



Department of Health

ANDREW M. CUOMO
Governor

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

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

August 15, 2017

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Carlos R. Neyra, P.A.



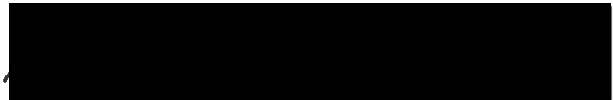
Re: License No. 013299

Dear Mr. Neyra:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 17-230. This order and any penalty provided therein goes into effect August 22, 2017.

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

Sincerely,



Robert A. Catalano, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Andrew M. Knoll, Esq.
Cohen, Compagni, Beckman, Appler & Knoll, PLLC.
507 Plum Street, Third Floor
Syracuse, New York 13204

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

IN THE MATTER
OF
CARLOS NEYRA, P.A.

BPMC No. 17-230
CONSENT
ORDER

Upon the application of (Respondent) CARLOS NEYRA, P.A. in the attached Consent Agreement and Order, which is made a part of this Consent Order; it is

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

ORDERED, that this Consent Order shall be effective upon issuance by the Board, either by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney,

OR

upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 8/12/2017



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

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

**IN THE MATTER
OF
CARLOS NEYRA, P.A.**

**CONSENT
AGREEMENT**

CARLOS NEYRA, P.A., Respondent, (hereinafter "Licensee"), represents that all of the following statements are true:

That on or about June 16, 2009, I was registered as a physician assistant in the State of New York, and issued Registration No. 013299 (now License No. 013299) by the New York State Education Department.

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

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

I plead guilty to the First Specification in full satisfaction of the charges against me, and agree to the following penalty:

My license to perform medical services as a physician assistant shall be suspended for an indefinite period but no less than 12 months. During the period of suspension, I shall be precluded from reliance upon my license to perform medical services as a physician assistant to exempt me from the license, certification or other requirements set forth in

statute or regulation for the practice of any other profession licensed, regulated, or certified by the Board of Regents, Department of Education, Department of Health or the Department of State. Upon compliance with all the conditions of this Consent Order, I may petition the Board for a Modification Order staying the indefinite suspension of my license to perform medical services as a physician assistant.

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 performance of medical services as a physician assistant;

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; and

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

- That Respondent shall comply with each and every penalty imposed by this Order pursuant to N.Y. Pub. Health Law § 230-a; and
- That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ. Law § 6541 including, but not limited to, the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that

a licensee shall pay all registration fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee as a physician assistant in New York State; and

- That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and performance of medical services as a physician assistant; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; and
- That Respondent shall cooperate fully with OPMC in its administration and enforcement of this Consent Order and in its investigation of all matters concerning Respondent. Respondent shall respond promptly to all OPMC

requests for written periodic verification of Respondent's compliance with the terms of this Consent Order. Respondent shall meet with a person designated by the Director of OPMC, and shall promptly provide OPMC with 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 as a physician assistant in New York State.

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

If I am charged with professional misconduct in future, I hereby stipulate and agree that this Application and Consent Order, and/or related Modification Orders, shall be admitted into evidence in that proceeding as part of the Department's case-in-chief, at the sole discretion of the Department.

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.

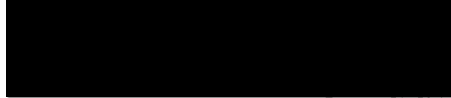
I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon issuance by the Board, either by mailing of a copy of the Consent Order by

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. This Consent Order, this Consent Agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE: 8/7/2017



CARLOS NEYRA, P.A. *o*
Respondent

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

COHEN, COMPAGNI, BECKMAN, APPLER & KNOLL, PLLC

DATE: 8/7/17

BY: 

ANDREW M. KNOLL, M.D., ESQ.
Attorney for Respondent

DATE: 8/7/17



JEFFREY J. CONKLIN, ESQ.
Associate Attorney
Bureau of Professional Medical Conduct

DATE: 8/9/17



KEITH W. SERVIŠ
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
CARLOS NEYRA, P.A.

CARLOS NEYRA, P.A., the Respondent, was registered as a physician assistant in New York State on June 16, 2009, by the issuance of Registration No. 013299 (now License No. 013299) by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about February 27, 2017, the New York State Board for Professional Medical Conduct issued an Order (BPMC No. 17-059), a copy of which is annexed hereto and made a part hereof as Attachment "A". On February 28, 2017, copies of the Order, Consent Agreement, Statement of Charges, and Probation Terms were served upon the Respondent by certified mail, return receipt requested. The effective date of the Order was March 7, 2017. Pursuant to the New York State Public Health Law §230-a (9), the Respondent was placed on probation for sixty (60) months, subject to the terms set forth in the above referenced Attachment "A". Probation Term "8", among other things, required that the Respondent remain free from alcohol. On May 27, 2017, June 24, 2017, and July 10, 2017, the Respondent tested positive for alcohol, as documented by urine drug screens.
- B. Probation Term "8" among other things, required that the Respondent not self-prescribe any medications. Since the effective date of BPMC NO. 17-059, Respondent has issued prescriptions for Phentermine and Alprazolam for self-use.

SPECIFICATIONS OF MISCONDUCT
FIRST SPECIFICATION
VIOLATIONS OF BOARD ORDER

Respondent is charged with committing professional misconduct as defined in New York Education Law Section 6530 (29) by reason of violations of Probation Term "8" of BPMC No. 17-059, as alleged in the following:

1. The facts in Paragraph A.

SECOND SPECIFICATION
VIOLATIONS OF BOARD ORDER

Respondent is charged with committing professional misconduct as defined in New York Education Law Section 6530 (29) by reason of violations of Probation Term "8" of BPMC No. 17-059, as alleged in the following:

2. The facts in Paragraph B.

DATED: Albany, New York
August 7, 2017



ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct

IN THE MATTER
OF
CARLOS NEYRA, P.A.

CONSENT
ORDER

Upon the application of CARLOS NEYRA, P.A., (Respondent) in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

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

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

SO ORDERED.

DATE 2/27/2017


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

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

IN THE MATTER
OF
CARLOS NEYRA, P.A.

CONSENT
AGREEMENT

CARLOS NEYRA, P.A., represents that all of the following statements are true:

That on or about June 16, 2009, I was registered as a physician assistant in the State of New York, and issued Registration No. 013299 by the New York State Education Department.

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

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

I do not contest the First Specification of the charges against me, and agree to the following penalty:

Pursuant to New York Public Health Law §230-a(1), I shall be subject to a Censure and Reprimand.

Pursuant to New York Public Health Law §§230-a(7) and (9), I shall be subject to a fine in the amount of One Thousand Five Hundred Dollars (\$1,500.00), to be paid in full within 30 days of the effective date of this Order. Payments must be submitted to:

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

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

Physician Monitoring Program
Office of Professional Medical Conduct
Riverview Center
150 Broadway, Suite 355
Albany, New York 12204-2719.

to and made a part of this Consent Agreement.

Pursuant to New York Public Health Law §230-a(9), I shall be placed on probation for sixty (60) months, subject to the terms set forth in the attached Exhibit "B".

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

That Respondent shall comply with each and every penalty imposed by this Order pursuant to New York Public Health Law §230-a; and

That Respondent shall remain in continuous compliance with all requirements of New York Education Law §6502, including but not limited to the requirements that a physician assistant (licensee) shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in New York Education Law §6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that

OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by New York 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 New York 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 Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Consent Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by New York Public Health Law §§230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right

to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE: February 10, 2016



CARLOS NEYRA, P.A. 0 1
Respondent

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

DATE: February 14, 2017

[REDACTED]
JEFFREY J. CONKLIN, ESQ.
Associate Attorney
Bureau of Professional Medical Conduct

DATE: 2/24/17

[REDACTED]
KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER
OF
CARLOS NEYRA, P.A.

STATEMENT
OF
CHARGES

CARLOS NEYRA, P.A., the Respondent, was registered as a physician assistant New York State on June 16, 2009, by the issuance of registration number 013299 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 22, 2015, the Respondent was involved in an automobile accident in Hempstead, New York. At that time, the Respondent was arrested and charged with, among other things, Driving While Intoxicated (D.W.I.). On or about June 10, 2016, in the Nassau County Court, State of New York, Respondent was convicted of D.W.I., in violation of New York State Vehicle and Traffic Law §1192.3. Based upon a previous D.W.I. within 10 years, the conviction constituted a Class E felony. The Respondent was sentenced to imprisonment for 15 days, license revocation for one year, probation for 3 years, requirement to only operate a motor vehicle for 3 years equipped with an ignition interlock device, and requirement to pay \$1,070 for a fine, court fees, and surcharge.

B. The Respondent's conviction of Driving Under the Influence, in violation of Vehicle and Traffic Law § 1192.3(03), a felony, constitutes a crime pursuant to New York State law.

SPECIFICATION OF MISCONDUCT

First Specification
Criminal Conviction

Respondent is charged with committing professional misconduct as defined in New York Education Law Section 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York State law, to wit: New York Vehicle and Traffic Law Section 1192.3(03), as alleged in the facts of the following:

1. The facts in Paragraphs A and B.

DATE: February 16, 2017
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"**Terms of Probation**

- 1) Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
- 2) Respondent shall 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.
- 3) Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
- 4) The probation period shall toll when Respondent is not engaged in performing medical services as a physician assistant in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, the performance of medical services as a physician assistant in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to providing medical services as a physician assistant. Upon Respondent's return to providing medical services as a physician assistant in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
- 5) The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
- 6) Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education,

training and oversight of all office personnel involved in medical care, with respect to these practices.

- 7) 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.
- 8) Respondent shall remain free from alcohol and all other mood altering substances other than those prescribed for Respondent's treatment by a licensed health care professional aware of Respondent's history of chemical dependency and/or mental illness. Respondent shall not self-prescribe any medications.
- 9) Respondent shall remain active in self-help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
- 10) Respondent shall notify all treating physicians of Respondent's history of substance abuse. Respondent shall advise OPMC of any controlled or mood-altering substance given or prescribed by treating health care professionals.
- 11) Beginning 30 days after the effective date of the Consent Order's, Respondent shall not be permitted to perform medical services as a physician assistant except when monitored by qualified health care professional monitors: a Sobriety Monitor, a Practice Supervisor, and a Therapist, proposed by Respondent and approved, in writing, by the Director of OPMC. Any performance of medical services as a physician assistant in violation of this term shall constitute the unauthorized practice of medicine,

Within 7 days of learning an approved monitor is no longer willing or able to serve, Respondent shall submit the name of a proposed successor to the Director of OPMC. Monitors shall not be family members or personal friends or be in professional relationships that would pose a conflict with monitoring responsibilities. All monitors shall execute acknowledgment forms provided by OPMC certifying familiarity with Respondent's history of substance abuse, with this Order and its terms, and acknowledging a willingness to comply with the monitor's reporting responsibilities regarding Respondent's compliance with the terms of this Order.

- a) Respondent shall ensure that the monitors are familiar with Respondent's history of substance abuse and with the terms of this Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitors to submit required reports on a timely basis.
- b) Respondent shall submit to random, unannounced observed blood, breath, hair, and/or urine screens for the presence of drugs and alcohol (hereafter "drug screen"), when requested by a monitor. The monitoring shall be on a

random, unannounced, directly-observed, 7-day-a-week, 24-hour-a-day basis. Respondent shall report for a drug screen within 4 hours of being contacted by a monitor. Monitors shall report to OPMC immediately if Respondent refuses or delays a test or if a test is positive for alcohol, or any other unauthorized drug or substance. Respondent shall avoid all substances that may cause positive urine drug screens, such as poppy seeds, mouthwash or cough medicine. Any positive test result shall constitute a violation of the terms of this Order.

- c) Respondent shall meet regularly with a Sobriety Monitor. During the first 12 months of monitoring, Respondent shall cause the Sobriety Monitor to obtain drug screens at a frequency of no less than 6 times per month. If Respondent is compliant throughout the first 12-month period, subsequent drug screens shall be obtained at a frequency to be proposed by the Sobriety Monitor and approved by OPMC. Respondent shall cause the Sobriety Monitor to submit quarterly reports to OPMC certifying Respondent's sobriety or lack of sobriety. These reports are to include forensically valid results of all drug screens performed and an assessment of self-help group (e.g., AA/NA/Caduceus) attendance and 12-step progress.
- d) Respondent shall perform medical services as a physician assistant only when supervised in medical practice by a licensed physician (hereafter "Practice Supervisor"). The Practice Supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC, and shall be in a position to regularly observe and assess Respondent's performance of medical services as a physician assistant. The Practice Supervisor shall oversee Respondent's compliance with the terms of the performance of medical services imposed by the Order and Respondent's prescribing, administering, dispensing, inventorying, wasting and disposal of controlled substances. Respondent shall cause the Practice Supervisor to report to OPMC immediately any suspected impairment, inappropriate behavior, questionable performance of medical services, possible misconduct, or violation by Respondent of any of the terms of this Order. Respondent shall cause the Practice Supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's performance of medical services and prescribing practices, any unexplained absences from work, and certifying Respondent's compliance or detailing Respondent's failure to comply with each term imposed.
- e) Respondent shall engage and continue in therapy with a treating health care professional (hereafter "Therapist"). Respondent shall cause the Therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment

plan. OPMC, at its discretion, may provide information or documentation from its investigative files concerning Respondent to Respondent's Therapist. Respondent shall cause the Therapist to report to OPMC immediately if Respondent leaves treatment against medical advice or displays any symptoms of a suspected or actual relapse. Respondent shall cause the Therapist to notify OPMC, in writing, of any termination of treatment approved by the Therapist, no less than 30 days prior to such termination.

- 12) At the direction of the Director of OPMC, Respondent shall submit to evaluations by a board-certified psychiatrist, licensed mental health practitioner or other health care professional or program designated by the Director (hereafter "Evaluator.") Respondent shall provide the Evaluator with a copy of this Order and copies of all previous treatment records. OPMC, at its discretion, may provide information or documentation from its investigative files concerning Respondent to Respondent's Evaluator. The Evaluator shall report to the Director regarding Respondent's condition and fitness or incapacity to practice medicine. Respondent shall comply with all treatment recommendations based upon the evaluation; failure to comply with such treatment recommendations shall constitute professional misconduct.
- 13) Respondent shall enroll, or continue enrollment, in the Committee for Physician Health (CPH) and shall engage in a contract with CPH that defines the terms, conditions and duration of Respondent's recovery program. Respondent shall comply with the contract. Respondent shall give written authorization for CPH to provide the Director of OPMC with all information or documentation requested by OPMC to determine whether Respondent is in compliance with the contract and with this Order, including full access to all records maintained by CPH with respect to Respondent.
 - a) Respondent shall cause CPH to report to OPMC promptly if Respondent refuses to comply with the contract, refuses to submit to treatment or if Respondent's impairment is not substantially alleviated by treatment.
 - b) Respondent shall cause CPH to report immediately to OPMC if Respondent is regarded at any time to be an imminent danger to the public.
- 14) Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.
- 15) Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a

violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

EXHIBIT "B"

- 1) The suspension of Respondent's license shall be terminated only after Respondent makes a showing to the satisfaction of a Committee on Professional Conduct (Committee) of the State Board for Professional Medical Conduct (Board) that Respondent has successfully complied with or successfully completed a course of therapy and ongoing evaluation and is no longer incapacitated from the performance of medical services as a physician assistant, and a Committee makes a determination that Respondent is both fit and clinically competent to perform medical services as a physician assistant. Respondent shall provide the Office of Professional Medical Conduct (OPMC) with a proposed treatment plan for advice as to whether it is generally appropriate; however, the determination of successful compliance with or completion of a course of therapy, and the determination that Respondent is no longer incapacitated for the active performance of medical services as a physician assistant, shall be made solely by the Committee.

- 2) After Respondent completes at least 12 months of suspension pursuant to the terms of this Consent Order, and upon Respondent's request which may be initiated after 6 months of suspension, a Committee shall be convened to hear and evaluate Respondent's showing, as set forth in paragraph 1 above. The Board will make reasonable attempts to convene a Committee within 90 days of Respondent's request (although in no event shall it be convened prior to completion of 12 months of suspension); however, Respondent's request shall not be perfected until the Director of OPMC receives all the required documentation, and complies with all the Conditions, set forth in paragraph 3 below. The Board shall determine the procedural nature of the proceeding through the exercise of the Director of OPMC's reasonable discretion upon consultation with Counsel, Bureau of Professional Medical Conduct (Counsel). Proceedings before a Committee shall not be in the nature of a hearing pursuant to N. Y. Pub. Health Law § 230, but shall instead be informal and intended only to address any facts, evidence, information, circumstances, or issues relating to the advisability of terminating Respondent's physician assistant license suspension. The Committee shall be given access to evidence including, but not limited to:
 - a) Any evidence pertaining to Respondent's compliance with the conditions imposed.

 - b) Any evidence that the Director or Counsel deems appropriate.

- 3) Upon requesting that a Committee be convened, pursuant to paragraph 2, Respondent shall provide the Director of OPMC with the following:

- a) The signed acknowledgment and curriculum vitae from the proposed toxicology monitor referred to in paragraph 5c.
- b) The signed acknowledgment and curriculum vitae from the proposed supervising physician referred to in paragraph 5d.
- c) The signed acknowledgment and curriculum vitae from the proposed health care professional referred to in paragraph 5e.
- d) Certified true and complete copies of all evaluation and treatment records relating to Respondent's substance abuse/dependence, psychological, psychiatric and/or mental health treatment, whether in an in-patient, out-patient, after-care or consultation setting; the certified records shall be forwarded directly to OPMC by the treatment providers, facilities and evaluators. The records shall reflect all treatment and evaluation provided, and shall include the results of all tests conducted to evaluate Respondent's fitness and clinical competence to perform medical services as a physician assistant, whether the treatment, evaluation and testing occurred before, or while, the suspension was in effect.
- e) Documentation of Respondent's participation in the program(s) of the Committee for Physicians' Health of the Medical Society of the State of New York or other equivalent program(s). Documentation shall include but not be limited to verification of compliance and results of forensically valid alcohol/drug screening.
- f) Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records; these waivers shall comply with the requirements of federal confidentiality laws and regulations, including but not limited to: HIPAA, Public Law 104-191, et seq., and the laws governing confidentiality of substance abuse records, at 42 U.S.C. § § 290dd-3 and ee-3 and 42 C.F.R, Part 2.
- g) A current, independent, in-depth chemical dependency and psychiatric evaluation by a board-certified psychiatrist specializing in addiction medicine.
- h) Upon request of the Director of OPMC, Respondent shall attend, participate in and cooperate with an interview with designated personnel from the OPMC.

Provision of the documents listed in this paragraph shall not, alone, constitute a showing that Respondent is no longer incapacitated for active practice as a physician.

4) At least 14 days before the scheduled date of the proceeding referred to in paragraph 2, Respondent shall provide OPMC with the following:

- a) Certified true and complete copies of records updating treatment and alcohol/drug screening since the date of the original submissions referred to in paragraph 3d.
- b) Evidence that Respondent has maintained adequate knowledge and competence to work as a physician assistant; this evidence shall include documentation of continuing medical education and, at the Director of OPMC's request, a report of an independent evaluation of Respondent's medical knowledge and competence.

Submission of the evidence listed in this paragraph shall not, alone, constitute a showing that Respondent is no longer incapacitated for active work as a physician assistant.

5) If the Chair of the Committee issues an Order finding that Respondent has successfully completed the prescribed course of treatment and has regained fitness and competence to perform medical services as a physician assistant, and therefore terminates the suspension of Respondent's license, the Order shall further impose a period of probation, pursuant to N.Y. Pub. Health Law § 230-a, during which Respondent's performance of medical services as a physician assistant shall be subject to conditions imposed for a period of no less than five years. The minimum conditions shall include the following:

- a) Respondent shall be required to comply with the terms of a continuing after-care treatment plan addressing the major problems associated with Respondent's illness.
- b) 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. This practitioner shall report to the Director regarding Respondent's condition and Respondent's fitness or incapacity to perform medical services as a physician assistant.
- c) Respondent's sobriety will be monitored by a health care professional proposed by Respondent and approved, in writing, by the Director of OPMC ("toxicology monitor"). The toxicology monitor shall not be a personal friend. The toxicology monitor shall be familiar with Respondent's history of chemical dependence, with this suspension and with the terms of probation to be set forth. The toxicology monitor shall acknowledge

willingness to comply with the monitoring terms by executing the acknowledgment provided by OPMC.

- i) Respondent shall remain free from alcohol and all other mood altering substances other than those prescribed for Respondent's treatment by a licensed health care professional aware of Respondent's history of chemical dependency and mental illness. Respondent shall not self-prescribe any medications.
 - ii) The toxicology monitor shall see Respondent at least twice during each month.
 - iii) The toxicology monitor shall direct Respondent to submit to unannounced tests of Respondent's blood, breath, hair, and/or urine for the presence of drugs or alcohol and shall report to OPMC within 24 hours if at any time a test is positive or is refused by Respondent. Respondent shall avoid all substances that may cause positive urine drug screens such as poppy seeds, mouthwash, cough medicine, etc. Any positive result shall be considered a violation of probation.
 - iv) The toxicology monitor shall report to OPMC any non-compliance with the imposed conditions.
 - v) Respondent shall ensure that the toxicology monitor submits quarterly reports to OPMC 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.
- d) Respondent's performance of medical services as a physician assistant shall be supervised by a licensed physician ("practice supervisor") proposed by Respondent and approved, in writing, by the Director of OPMC. The supervising physician shall be familiar with Respondent's history of impairment and with the Order and its conditions. The supervising physician shall supervise Respondent's compliance with the conditions of his performance of medical services as a physician assistant imposed by the Order. The supervising physician shall be in a position to regularly observe and assess Respondent's performance of medical services as a physician assistant. The supervising physician shall oversee Respondent's prescribing, administering, dispensing, inventorying and wasting of controlled substances. The supervising physician shall acknowledge willingness to comply with the supervision terms by executing the acknowledgment provided by OPMC.

- i) Respondent shall ensure that the supervising physician submits quarterly reports to OPMC regarding the quality of Respondent's performance of medical services as a physician assistant, any unexplained absences from work and certifying Respondent's compliance with each condition imposed, or detailing Respondent's failure to comply.
 - ii) The supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practices or possible misconduct to OPMC.
 - e) Respondent shall continue in treatment with a health care professional or program ("health care professional") proposed by Respondent and approved, in writing, by the Director of OPMC, for as long as the health care professional determines it is necessary.
 - i) Respondent shall ensure that the health care professional submits quarterly reports to OPMC certifying that Respondent is in compliance with treatment, or detailing Respondent's failure to comply.
 - ii) The health care professional shall report to OPMC immediately if Respondent is non-compliant with the treatment plan or demonstrates any significant pattern of absences.
 - iii) The health care professional shall acknowledge willingness to comply with the reporting requirements with respect to treatment by executing the acknowledgment provided by OPMC.
 - f) Licensee shall provide the Director of OPMC with, and ensure to keep current and effective, fully executed waivers of patient confidentiality concerning any prior or prospective evaluation and treatment records; these waivers shall comply with the requirements of federal confidentiality laws and regulations, including but not limited to: HIPAA, Public Law 104-191, et seq., and the laws governing confidentiality of substance abuse records, at 42 U.S.C. § § 290dd-3 and ee-3 and 42 C.F.R., Part 2.
- 6) The terms set forth in paragraph 5 are the minimum probation terms related to fitness to practice to be imposed on Respondent upon the termination of Respondent's physician assistant registration suspension, and other terms may be added by the Committee. All compliance costs shall be Respondent's responsibility. Respondent's failure to comply with any condition imposed at the time of suspension termination may result in disciplinary action against Respondent with charges of professional misconduct as defined by the New York State Education Law, including but not limited to N.Y. Educ. Law § 6530(29).

- 7) If a Committee denies a petition by Respondent for physician assistant license suspension termination, Respondent shall be barred from requesting that a Committee be convened to hear a petition for physician assistant license suspension termination for 9 months from the date of the denial.
- 8) In addition to the terms set out in paragraph 5, and any other terms added by the Committee, upon the termination of Respondent's physician assistant license suspension, Respondent shall also be subject to the following standard terms of probation:
 - a) Respondent's conduct shall conform to moral and professional standards of conduct and governing law.
 - b) Any civil penalty not paid by Respondent by the prescribed date shall subject Respondent to all legal provisions pertaining to debt collection, including the imposition of interest, late payment charges and collection fees, referral of the debt to the New York State Department of Taxation and Finance for collection, and the non-renewal of permits or licenses. [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
 - c) The probation period shall toll when Respondent is not engaged in active performance of medical services as a physician assistant in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, the active performance of medical services as a physician assistant in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to the active performance of medical services as a physician assistant. Upon Respondent's return to the active performance of medical services as a physician assistant in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
 - d) 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, hospital charts, and/or electronic records, as well as interviews and/or periodic visits with Respondent and staff at practice locations or OPMC offices.
 - e) Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent

shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.

- f) Respondent 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.
- g) Respondent shall comply with this Consent Order and all its terms, conditions, restrictions, limitations and penalties and shall be responsible for all associated compliance costs. Upon receiving evidence of non-compliance with the Consent Order, or any violation of its terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any other proceeding against Respondent authorized by law.

EXHIBIT "C"

- 1) In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges for New York State to the DEA. Licensee shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.
- 2) Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.
- 3) Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to perform medical services as a physician assistant, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.
- 4) Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in the performance of medical services as a physician assistant. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
- 5) If Licensee is a shareholder in any professional service corporation organized to engage in the performance of medical services as a physician assistant, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.
- 6) Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment of up to 4 years, to perform medical services as a physician assistant when a professional license has been suspended, revoked or annulled. Such

punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges of which the Licensee is found guilty, and may include revocation of a suspended license.