



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

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

Antonia C. Novello, M.D., M.P.H.  
*Commissioner*  
*NYS Department of Health*  
Dennis P. Whalen  
*Executive Deputy Commissioner*  
*NYS Department of Health*  
Anne F. Saile, Director  
*Office of Professional Medical Conduct*

William P. Dillon, M.D.  
*Chair*

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

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

June 14, 2000

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Gareth Wayne Lovett, M.D.

REDACTED

RE: License No. 165654

Dear Dr. Lovett:

Enclosed please find Order #BPMC 00-178 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect June 14, 2000.

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

Sincerely,

REDACTED

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

Enclosure

cc: Richard A. Finkel, Esq.  
Meissner, Kleinberg and Finkel, LLP  
275 Madison Ave., Suite 1000  
New York, New York 10016

Michael McTighe, Esq.

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

-----X  
IN THE MATTER : SURRENDER  
OF : ORDER  
GARETH WAYNE LOVETT, M.D. : BPMC # 00-178  
-----X

GARETH WAYNE LOVETT, M.D., says:

On or about March 19, 1986, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 165654 by the New York State Education Department. My address is REDACTED

I understand that I have been charged with one specification of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I agree not to contest the specification set forth in the Statement of Charges.

I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such proposed agreement shall not be used against me in any way, and shall be kept in strict confidence during the pendency of the professional misconduct

disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that in the event the State Board for Professional Medical Conduct agrees with my proposal, this Order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me. I agree that this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to me at the address set forth above, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

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

REDACTED

GARETH WAYNE LOVETT, M.D.  
Respondent

AGREED TO:

Date: May 24, 2000

REDACTED

RICHARD A. FINKEL, Esq.  
Attorney for Respondent

Date: June ~~May~~ 2, 2000

REDACTED

MICHAEL J. McTIGHE, Senior Attorney  
Bureau of Professional Medical Conduct

Date: May \_\_, 2000

REDACTED

ANNE F. SAILE, Director  
Office of Professional Medical Conduct

ORDER

Upon the proposed agreement of GARETH WAYNE LOVETT, M.D., to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

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

ORDERED, that this Order and the Appendix annexed hereto and made a part hereof setting forth the conditions necessary to effectuate this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of this Order to Respondent at the address set forth in this agreement or to Respondent's attorney, or upon transmissions via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 6/10/00

REDACTED

\_\_\_\_\_  
William P. Dillon, M.D. /  
Chair  
State Board for Professional  
Medical Conduct

**APPENDIX TO BPMC ORDER FOR SURRENDER  
OF MEDICAL LICENSE NO. 165654**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall have delivered to OPMC at Hedley Park Place, 433 River Street 4th Floor, Troy, NY 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the

practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230 a1. of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.

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

-----X  
IN THE MATTER : STATEMENT  
OF : OF  
GARETH WAYNE LOVETT, M.D. : CHARGES  
-----X

GARETH WAYNE LOVETT, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 19, 1986, by the issuance of license number 165654 by the New York State Education Department. Respondent is currently registered with the New York State Education Department. His residential address is  
REDACTED

**FACTUAL ALLEGATIONS**

A. On or about June 24, 1999, when facing the prospect of disciplinary proceedings against him pursuant to Public Health Law § 230(10), Respondent made formal application for an Order of Conditions pursuant to Public Health Law § 230(13). On or about July 8, 1999, the State Board For Professional Medical Conduct entered its Order approving Respondent's application based on the conditions set forth in the document annexed hereto as Exhibit "1". Respondent has violated conditions set forth in Exhibit "1" as follows:

1. Condition two (2), by failing to provide written notification to the Director of the Office of Professional Medical Conduct ("OPMC") when he moved his residence from New York State to Georgia, and accepted employment in

Exhibit "A"

Georgia.

2. Condition three (3), by failing to respond to OPMC's multiple requests by mail and telephone to verify his compliance with the Order of Conditions.
3. Conditions eight (8) through thirteen (13), by failing to retain and utilize a sobriety monitor approved by OPMC.
4. Condition fourteen (14), by failing to retain and utilize a practice monitor approved by OPMC.
5. Condition fifteen (15), by failing to continue in treatment with a health care professional approved by OPMC.

**SPECIFICATION**

**(Violation of Order of Conditions)**

Respondent is charged with professional misconduct as defined by Education Law Sec. 6530(29) by reason of having violated one or more of the conditions set forth in the Order of Conditions to which he was subject, as set forth in the following allegations:

1. The facts set forth in Paragraphs A and A-1, &/or A and A-2, &/or A and A-3 &/or A and A-4, &/or A and A-5.

DATED: March 31, 2000  
Albany, New York

REDACTED

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



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

STIPULATION AND  
APPLICATION  
FOR AN ORDER  
OF CONDITIONS  
PURSUANT TO  
§230(13) OF THE  
PUBLIC HEALTH LAW

STATE OF NEW YORK )  
COUNTY OF N.Y. ) SS.:

GARETH WAYNE LOVETT, M.D., being duly sworn, deposes and says:

That in or about March 19, 1986, I was licensed to practice as a physician in the State of New York, having been issued License No. 165654 by the New York State Education Department.

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

I have been the subject of an investigation by the New York State Office of Professional Medical Conduct, with regard to my history of substance abuse.

I have been completely abstinent of drugs, including but not limited to Demerol, for no less than one year. No patient was harmed as a result of my history of substance abuse.

I hereby request that the State Board for Professional Medical Conduct and the Director of the Office of Professional Medical Conduct, in reliance upon the

Exhibit 1

results of its investigation to date, and upon my current fitness to practice, as I have set forth and sworn to above, and upon my application and consent thereto, issue an Order of Conditions which will have the full force and effect of an Order of Restoration issued pursuant to New York Public Health Law §230(13)(McKinney Supp. 1999). Such Order shall remain in effect for a period of five years commencing upon issuance and shall set *Conditions* upon my practice as set forth in Exhibit "A", which is attached to this Application. Violation(s) of those conditions, or failure to fully cooperate with all monitoring, if proven and found at a Hearing pursuant to New York Public Health Law §230(10), shall constitute professional misconduct as defined in N.Y. Educ. Law §6530 (29).

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted. I understand that neither this Application nor an Order issued from this Application bars prosecution for professional misconduct based upon allegations of violations of Educ. Law Sec. 6530, which may come to the attention of the OPMC, occurring prior to the date of this application, except for charges based exclusively upon §6530(7) or (8) of the N.Y. Education Law, or after the date of this Application, regardless of the nature of such charges.

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

initiation or continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an Order of the Chairperson of the Board shall be issued in accordance with same. Said Order and this Application, shall have the same status, with regard to issues of reportability, as a Restoration Order issued pursuant to Public Health Law Sec. 230(13). This Order shall not be considered a disciplinary order or sanction, and shall not constitute a "limitation of the license" as that term is defined in N.Y. Public Health Law §230-a.

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

REDACTED

GARETH WAYNE LOVETT, M.D.  
Licensee

Sworn to before me this

24<sup>th</sup> day of June, 1999

REDACTED

NOTARY PUBLIC

RICHARD A. FINKEL  
Notary Public, State of New York  
No. 24-4645961  
Qualified in ~~NY~~ MS County  
Commission Expires March 30, 2002

NEW YORK STATE  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

DEPARTMENT OF HEALTH  
STIPULATION AND  
APPLICATION  
FOR AN ORDER  
OF CONDITIONS  
PURSUANT TO  
§230(13) OF THE  
PUBLIC HEALTH LAW

The undersigned agree to the attached application of the Licensee and to the issuance of the proposed Order of Conditions pursuant to §230(13) of the Public Health Law.

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

DATE: 6/24/99

REDACTED

RICHARD A. FINKEL, ESQ.  
Attorney for Licensee

DATE: 7/1/99

REDACTED

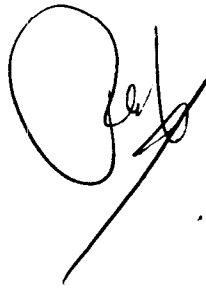
ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

DATE: 7/6/99

REDACTED

ANNE F. SAILE  
Director  
Office of Professional  
Medical Conduct

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omitted / left blank.

A handwritten signature or set of initials, possibly 'Jeb', written in black ink. It consists of a large, rounded 'J' followed by a smaller 'eb' and a long, sweeping horizontal stroke underneath.

## EXHIBIT A

1. Licensee shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession.
2. Licensee shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. That Licensee shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Licensee. Licensee shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Licensee's compliance with the terms of this Order. Licensee shall meet with a person designated by the Director of OPMC as directed. Licensee shall respond promptly and provide any and all documents and information within Licensee's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and at all times thereafter.
4. Licensee's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Licensee and his/her staff at practice locations or OPMC offices.
5. Licensee 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.

6. Licensee shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a proceeding pursuant to Public Health Law §230(10), Public Health Law §230(13) and/or any such other proceeding against Licensee as may be authorized pursuant to the law.
7. Licensee shall remain drug and alcohol free.
8. Licensee's sobriety shall be monitored by a health care professional, proposed by Licensee and approved in writing by the Director of OPMC, in accordance with the conditions of restoration set forth in or annexed to the Order.
9. Said monitor shall acknowledge his/her willingness to comply with the monitoring by executing the acknowledgement provided by OPMC.
10. Said monitor shall be familiar with Licensee's history of substance abuse, with this agreement, and with the conditions of practice set forth in or annexed to the Order.
11. Said monitor shall not be Licensee's treating physician.
12. Said monitor shall see Licensee at least twice during a quarter.
13. Said monitor shall direct Licensee to submit to unannounced tests of blood, breath, and/or urine for the presence of drugs or alcohol and shall report to OPMC within 24 hours if at any time such a test is refused by Licensee or is positive.
  - a. Said monitor shall report to OPMC any noncompliance with the

- imposed conditions.
- b. Said monitor shall not be a personal friend.
  - c. Said monitor shall submit to OPMC quarterly reports either certifying my compliance, or detailing my failure to comply, with each of the conditions imposed. The reports shall include the results of all body fluid and/or breath tests for drugs and/or alcohol performed during that quarter.
14. Licensee will be supervised in Licensee's medical practice by a licensed physician, proposed by Licensee and approved in writing by the Director of OPMC, in accordance with the conditions contained in or annexed to the Order. Said supervising physician shall be familiar with Licensee's history of substance abuse and with the Order and its conditions. Said supervisor shall supervise my compliance with the conditions of practice imposed by the Order. Said supervising physician shall be in a position regularly to observe and assess my medical practice, with all of my anesthesiological practice to be performed at the facility or facilities where the supervising physician practices. Said supervising physician shall acknowledge his/her willingness to comply with the supervision by executing the acknowledgement provided by OPMC.
- a. Said supervising physician shall have the authority to direct Licensee to submit to unannounced tests of Licensee's blood, breath, and/or urine for the presence of drugs or alcohol and shall report to OPMC within 24 hours if at any time such a test is refused by Licensee or is positive.
  - b. Said supervising physician shall submit to OPMC quarterly reports regarding the quality of Licensee's medical practice, any unexplained absences from work and certifying Licensee's compliance or detailing Licensee's failure to comply with each condition imposed.
  - c. Said supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practices or possible misconduct to OPMC.
15. Licensee will continue in treatment with a health care professional proposed by Licensee and approved in writing by the Director of OPMC, for



- as long as the health care professional determines it is necessary.
- a. My treating health care professional shall submit to OPMC quarterly reports certifying that Licensee am complying with the treatment.
  - b. Said treating health care professional shall report to OPMC immediately if Licensee is noncompliant with Licensee's treatment plan, or if Licensee demonstrates any significant pattern of absences.
  - c. Said treating health care professional shall acknowledge his/her willingness to comply with the above-mentioned reporting by executing the acknowledgement provided by OPMC.
16. At the reasonable direction of the Director of OPMC, Licensee shall submit to evaluations by a board certified psychiatrist or other licensed mental health practitioner designated by the Director. Said practitioner shall report to the Director regarding Licensee's condition and fitness or incapacity to practice medicine.
17. Licensee shall comply with all terms, conditions, restrictions, and limitations to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate any proceeding against Licensee as may be authorized pursuant to the law. Any failure by me to comply with these terms, conditions, restrictions or limitations shall, if proven, constitute professional misconduct as defined by the New York State Education Law, including but not limited to N.Y. Educ. Law Section 6530(29) (McKinney Supp. 1999). That section defines professional misconduct to include "violating any... condition... imposed on the licensee pursuant to section two hundred thirty of the public health law."
18. In the event that the Director receives blood, breath and/or urine screen evidence of any alcohol or drug use by Licensee in violation of term number 7, above, the Director shall have the authority to Order Licensee to immediately cease all medical practice in the State of New York, and upon such Order, Licensee shall immediately cease such practice.

- a. Such Order shall be effective upon issuance and shall be delivered or communicated to the Licensee in a manner reasonably calculated to reach him, including but not limited to delivery by hand or mail to either of the premises listed above, on page one of this Stipulation and Order of Conditions or, if Licensee at such time has notified the Director of a subsequent residence or practice address, at any such new address.
- b. In the event that the Director issues such an Order, she shall provide documentation of the blood, breath and/or urine screen evidence of any alcohol or drug use by Licensee upon which the Director bases such Order to the Licensee upon his written request within seven business days of such request.
- c. In the event that the Director issues such an Order, Licensee may request the convening of a Committee on Professional Conduct for the purpose of obtaining impartial review of the nature and reliability of the evidence relied upon for the issuance of such Order and the propriety of continuing such Order in effect, modifying it, or terminating it. Such Committee shall be convened and shall commence such review within 30 days of the Director's receipt of Licensee's written request for such review. Such Committee shall issue a Determination consistent with such review no more than 21 days after the completion of the taking of evidence in such review. Such Determination shall not be subject to further review by the Administrative Review Board, but Licensee shall retain all rights to review by a court of competent jurisdiction.
- d. Regardless of whether or not Licensee seeks review by such Committee and/or Court, the Director of the Office of Professional Medical Conduct, the Commissioner of the Department of Health, and the State Board for Professional Medical Conduct [the Department] shall retain all other powers granted by the Public Health Law and/or the Education Law, and Licensee shall retain all

rights with regard to the exercise of such other powers by the Department.

- e. Any practice of medicine in violation of either the Stipulation and Order of Conditions or an Order issued pursuant to paragraph 18 thereof, shall be deemed "unauthorized," and may subject Licensee to further misconduct proceedings pursuant to §230 of the Public Health Law and/or §6530 of the Education Law, and/or criminal proceedings related to the unauthorized practice of medicine as defined in §6512 of the Education Law.

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

ORDER  
OF CONDITIONS  
PURSUANT TO  
§230(13) OF THE PUBLIC HEALTH LAW

Upon the proposed agreement of GARETH WAYNE LOVETT, M.D.  
(Licensee) for Consent Order, which application is made a part hereof, it is  
agreed to and

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

ORDERED, that this order shall take effect as of the date of the personal  
service of this order upon Licensee, upon receipt by Licensee of this order via  
mail or via facsimile to his or his attorney's office, or seven days after mailing of  
this order by certified mail, whichever is earliest.

SO ORDERED.

DATED: 7/8/99

REDACTED

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