances, and I shall surrender my Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within thirty days of the effective date of this Order. Further, within thirty days of returning said prescriptions and surrendering said registration, I shall provide the Director of OPMC ("Director") with written evidence, satisfactory to the

Director, that I have so complied with this condition.

That, except during periods of actual suspension, I shall maintain active registration of my license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while I possess my license; and

That I shall fully cooperate in every respect with OPMC in its administration and enforcement of this Order and in its investigation of me. I shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of my compliance with the terms of this Order. I shall meet with a person designated by the Director, as directed. I shall respond promptly and provide any and all documents and information within my control, upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while I possess my license.

I stipulate and agree that my failure to comply with any of the terms and conditions set forth in this Application and Exhibit "B" shall constitute misconduct as defined by New York State Education Law §6530(29).

If I am charged with professional misconduct in the future, I hereby stipulate and agree to the admission into evidence at such proceeding, during the Department's case-in-chief, of this Application and Order, and/or related Modification

Orders at the sole discretion of the Department (Petitioner).

I hereby make this Application to the Board and request that it be granted.

I understand that if this Application is not granted by the Board, this Application shall be of no effect, shall not bind me in any way, shall not be construed to be an admission of any act of alleged misconduct, shall not be used against me, shall be kept in strict confidence, and shall not be used as evidence during the pendency of any professional misconduct disciplinary proceeding; likewise, the Board's denial shall be made without prejudice to the Department's initiation or continuance of any related disciplinary proceeding and/or the Board's final determination of such matter, pursuant to the Public Health Law.

I agree that, if the Board grants my Application, the Chairperson of the Board shall issue an Order in accordance with the terms and conditions set forth in this Application. I agree that such Order shall be effective upon issuance by the Board, which may be accomplished by mailing a copy of the Consent Order to me, by first class mail at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I make this Application of my own free will and accord and not under duress, compulsion or restraint of any kind. In consideration of the value to me of the Board's acceptance of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Order, and I ask that the Board grant this Application.

*Lowell Garner MD*

LOWELL GARNER, M.D.  
RESPONDENT

Sworn to before me on this  
15 day of May 2001

*Alta King-Carrier*  
NOTARY PUBLIC

**My Commission Expires October 18, 2004  
Bonded Thru Dble Notary Service, Inc.**

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

DATE: 5/14/01



WILFRED T. FRIEDMAN, ESQ.  
Attorney for Respondent

DATE: 5/21/01



MICHAEL A. HISER, ESQ.  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: 5/25/01



DENNIS J. GRAZIANO  
Director, Office of Professional  
Medical Conduct

**IN THE MATTER  
OF  
LOWELL GARNER, M.D.**

**STATEMENT  
OF  
CHARGES**

LOWELL GARNER, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 24, 1984, by the issuance of license number 161041-1 by the New York State Education Department. Respondent is presently registered for the practice of medicine in New York State with an office address at 202 Taughannack Blvd., Ithaca, New York 14850.

**FACTUAL ALLEGATIONS**

- A. Respondent provided medical treatment in the form of anesthesia care to Patient A, a 35 year old female (the patient is identified in the attached Appendix), on or about February 15, 2001, at the Cayuga Medical Center at Ithaca, 101 Dates Drive, Ithaca, NY 14850. Patient A underwent a repeat Caesarean section operation on that date. Respondent, after providing anesthesia care to her in the operating room, accompanied the patient to the post-anesthesia care unit (PACU). Respondent's medical care of Patient A failed to meet accepted standards of medical practice in the following respects:
1. Respondent, after accompanying Patient A to the PACU, went to an unattended narcotics cabinet and surreptitiously and without authorization took a 5 cc vial of Fentanyl from the cabinet. Respondent took the Fentanyl and a syringe out of sight from the other health care providers who were present in the PACU, and injected himself with the Fentanyl.
  2. Respondent, on or about the time he removed the Fentanyl without authorization, substituted a saline solution for the Fentanyl he had

taken, then returned the now saline-filled vial of "Fentanyl" to the narcotics cabinet. Respondent knew or should have known that subsequent use of one or more parts of the saline filled "Fentanyl" vial would cause patients to receive only saline when Fentanyl was the intended medication.

3. Respondent, after injecting himself with Fentanyl in the PACU, and prior to leaving the PACU to provide further anesthesia services to other patients, provided medical care and attention to Patient A.
4. Respondent failed to document that he had replaced Fentanyl in the 5 cc vial with saline.

### **SPECIFICATION OF CHARGES**

#### **FIRST SPECIFICATION**

#### **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 the following:

1. The facts in Paragraphs A and A.1, A and A.2, and/or A and A.4.

#### **SECOND SPECIFICATION**

#### **MORAL UNFITNESS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

2. The facts in Paragraphs A and A.2 and/or A and A.4.

**THIRD SPECIFICATION**  
**PRACTICING WHILE IMPAIRED**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(7) by practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability as alleged in the facts of the following:

3. The facts in Paragraphs A and A.1 and/or A and A.3.

**FOURTH SPECIFICATION**  
**BEING AN HABITUAL USER OR HAVING A**  
**PSYCHIATRIC CONDITION WHICH IMPAIRS**  
**THE ABILITY TO PRACTICE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(8) by being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, or having a psychiatric condition which impairs the licensee's ability to practice as alleged in the facts of the following:

4. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or A and A.4.

**FIFTH SPECIFICATION**  
**GROSS NEGLIGENCE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

5. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or A and A.4.

**SIXTH SPECIFICATION**

**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 care and treatment of the patient, as alleged in the facts of:

6. The facts in Paragraphs A and A.4.

DATED: May 27, 2001  
Albany, New York



Peter D. Van Buren, Esq.  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

## EXHIBIT "B"

1. Respondent's indefinite license suspension shall be modified, and the active suspension of his license terminated, only upon a showing by Respondent to the satisfaction of a Committee on Professional Conduct of the State Board for Professional Medical Conduct (henceforth "Committee"), and upon the Committee's determination, that: Respondent has successfully complied with or completed a course of therapy and ongoing evaluation; Respondent is no longer incapacitated for the practice of the Profession; and Respondent is both fit and clinically competent to practice the Profession.

2. Upon Respondent's written request, a Committee shall meet to hear and evaluate Respondent's showing, as referred to in paragraph 1 above, in support of a Modification Order. The Board will make reasonable attempts to convene a Committee within 90 days after Respondent's request. That request shall not be perfected until the Director of the Office of Professional Medical Conduct receives all the documents Respondent is required to provide, as set forth in paragraph 3 below. The procedural nature of this proceeding shall be determined by the State Board for Professional Medical Conduct, within the discretion of the Director of the Office of Professional Medical Conduct upon consultation with Counsel, Bureau of Professional Medical Conduct. Proceedings before said Committee shall *not* be in the nature of a *hearing* pursuant to New York Public Health Law §230, but shall instead be informal and intended only to address any and all facts, evidence, information, circumstances, or issues that relate to the advisability of terminating the suspension of Respondent's license. The Committee shall be given access to evidence including but not limited to:

- a. Any and all evidence of Respondent's compliance with the Conditions imposed.
- b. Any evidence that the Director of the Office of Professional Medical Conduct or Counsel, Bureau of Professional Medical Conduct, deems appropriate.

3. At the time that Respondent requests that a Committee meeting be scheduled pursuant to paragraph 2, he shall 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 acknowledgment from the supervising physician referred to in paragraph 5e.
- b. The signed acknowledgment from the health care professional referred to in paragraph 5f.
- c. The signed acknowledgment from the monitor referred to in paragraph 5b.
- d. Certified true and complete copies of records of all evaluation and treatment relating to Respondent's impairment, whether that evaluation and treatment occurred prior to or during the time this suspension is in effect. These records shall include documentation of the results of all tests conducted to evaluate Respondent's fitness and his clinical competence to practice the Profession. Such records shall include, but not be limited to, documentation of his participation in the program(s) of the Committee for Physicians' Health of the New York State Medical Society, or other equivalent program(s).
- 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 and an independent current psychiatric evaluation by a board certified psychiatrist.
- g. Respondent's attendance at, participation in, and cooperation with an interview conducted by personnel of OPMC, upon the request of the Director.
- h. At the direction of the Director, a report of a complete clinical competency assessment performed by a program for such assessment, such program to be proposed by Respondent and subject to the prior written approval of the Director of OPMC.

Provision of the aforesaid documents will not alone constitute a showing that Respondent is no longer incapacitated for active practice of the Profession.

4. At the proceeding referred to in paragraph 2, Respondent shall provide the committee, at a minimum, with the following:

- a. Certified true and complete copies of records of any and all treatment in a residential rehabilitation or day-treatment program or intensive treatment in an out-patient service and any other psychiatric, psychological, and/or mental health treatment, evaluation, and/or testing, whether in an out-patient, in-patient, office, or 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 Respondent's illness.
- c. Evidence that Respondent has maintained adequate knowledge and competence to practice the Profession. 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 Respondent's medical knowledge and competence.

Submission of the aforesaid evidence shall not, alone, constitute a showing that Respondent is no longer incapacitated for the active practice of the Profession.

5. If the Chairperson of the Committee issues an order (Order) finding that Respondent has successfully completed the prescribed course of treatment and has regained fitness and competence to practice the Profession, therefore staying the suspension of Respondent's license, the Order shall further impose a period of probation, pursuant to New York Public Health Law §230-a, during which Respondent's practice of the Profession be subject to conditions imposed. Respondent's practice shall be subject to such conditions for the duration of his practice, unless specifically modified by the Committee. The minimum conditions shall include:

- a. Respondent shall remain drug and alcohol free.
- b. Respondent's sobriety will be monitored by a health care professional, proposed by Respondent and approved in writing by the Director of OPMC, in accordance with the conditions imposed by the Order. Said monitor shall acknowledge his/her willingness to comply with the

monitoring by executing the acknowledgment provided by OPMC, and referred to in paragraph 3c.

- i. Said monitor shall be familiar with Respondent's history of impairment, with this Consent Agreement and Order, and with the conditions of practice imposed by the Order. Said monitor shall not be Respondent's treating physician.
  - ii. Said monitor shall see Respondent at least twice during a quarter.
  - iii. Said monitor shall direct Respondent 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.
  - iv. Said monitor shall report to OPMC any noncompliance with the imposed conditions.
  - v. Said monitor shall not be a personal friend of Respondent's.
  - vi. Said monitor shall submit to OPMC quarterly reports either certifying Respondent's compliance, or detailing Respondent's 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.
- c. Respondent shall be required to comply with the terms of a continuing after-care treatment plan that addresses the major problems associated with his illness.
- d. At the direction of the Director of OPMC, Respondent shall 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 Respondent's condition and his fitness or incapacity to practice the

Profession.

- e. Respondent shall be supervised in Respondent's practice by a licensed physician, proposed by Respondent and approved in writing by the Director of OPMC, in accordance with the conditions contained in or annexed to the Order. Said supervising physician shall be familiar with Respondent's history of substance abuse and with the Order and its conditions. Said supervising physician shall supervise Respondent's compliance with the conditions of practice imposed by the Order. Said supervising physician shall be in a position regularly to observe and assess Respondent's practice. Said supervising physician shall acknowledge his/her willingness to comply with the supervision by executing the acknowledgment provided by OPMC.
  - i. Said supervising physician shall submit to OPMC quarterly reports regarding the quality of Respondent's practice, any unexplained absences from work and certifying his compliance or detailing his failure to comply with each condition imposed.
  - ii. Said supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practices or possible misconduct to OPMC.
  
- f. Respondent shall continue in treatment with a health care professional, proposed by him and approved, in writing, by the Director of OPMC, for as long as the health care professional determines it is necessary.
  - i. Respondent's treating health care professional or program shall submit to OPMC quarterly reports certifying that Respondent is complying with the treatment.
  - ii. Said treating health care professional shall report to OPMC immediately if Respondent is noncompliant with his treatment plan or if he

demonstrates any significant pattern of absences.

- iii. Said treating health care professional shall acknowledge his/her willingness to comply with the above-mentioned reporting by executing the acknowledgment provided by OPMC.

6. The terms set out in paragraph 5 shall be the minimum probation terms, related to Respondent's fitness to practice, to be imposed on his practice upon restoration of his license, and that other terms may be added by the Committee at the time of license restoration, and that the costs of complying with all such terms will be Respondent's responsibility. Any failure by Respondent to comply with the conditions imposed upon his practice at the time of license restoration, may result in disciplinary action being brought against him charging professional misconduct as defined by the New York State Education Law, including but not limited to N.Y. Educ. Law Section 6530(29). That section defines professional misconduct to include "violating any... condition... imposed on the licensee pursuant to section two hundred thirty of the public health law."

7. Upon any denial of license restoration made by the Committee, Respondent shall not again request convening of a Committee until a minimum period of nine months has elapsed since such denial.

8. In addition to the terms set out in paragraph 5 and any other terms imposed by the Committee upon restoration of Respondent's license, he shall also be subject to the following standard terms of probation:

- a. Respondent shall conduct himself or herself in all ways in a manner befitting Respondent's professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by the Profession.
- b. Respondent shall submit written notification of all sites of employment and/or medical practice to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 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. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent 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. Any period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of the Profession in New York State. Respondent shall notify the Director of OPMC, in writing, if he is not currently engaged in or intends to leave the active practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation that were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State. The tolling provision set forth in this paragraph may be waived by the Director of the OPMC, in the Director's discretion.
- f. Respondent's 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 Respondent and Respondent's staff at practice locations or OPMC offices.

- g. Respondent shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
- h. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

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

IN THE MATTER  
OF  
LOWELL GARNER, M.D.

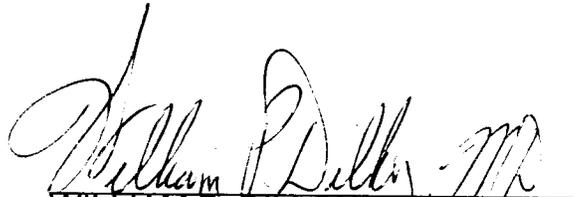
CONSENT  
ORDER

Upon the proposed agreement of LOWELL GARNER, 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: 5/29/01

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

**EXHIBIT "C"**  
**FINE PAYMENTS**

Unless otherwise specified herein, the fine is payable in full within thirty (30) days of the effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management  
New York State Department of Health  
Empire State Plaza  
Corning Tower, Room 1245  
Albany, New York 12237

## **GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine 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 the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order notify his 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 which 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 or her 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 their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
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 or otherwise, professional stationery or billings by which his eligibility to practice is represented.
8. Respondent shall not charge, receive or share any fee or distribution of

dividends for professional services rendered by himself 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 his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. 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 the Respondent is found guilty and may include revocation of a suspended license.