

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Bernard Wesley Bentley, M.D.

Physician's & Surgeon's
Certificate No. G 52706

Petitioner.

Case No.: 800-2019-056351

ORDER DENYING PETITION FOR RECONSIDERATION

The Petition filed by Bernard Wesley Bentley, M.D. for the reconsideration of the decision in the above-entitled matter having been read and considered by the Medical Board of California, is hereby denied.

This Decision remains effective at 5:00 p.m. on June 11, 2021.

IT IS SO ORDERED: June 11, 2021.

A handwritten signature in black ink, appearing to read "Ronald H. Lewis, MD", written over a horizontal line.

Ronald H. Lewis, M.D., Chair
Panel A

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Bernard Wesley Bentley, M.D.

Physician's & Surgeon's
Certificate No. G 52706

Respondent.

Case No. 800-2019-056351

ORDER GRANTING STAY

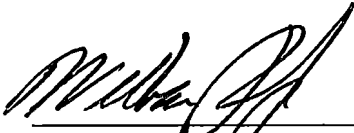
(Government Code Section 11521)

Bernard Wesley Bentley, M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of June 2, 2021, at 5:00 p.m.

Execution is stayed until June 11, 2021, at 5:00 p.m.

This stay is granted solely for the purpose of allowing the Board time to review and consider the Petition for Reconsideration.

DATED: May 25, 2021



William Prasifka
Executive Director
Medical Board of California

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Bernard Wesley Bentley, M.D.

**Physician's and Surgeon's
Certificate No. G 52706**

Respondent.

Case No. 800-2019-056351

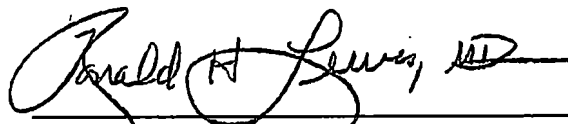
DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 2, 2021.

IT IS SO ORDERED May 3, 2021.

MEDICAL BOARD OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Ronald H. Lewis, MD", written over a horizontal line.

**Ronald H. Lewis, M.D., Chair
Panel A**

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**BERNARD WESLEY BENTLEY, M.D.,
Physician's and Surgeon's Certificate No. G 52706
Respondent.**

Agency Case No. 800-2019-056351

OAH No. 2020100514

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on March 4, 2021, by videoconference.

Deputy Attorney General Hamsa M. Murthy represented complainant William Prasifka, Executive Director of the Medical Board of California.

Respondent Bernard Wesley Bentley, M.D., was present representing himself.

The matter was submitted for decision on March 4, 2021.

FACTUAL FINDINGS

1. Respondent Bernard Wesley Bentley, M.D., received Physician's and Surgeon's Certificate No. G 52706 on April 11, 2016. At the time of the hearing, this certificate was active and was scheduled to expire July 31, 2021.
2. Acting in her official capacity as Interim Executive Director of the Medical Board of California (CA Board), Christine J. Lally filed an accusation against respondent on March 11, 2020. Complainant William Prasifka later replaced Lally as the CA Board's Executive Director.
3. The accusation alleges that respondent has been convicted of a crime relating substantially to medical practice, and has lost his license to practice medicine in New York as a result of his conviction. On these grounds, complainant seeks revocation of respondent's California physician's and surgeon's certificate.
4. Respondent requested a hearing.

Professional Experience

5. The evidence did not establish respondent's history of medical education or training, but he received a license to practice medicine in New York in 1993. Respondent practiced for many years as a diagnostic radiologist, mostly operating his own private medical practice.
6. In 2019, respondent relocated from New York to Florida. He is not currently practicing diagnostic radiology, but is employed in a clinic where he provides services such as nutritional counseling and medical cannabis recommendations.

7. Respondent has never practiced medicine in California, although he has considered traveling here to take *locum tenens* assignments. If he were to move to California, respondent would seek employment in a clinic or other institutional setting; he does not intend to operate his own medical practice in the future.

Criminal Conviction

8. On April 1, 2019, respondent was convicted in the Supreme Court of the State of New York, County of New York, of felony violations of New York Penal Law section 155.42 (grand larceny in the first degree, involving theft of property worth \$1 million or more) and 155.35, subdivision 1 (grand larceny in the third degree, involving theft of property worth \$3,000 or more). At the time of the hearing, the criminal court had not yet sentenced respondent for these crimes, although he had paid significant restitution.

9. Respondent's crimes occurred in his medical practice. An ultrasound technician he knew arranged with primary care physicians to refer patients for ultrasound studies for which no medical indication existed. The ultrasound technician performed the imaging studies, and sent the images to respondent for diagnostic review. The ultrasound technician, and respondent, received payment for these unnecessary services from New York's State Medical Assistance Program (a state Medicaid program) and from a Medicaid-funded managed care organization.

New York License Surrender

10. In May 2019, the New York State Board for Professional Medical Conduct brought a Statement of Charges against respondent, alleging that the conviction described above in Finding 8 constituted professional misconduct for a New York physician.

11. Respondent resolved this matter by agreeing to surrender his New York medical license. The New York State Board for Professional Medical Conduct accepted this surrender effective May 30, 2019.

Additional Evidence

12. Respondent testified that he did not arrange expressly with the ultrasound technician to conduct and bill for unnecessary studies. He acknowledged, however, that the sheer volume of work the technician brought to him should have made him realize that her business, and by extension his, involved fraud. This testimony minimized respondent's culpability in a manner that was inconsistent with his convictions for crimes involving theft and dishonesty.

LEGAL CONCLUSIONS

1. The CA Board may discipline respondent's California physician's and surgeon's certificate only upon clear and convincing proof, to a reasonable certainty, of the facts establishing cause for discipline. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) The factual findings above reflect this standard.

2. Conviction of a crime that relates substantially to a physician's qualifications, functions, or duties is unprofessional conduct. (*Id.*, § 2236, subd. (a).) The matters stated in Findings 8 and 9 constitute cause for discipline against respondent.

3. Discipline against a medical license respondent holds in another state, on grounds that would have been cause for discipline in California, is cause for discipline against respondent's California physician's and surgeon's certificate. (Bus. & Prof.

Code, § 2305.) The out-of-state disciplinary order itself is "conclusive evidence" of the facts the order states. (*Id.*, § 141, subd. (a).)

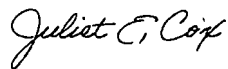
4. The matters stated in Findings 8 through 11 and in Legal Conclusion 2 constitute cause for discipline against respondent's California physician's and surgeon's certificate.

5. The matters stated in Findings 6, 7, and 12 establish no mitigation or rehabilitation for respondent, and no likelihood that the CA Board could supervise respondent effectively on probation. Revocation of his California physician's and surgeon's certificate is appropriate.

ORDER

Physician's and Surgeon's Certificate No. G 52706, held by respondent Bernard Wesley Bentley, M.D., is revoked.

DATE: 04/02/2021



JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings

1 XAVIER BECERRA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
3 HAMSA M. MURTHY
Deputy Attorney General
4 State Bar No. 274745
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3495
6 Facsimile: (415) 703-5480
E-mail: Hamsa.Murthy@doj.ca.gov
7 *Attorneys for Complainant*

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9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2019-056351

13 **Bernard Wesley Bentley, M.D.**
14 **715 Bayshore Drive Apt 406**
Fort Lauderdale, FL 33304

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. G 52706,**

17 Respondent.

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19 **PARTIES**

20 1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
21 as the Interim Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On April 11, 2016, the Medical Board issued Physician's and Surgeon's Certificate
24 Number G 52706 to Bernard Wesley Bentley, M.D. (Respondent). The Physician's and Surgeon's
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will
26 expire on July 31, 2021, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code provides that the Board shall take action against any licensee who is charged with "unprofessional conduct," which includes but is not limited to, "[v]iolating . . . any provision of this chapter."

6. Section 2305 of the Code provides, in pertinent part, that the revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California, shall constitute grounds for disciplinary action for unprofessional conduct.

7. Section 141 of the Code provides:

(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

8. Section 2236 of the Code provides that the conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct.

FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by another State)

9. On May 30, 2019, the New York State Board for Professional Medical Conduct (New York Board) entered a Surrender Order, attached herewith as Exhibit A, ordering Respondent to surrender his license as a physician, and providing that his name be stricken from the roster of physicians in the State of New York. The surrender was based on respondent's criminal convictions for grand larceny, as set forth in Paragraph 11.

10. Respondent's conduct and the ensuing disciplinary action of the New York Board, as set forth above, constitute cause for discipline, pursuant to section 2234 and/or section 2305 and/or section 141, subdivision (a) of the Code.

SECOND CAUSE FOR DISCIPLINE

(Criminal Conviction as Unprofessional Conduct)

11. On April 1, 2019, respondent was convicted in the Supreme Court of the State of New York for the County of New York, upon his guilty plea, of one count of grand larceny in the first degree and one count of grand larceny in the third degree.

12. Respondent is thus subject to disciplinary action under Code sections 2234 and/or 2236 for conviction of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon.

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PRAYER

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WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
and that following the hearing, the Medical Board of California issue a decision:

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1. Revoking or suspending Physician's and Surgeon's Certificate Number G 52706,
issued to Bernard Wesley Bentley, M.D.;

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2. Revoking, suspending or denying approval of Bernard Wesley Bentley, M.D.'s
authority to supervise physician assistants and advanced practice nurses;

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3. Ordering Bernard Wesley Bentley, M.D., if placed on probation, to pay the Board the
costs of probation monitoring; and

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4. Taking such other and further action as deemed necessary and proper.

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DATED: MAR 11 2020

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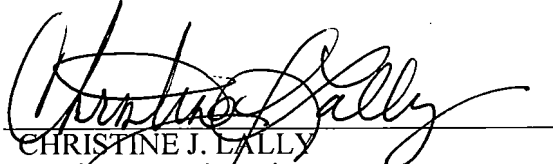
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CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

Surrender Order of New York State Board for Professional Medical Conduct
and related documents



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



Department
of Health

ANDREW M. CUOMO
Governor

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

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

May 31, 2019

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Bernard Bentley, M.D.



Re: License No. 192628

Dear Dr. Bentley:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 19-132. This order and any penalty provided therein goes into effect June 7, 2019.

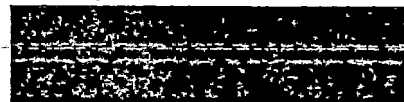
You are required to deliver your license and registration within 5 days of the effective date of the surrender provision to: c/o Physician Monitoring Unit, NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719.

If your license is framed, please remove it from the frame and only send the parchment paper on which your name is printed. Our office is unable to store framed licenses.

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

Please direct any questions to: NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719, telephone # (518) 402-0846.

Sincerely,



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

Enclosure

cc: Alexander G. Bateman, Jr., Esq.
Ruskin Moscou Faltischek, P.C.
1425 RXR Plaza
East Tower, 15th Fl.
Uniondale, New York 11556-1425

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

BPMC No. 19-132

IN THE MATTER
OF
BERNARD BENTLEY, M.D.

SURRENDER
ORDER

Upon the application of (Respondent) BERNARD BENTLEY, M.D. to surrender his
license as a physician in the State of New York, which is made a part of this Surrender Order, it
is

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

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

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Surrender Order, either by first class mail to
Respondent at the address in the attached Surrender of License application
or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

Whichever is first,

SO ORDERED.

DATE: 05/30/2019



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
BERNARD BENTLEY, M.D.

SURRENDER
OF
LICENSE
AND
ORDER

BERNARD BENTLEY, M.D., represents that all of the following statements are true:

That on or about 06/30/1993, I was licensed to practice as a physician in the State of New York, and issued License No. 192628 by the New York State Education Department.

My current address is [REDACTED]

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", which is attached to and part of this Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I agree not to contest the allegations, in full satisfaction of the charges against me.

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

I understand that, if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged; this application shall not be used against me in any way and shall be kept in strict

confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

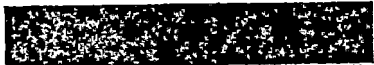
I agree that, if the Board accepts my Surrender of License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender Order, this agreement, and all attached exhibits shall be public documents, with only patient identities or other confidential information, if any, redacted. As public documents, they may be posted on the Department's website(s). OPMC shall report this action to the National Practitioner Data Bank, the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

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

I understand and agree that the attorney for the Department, 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 Order, based upon my application, or to decline to do so. I further

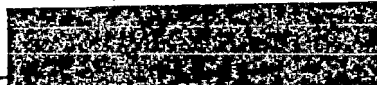
understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE May 28/19



BERNARD BENTLEY, M.D.
RESPONDENT (

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

DATE: May 28, 2019


ALEXANDER G. BATEMAN, ESQ.
Attorney for Respondent

DATE: 5/28/19


HANNAH E.C. MOORE
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 5/30/19



Paula M. Breen
Acting Director
Office of Professional Medical Conduct

EXHIBIT A

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

IN THE MATTER

OF

BERNARD BENTLEY, M.D.

STATEMENT

OF

CHARGES

BERNARD BENTLEY, M.D., the Respondent, was authorized to practice medicine in New York State on or about 06/30/1993 by the issuance of license number 192628 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 1, 2019, in the Supreme Court of the State of New York, County of New York, Respondent was convicted, upon his guilty plea, of one count Grand Larceny in the First Degree (Penal Law § 155.42) and one count Grand Larceny in the Third Degree (Penal Law § 155.35(1)).

SPECIFICATION OF CHARGES

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

1. Paragraph A.

DATE: *May 28*
April, 2019
Albany, New York



TIMOTHY J. MAHAR
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Requirements for Closing a Medical Practice Following a
Revocation, Surrender, Limitation or Suspension of a Medical License

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2718.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact person who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent 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 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.
5. In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within 15 days of the Order's

effective date, advise the DEA, in writing, of the licensure action and shall surrender Licensee's 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, 89 Tenth Avenue, New York, NY 10011.

6. 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.
7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, 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.
8. 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 practice of medicine. 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.
9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, 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.
10. 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 for up to 4 years, to practice the profession of medicine 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.