



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

April 3, 2000

Mr. Robert Bentley, Director
Division of Professional Licensing Services
New York State Education Department
Cultural Education Center
Empire State Plaza
Albany, NY 12230

RE: Gareth Wayne Lovett, M.D.
NYS License No. 165654

Dear Mr. Bentley:

Enclosed is a copy of a Commissioner's Order and Notice of Hearing which summarily suspends Dr. Gareth Wayne Lovett's right to practice medicine in the State of New York. This Order was issued on March 31, 2000, and is in effect until further notice.

Sincerely, /

REDACTED

Anne F. Saile
Director
Office of Professional Medical Conduct

Enclosure

cc: Daniel Kelleher

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

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IN THE MATTER : COMMISSIONER'S
OF : ORDER AND
GARETH WAYNE LOVETT, M.D. : NOTICE OF HEARING

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TO: Gareth Wayne Lovett, M.D.
REDACTED

The undersigned, Antonia C. Novello, M.D., M.P.H.,
Commissioner of the New York State Department of Health, after
an investigation, upon the recommendation of a committee on
professional medical conduct of the State Board for
Professional Medical Conduct, and upon the Statement of
Charges attached hereto and made a part hereof, has determined
that the continued practice of medicine in the State of New
York by Gareth Wayne Lovett, M.D., the Respondent, constitutes
an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law Section
230(12), that effective immediately, Respondent, shall not
practice medicine in the State of New York. This Order shall
remain in effect unless modified or vacated by the
Commissioner of Health pursuant to N.Y. Pub. Health Law
Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant

to the provisions of N.Y. Pub. Health Law Section 230, and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct commencing promptly at 10:00 a.m. on the 10th day of April, 2000, at the offices of the Office of Professional Medical Conduct, Hedley Park Building - Fifth Floor Hearing Room, 433 River Street - 5th Floor, Troy, New York 12180, telephone (518)402-0750, and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not the Respondent

appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180 (518-402-0750), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW
YORK PUBLIC HEALTH LAW SECTION 230-a. YOU
ARE URGED TO OBTAIN AN ATTORNEY TO
REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
March 31, 2000

REDACTED

ANTONIA C. NOVELLO, M.D., M.P.H.
Commissioner

Inquiries should be directed to:

Michael J. McTighe
Senior Attorney
NYS Department of Health
Division of Legal Affairs
Corning Tower Room 2509
Empire State Plaza
Albany, New York 12237-0032
(518) 473-4282

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 3417 River Heights Crossing, Marietta, GA 30067, telephone (770) 643-1211.

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

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)

ss.:

COUNTY OF N.Y.)

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

24th day of June 1999

REDACTED

NOTARY PUBLIC

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

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

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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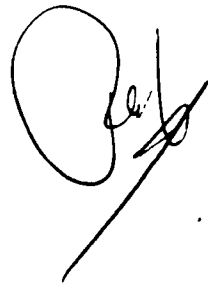
A handwritten signature or set of initials, possibly 'Jeb', written in a cursive style with a long horizontal stroke extending to the right.

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