

Public

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

IN THE MATTER OF SUSAN CHLEBOWSKI, M.D. MODIFICATION ORDER
BPMC No. #04-215

Upon the proposed Application for a Modification Order of SUSAN CHLEBOWSKI, M.D. (Respondent), that is made a part of this Modification Order, it is agreed and

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

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

SO ORDERED.

DATED: 5-12-2009

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

IN THE MATTER
OF
SUSAN CHLEBOWSKI, M.D.

APPLICATION FOR
MODIFICATION ORDER

SUSAN CHLEBOWSKI, M.D., (Respondent) being duly sworn deposes and says:

That on or about May 3, 1994, I was licensed to practice as a physician in the State of New York, and issued License No. 195621 by the New York State Education Department. My current address is Redacted Address

I am currently subject to Consent Order BPMC No. 04-215, (hereinafter "Original Order"), annexed hereto, made a part, hereof, and marked as Exhibit 1, that was issued on September 24, 2004.

I apply, hereby, to the State Board for Professional Medical Conduct for a Modification Order (hereinafter "Modification Order"), modifying the Original Order, as follows: to delete the material in the Original Order that states:

"Additionally, prior to practicing medicine outside of the specialty of psychiatry, I will undergo an evaluation of my clinical skills at a program subject to the approval of the Director of OPMC, in accordance with the Conditions set out in Exhibit "C". Any such practice of medicine outside of the specialty of psychiatry shall be subject to monitoring for 3 years. I agree that I shall otherwise be subject to and comply with the conditions attached hereto as Exhibits "B" and "C";

and also deleting the material in the Original Order that is identified as "Exhibit C", thus deleting the following material that states:

EXHIBIT C

Conditions For Practice Outside of Psychiatry

CLINICAL COMPETENCY ASSESSMENT

1. Respondent shall inform the Director in writing of her intent to engage in the practice of medicine outside the specialty of psychiatry. Such notice shall include, among other information, the specialty area of practice. Failure to notify the Director in writing will result in a violation of the Order. Prior to engaging in the practice of medicine outside of her specialty area, Respondent shall obtain a clinical competency assessment performed by a program for such assessment as directed by the Director of OPMC. Within 45 days of such assessment, Respondent shall cause a written report of such assessment to be provided directly to the Director of OPMC. Respondent shall comply with all recommendations for retraining contained in such assessment as directed by the Director of OPMC.
 - a. Respondent shall be responsible for all expenses related to the clinical competency assessment and shall provide to the Director of OPMC proof of full payment of all costs that may be charged. This term of condition shall not be satisfied in the absence of actual receipt, by the Director, of such documentation, and any failure to satisfy this requirement shall be a violation of the Order.

CONTINUING MEDICAL EDUCATION

2. In addition to completing any retraining recommendations, Respondent shall enroll in and complete a continuing education program (CME) in the area of medical record keeping and for each of the three years of monitoring described below, complete a minimum of fifty (50) credit hours in the area of Internal / General Medicine. Should the Respondent's practice of medicine include anesthesiology, Respondent shall be required to annually attend and complete a minimum of twenty (20) Category 1 CME hours in the area of airway management, and post anesthesia recovery. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the monitoring period, unless the Order specifies otherwise.

PRACTICE MONITOR

[PRACTICE OUTSIDE OF PSYCHIATRY]

3. Respondent shall practice medicine outside the specialty of psychiatry 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. Such monitor shall also oversee the Respondent's medical practice for a period of three years.
 - a. Respondent shall make available to the monitor(s) any and all records or access to the practice requested by the monitor(s), including on-site observation. The practice monitor(s) 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(s) 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(s).
- c. Respondent shall cause the practice monitor(s) 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.

- 4. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the

Director of OPMC and/or the Board may initiate any proceeding authorized by law, against Respondent."

The Modification Order to be issued will not constitute a new disciplinary action against me, but will delete the identified language 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 of the Board of this Application, I knowingly waive the right to contest the Original Order or the Modification Order for which I apply, both administratively and judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Bureau of Professional Medical Conduct, the Director of the Office of Professional Medical Conduct, and the Chair of the State Board for Professional Medical Conduct each retain complete discretion to either enter into the proposed Agreement and Modification 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.

AFFIRMED:

DATED: 4/28/09

Redacted Signature

SUSAN CHLEBOWSKI, M.D.
Respondent

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

DATE: 4/30/09

Redacted Signature

MICHAEL A. HISER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/8/09

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
SUSAN M. CHLEBOWSKI, M.D.

CONSENT
ORDER

BPMC No. 04-215

Upon the application of (Respondent) SUSAN M. CHLEBOWSKI, 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 SO ORDERED, and it is further

ORDERED, that this 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.

DATED: 9/23/04

Redacted Signature

MICHAEL A. GONZALEZ, R.P.A.
Vice Chair
State Board for Professional Medical Conduct

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

IN THE MATTER
OF
SUSAN M. CHLEBOWSKI, M.D.

CONSENT
AGREEMENT
AND
ORDER

SUSAN M. CHLEBOWSKI, M.D., representing that all of the following statements are true, deposes and says:

That on or about May 3, 1994, I was licensed to practice as a physician in the State of New York, and issued License No. 195621 by the New York State Education Department.

My current address is : Redacted Address

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 has charged me with Seven Specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I do not contest factual allegations A.1, A.4, A.5, C.2, D.1 as they relate to the Fifth Specification [negligence on more than one occasion], and I admit factual allegations C.2, D.1, D.2, and D.3, as they relate to the Seventh Specification [failing to maintain accurate records], in full satisfaction of the charges against me, and agree to the following penalty:

That I shall receive a censure and reprimand, and that I comply with the terms of probation attached hereto as Exhibit "B" effective immediately and ending one year after my

successful completion of my psychiatry residency. Additionally, prior to practicing medicine outside of the specialty of psychiatry, I will undergo an evaluation of my clinical skills at a program subject to the approval of the Director of OPMC, in accordance with the Conditions set out in Exhibit "C". Any such practice of medicine outside of the specialty of psychiatry shall be subject to monitoring for 3 years. I agree that I shall otherwise be subject to and comply with the conditions attached hereto as Exhibits "B" and "C". I further agree that the Consent Order shall impose the following conditions:

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this 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 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 Order shall constitute misconduct as defined by New York State Education 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 Public 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 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.

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 ask that the Board adopt this Consent Agreement.

Redacted Signature

DATED 7/8/04

SUSAN M. CHLEBOWSKI, M.D.
RESPONDENT

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

DATE: 9/8/04

Redacted Signature

~~WILFRED T. FRIEDMAN, ESQ.~~
Attorney for Respondent

DATE: 9/10/04

Redacted Signature

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

DATE: 9/21/04

Redacted Signature

~~DENNIS J. GRAZIANO~~
Director
Office of Professional Medical Conduct

IN THE MATTER

STATEMENT

OF

OF

SUSAN M. CHLEBOWSKI, M.D.

CHARGES

SUSAN M. CHLEBOWSKI, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 3, 1994, by the issuance of license number 195621 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care to Patient A [Patients are identified in the attached appendix], a 49 year old male, at the Rochester General Hospital, 1425 Portland Avenue, Rochester, New York, 14621 on or about July 30, 2001. Respondent was the attending anesthesiologist when the patient underwent an exploratory laparotomy, right colectomy with ileal transverse colostomy and diverting loop ileostomy on that date. After extubation in the operating room, the patient experienced cardiac arrest followed by death. Respondent's care of Patient A failed to meet minimum standards of care in that:
1. Respondent, after ceasing the ventilation and/or bagging of the patient, inappropriately then extubated him, despite evidence that the patient's oxygenation was compromised.
 2. Respondent inappropriately separated the patient from the anesthesia machine without providing an adequate alternative method to support the patient's respirations in the immediate post-operative period.
 3. Respondent, after extubating the patient, and while the patient's respiratory status was compromised, delayed an inappropriate period of time before seeking to re-intubate him, despite evidence that the patient was in need of re-intubation such as having abnormal skin color.

4. Respondent failed to appropriately manage the patient's airway post-operatively by, among other things, (1) failing to appropriately monitor the patient, and (2) failing to appropriately ventilate the patient following the conclusion of the operation.
5. Respondent failed to adequately document relevant medical information related to the provision of anesthesia to Patient A, including oxygen saturations before and after the re-intubation.

B. Respondent provided medical care to Patient B, a 58 year old male, at the Lattimore Community Surgicenter, 125 Lattimore Road, Rochester, New York, 14620, on or about January 18, 2000. Respondent was the attending anesthesiologist when the patient was scheduled to undergo a left knee arthroscopy on that date. After the induction of anesthesia, but prior to the start of surgery, the patient experienced cardiac arrest followed by death. Respondent's care of Patient B failed to meet minimum standards of care in that:

1. Respondent, once the patient began showing signs of impaired oxygenation shortly after intubation by Respondent, failed to ensure that the patient was appropriately intubated in the trachea.
2. Respondent, despite the patient showing signs of continued impaired oxygenation after intubation by Respondent, failed to take appropriate steps to check for the possibility of esophageal intubation, including the use of laryngoscopy.

C. Respondent provided medical care to Patient C, a 95 year old female, at the Rochester General Hospital on or about June 16, 2001. Respondent was the attending anesthesiologist when the patient underwent an open cholecystectomy on that date. Following extubation, Respondent

transported the patient to the surgical intensive care unit [SICU].

Respondent's care of Patient C failed to meet minimum standards of care in that:

1. Respondent, at the time of transport to the SICU at approximately 12:55 p.m., failed to appropriately monitor, evaluate, and treat the patient.
2. Respondent documented in her post anesthesia note that the patient had shown no anesthetic complications as of 3:00 p.m. on "June 15, 2001" [sic]. In fact, as of 3:00 p.m. the patient had (1) been re-intubated due to respiratory problems, (2) was experiencing sinus tachycardia, (3) was described twice as having "agonal breathing", (4) had received two doses of Narcan by ICU personnel in an attempt to treat respiratory failure, and 5) had arterial blood gas results that demonstrated impaired respiratory status.

D. Respondent provided medical care to Patient D, a 60 year old male, at the Rochester General Hospital on or about June 6, 2001. Respondent was the attending anesthesiologist when the patient underwent a repair and oversewing of a right femoral artery pseudoaneurysm on or about that date. Following extubation, the patient was taken to the Post Anesthesia Care Unit [PACU]. Respondent's care of Patient D failed to meet minimum standards of care in that:

1. Respondent failed to adequately document the care she provided and/or oversaw for the patient between approximately "1730", her last noted time on the anesthesia record, to approximately 1829, when the patient arrived at the Post Anesthesia Care Unit.
2. Respondent's post-anesthesia evaluation for the patient is dated 6/6/01 at a time of "18[00]", when in fact the patient should not have been evaluated for post anesthetic complications at such time, which was only ½ hour after Respondent's last documented note on the intra-operative anesthesia record.
3. Respondent's post-anesthesia evaluation for the patient, dated 6/6/01 at a time of "18[00]", indicates that the patient had "no known anesthetic complications/anesthesia surveillance terminated". In fact,

the patient remained in the PACU for over 4 hours, from approximately 1829 until approximately 2245, during which time the Respondent and other physicians came personally to evaluate the patient, and ordered multiple medical interventions, including a CT scan of the head to rule out an intra cranial bleed.

SPECIFICATION OF CHARGES

FIRST AND SECOND SPECIFICATIONS 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:

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

THIRD AND FOURTH SPECIFICATIONS GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

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

FIFTH 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 two or more of the following:

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

SIXTH 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 two or more of the following:

6. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, B and B.1, B and B.2, C and C.1, C and C.2, D and D.1, D and D.2, and/or D and D.3.

**SEVENTH 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:

7. The facts in Paragraph A and A.5, C and C.2, D and D.1, D and D.2, and/or D and D.3.

DATED: July 26, 2004
Albany, New York

Redacted Signature

**Peter D. Van Buren
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 New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such 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, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (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 thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms.
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 and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.

8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
9. Respondent is presently enrolled in a residency program in psychiatry. From the effective date of this Order, and until Respondent successfully completes the psychiatry residency program, Respondent shall not practice medicine outside of the residency program.

PRACTICE MONITOR

10. Respondent is presently enrolled in a residency program in psychiatry. Beginning 30 days after Respondent is no longer enrolled in or otherwise training in a residency program in psychiatry, and continuing for a period of one year thereafter, Respondent shall practice medicine in either private practice, hospitals or other institutional settings, 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.
 - a. Respondent shall make available to the practice monitor any and all records or access to the practice requested by the practice 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 less 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 cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - c. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician(s).
 - 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.

CONTINUING MEDICAL EDUCATION

11. Respondent shall enroll in and complete a continuing education program (CME) in the area of medical record keeping proposed by Respondent and

approved in writing by the Director of OPMC. Such CME shall be completed within the period of probation.

12. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate any proceeding authorized by law, against Respondent.

EXHIBIT C

Conditions For Practice Outside of Psychiatry

CLINICAL COMPETENCY ASSESSMENT

1. Respondent shall inform the Director in writing of her intent to engage in the practice of medicine outside the specialty of psychiatry. Such notice shall include, among other information, the specialty area of practice. Failure to notify the Director in writing will result in a violation of the Order. Prior to engaging in the practice of medicine outside of her specialty area, Respondent shall obtain a clinical competency assessment performed by a program for such assessment as directed by the Director of OPMC. Within 45 days of such assessment, Respondent shall cause a written report of such assessment to be provided directly to the Director of OPMC. Respondent shall comply with all recommendations for retraining contained in such assessment as directed by the Director of OPMC.
 - a. Respondent shall be responsible for all expenses related to the clinical competency assessment and shall provide to the Director of OPMC proof of full payment of all costs that may be charged. This term of condition shall not be satisfied in the absence of actual receipt, by the Director, of such documentation, and any failure to satisfy this requirement shall be a violation of the Order.

CONTINUING MEDICAL EDUCATION

2. In addition to completing any retraining recommendations, Respondent shall enroll in and complete a continuing education program (CME) in the area of medical record keeping and for each of the three years of monitoring described below, complete a minimum of fifty (50) credit hours in the area of Internal / General Medicine. Should the Respondent's practice of medicine include anesthesiology, Respondent shall be required to annually attend and complete a minimum of twenty (20) Category 1 CME hours in the area of airway management, and post anesthesia recovery. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the monitoring period, unless the Order specifies otherwise.

PRACTICE MONITOR [PRACTICE OUTSIDE OF PSYCHIATRY]

3. Respondent shall practice medicine outside the specialty of psychiatry 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. Such monitor shall also oversee the Respondent's medical practice for a period of three years.

- a. Respondent shall make available to the monitor(s) any and all records or access to the practice requested by the monitor(s), including on-site observation. The practice monitor(s) 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(s) 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(s).
 - c. Respondent shall cause the practice monitor(s) 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.
4. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate any proceeding authorized by law, against Respondent.