

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12230

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MEDICAL CONDUCT

June 28, 1995

Melville A. Lambert, Physician
200 East Winston Drive, Apt. 1119
Cliff Side Park, New Jersey 07010

Re: Application for Restoration

Dear Dr. Lambert:

Enclosed please find the Commissioner's Order regarding Case No. 95-02-60R which is in reference to Calendar No. 0013596. This order and any decision contained therein goes into effect five (5) days after the date of this letter.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations

By: *Gustave Martine*

Gustave Martine
Supervisor

The University of the State of New York
Education Department



IN THE MATTER

of the

Application of MELVILLE A. LAMBERT
for restoration of his license to practice
as a physician in the State of New York

Case No. 95-02-60R

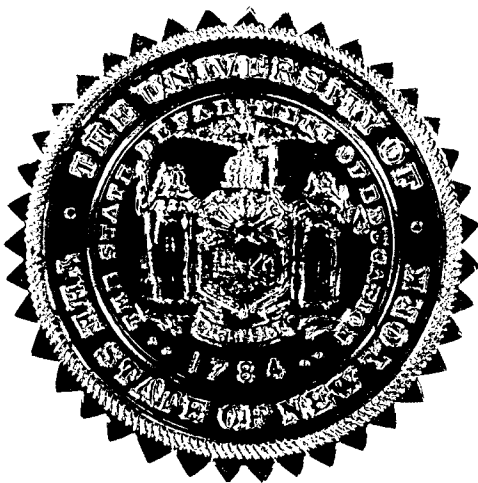
It appearing that the license of MELVILLE A. LAMBERT, 200 East Winston Drive, Apt. 1119, Cliff Side Park, New Jersey 07010, to practice as a physician in the State of New York, was revoked by action of the Board of Regents on June 22, 1990, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on June 9, 1995, it is hereby

ORDERED that the petition for restoration of License No. 111370, authorizing MELVILLE A. LAMBERT to practice as a physician in the State of New York, is denied.

IN WITNESS WHEREOF, I, THOMAS SOBOL,
Commissioner of Education of the State of New York,
for and on behalf of the State Education Department, do
hereunto set my hand and affix the seal of the State
Education Department at the City of Albany, this 9th
day of June, 1995.

Thomas Sobol

Commissioner of Education



Case No. 95-02-60R

It appearing that the license of MELVILLE A. LAMBERT, 200 East Winston Drive, Apt. 1119, Cliff Side Park, New Jersey 07010, to practice as a physician in the State of New York, having been revoked by action of the Board of Regents on June 22, 1990, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition, and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on June 9, 1995 it was

VOTED that the petition for restoration of License No. 111370, authorizing MELVILLE A. LAMBERT to practice as a physician in the State of New York, be denied.

95-02-60R
March 29, 1995

THE UNIVERSITY OF THE STATE OF NEW YORK
The State Education Department

Report of the Committee on the Professions
Application for Restoration of Medical License

Re: **Melville A. Lambert**

Attorney: Arthur T. Davidson, M.D.

Dr. Melville A. Lambert, 200 East Winston Drive, Apt. 1119, Cliffside Park, New Jersey 07010, petitioned for the restoration of his medical license. The chronology of events is as follows:

- 01/25/72 Licensed to practice medicine in New York State.
- 06/20/80 Found guilty of violation of Public Health Law, right to use official New York State prescription forms suspended for two years and fined \$65,517.
- 06/26/86 Charged with professional misconduct by Department of Health. (See "Disciplinary History.")
- 09/04/87 Regents Review Committee recommended five year suspension, stayed, five years probation.
- 09/18/87 Board of Regents voted five year suspension, stayed, five years probation.
- 11/10/87 Commissioner's Order effective.
- 09/28/89 Charged with professional misconduct by Department of Health.
- 05/24/90 Regents Review Committee recommended revocation.
- 06/22/90 Board of Regents voted revocation.
- 07/11/90 Commissioner's Order effective.
- 07/13/91 Petition for restoration submitted.
- 07/30/93 Peer Panel restoration review.
- 10/11/94 Report and recommendation of Peer Review Panel. (See "Recommendation of the Peer Review Panel.")
- 01/04/95 Report and recommendation of Committee on the Professions. (See "Recommendation of the Committee on the Professions.")

Disciplinary History. (See attached reports of the Regents Review Committees.) On June 20, 1980, the Commissioner of Health issued an Order finding Dr. Lambert guilty of having violated the

Public Health Law. It had been determined that on over one hundred eleven occasions Dr. Lambert had prescribed quantities of Schedule II controlled substances, not in the course of good faith professional treatment, but for the purpose of providing habitual users of controlled substances with sufficient drugs to maintain their customary use. On two hundred forty-three occasions Dr. Lambert improperly prescribed said controlled substances without properly completing the required New York State official prescription form. On seven thousand five hundred eighty-seven occasions, Dr. Lambert failed to maintain a copy of the required New York State official prescription form. Dr. Lambert's right to use official New York State prescription forms was suspended for two years and he was assessed a fine of \$65,517.

Consequently, on June 26, 1986, the Department of Health charged Dr. Lambert with professional misconduct in that he had been found by the Commissioner of Health to be in violation of Article 33 of the Public Health Law. On September 4, 1987, the Regents Review Committee (Griffith, Bolin, Picariello) recommended that Dr. Lambert's license be suspended for five years, execution stayed, and that he be placed on probation for five years. On September 18, 1987, the Board of Regents voted to accept the recommendation of the Regents Review Committee. The Commissioner's Order became effective on November 10, 1987.

On September 28, 1989, the Department of Health charged Dr. Lambert with seven specifications of professional misconduct. In its report, dated January 26, 1990, the Hearing Committee (Kowald, Kazdan, Sinnot) of the State Board for Professional Conduct found that, as a result of his treatment of two patients in the emergency room of Community General Hospital in Harris, New York, Dr. Lambert was guilty of having practiced the profession of medicine with negligence on more than one occasion and with incompetence on more than one occasion. The Committee also found that Dr. Lambert had practiced the profession fraudulently and had willfully made and filed a false report. Dr. Lambert made false statements on his application for appointment to the Community General Hospital in that he denied that his license to practice medicine in any jurisdiction had ever been limited, suspended, or revoked, or that any such action was pending, when in fact disciplinary proceedings were pending before the New York State Board of Regents, and the Director of the Office of Public Health had prohibited him from writing triplicate prescriptions on official New York State forms for two years. In addition, Dr. Lambert had denied that his privileges at any hospital had ever been suspended, diminished, revoked or not renewed, when in fact, his employment was terminated from Sydenham Hospital on January 30, 1976. Dr. Lambert was also found guilty of having violated the terms of probation imposed by the Board of Regents in that he had failed to comply with the schedule for payment of the fine of \$65,517 assessed in the previous disciplinary proceeding. The Hearing Committee recommended that Dr. Lambert's license be revoked.

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On March 2, 1990, the Commissioner of Health recommended that the Findings of Fact and Conclusions along with the Recommendation of the Hearing Committee be accepted. In its report dated May 24, 1990, the Regents Review Committee (Lustig, McKennan, Picariello) recommended that the recommendations of the Hearing Committee be accepted and that Dr. Lambert's license be revoked. On June 22, 1990, the Board of Regents voted revocation. The Commissioner's Order became effective on July 11, 1990.

Recommendation of the Peer Review Panel. (See attached report of the Peer Review Panel.) The Peer Review Panel (Corbett, Wu, Santiago) met on July 30, 1993. In its report dated October 11, 1994, the Panel recommended that Dr. Lambert's petition for restoration be denied.

Recommendation of the Committee on the Professions. On March 29, 1995 Dr. Melville A. Lambert, accompanied by his attorney Arthur T. Davidson, M.D., Esq. met with the Committee on the Professions (Szetela, Sauer, Nolan) regarding his petition for the restoration of his license as a physician in New York.

At the outset of the meeting, Dr. Davidson raised the issue of an August 26, 1992 letter from Kathleen Tanner, Director of the Office of Professional Medical Conduct, regarding its position on Dr. Lambert's petition for restoration. Dr. Davidson asserted that this letter had not been previously made available to his client and suggested to the Committee that perhaps it would be appropriate to remand Dr. Lambert's petition to a new Peer Review Panel since this letter contained statements and allegations which were untrue and which he viewed as damaging to his client. This letter was provided to Dr. Lambert and the Committee on the Professions as a result of inquiry made by the Executive Secretary of the Committee on the Professions to clarify the disposition of a \$65,517 fine assessed against Dr. Lambert by the Department of Health. Both Dr. Lambert, through his attorney, and the Office of Professional Discipline consented to the submission of additional material concerning the disposition of this fine.

Dr. Lambert then proceeded with an opening statement addressed to the Committee. He explained that he was a very introspective person and because of the way in which he was brought up he would not have committed certain acts of misconduct. He elaborated that he grew up in the British West Indies and was raised in the Episcopal faith with values of honesty and fair play. He stated that during the past five years, without a license to practice medicine, he felt like a fish out of water. He disputed the Peer Review Panel opinion that he had not shown remorse for his actions. He asserted that after the last 7 1/2 years how could he not show remorse for what he has been through.

Dr. Lambert described the problems that he had with Medicaid. He summarized that he had been fined \$30,000 as reimbursement of fees that were previously paid to him and that he lost Medicaid

privileges for a period of time. However, he denied that he had ever received any kickbacks for durable medical equipment. Dr. Lambert described his continuing medical education consistent with the information contained in the record, including the fact that he attended various medical seminars (primarily ones available without charge - due to his limited funding.)

Dr. Lambert stated that should his license be restored he was not planning to open an office of his own. He stated that he would propose to practice under the supervision of another licensed physician or possibly do administrative work "such as workers compensation." He explained that he believed he would need supervision because of the time he has been away from the practice of medicine.

When questioned by the Committee about the disciplinary findings that he had provided medical care deemed to be substandard, Dr. Lambert responded that the Office of Professional Medical Conduct had raised every little thing they possibly could against him. In the case of the woman who he treated in an emergency room and who subsequently died, he stated that he was the only physician there with only two nurses to assist him. He asserted that under these circumstances he could not have done an intubation as was recommended by other medical experts.

When questioned about his prescribing of controlled substances at a greater quantity and duration than that ordinarily recognized by members of the medical community as sufficient for the proper treatment of a given case, petitioner admitted that he did do this, but he asserted that he was not aware that the patients were drug addicts.

After the Committee's review of the entire record, and taking into consideration Dr. Lambert's meeting with the Committee and the information he provided, the Committee unanimously voted to support the recommendation of the Peer Review Panel that Dr. Lambert's petition for the restoration of his license as a physician be denied. The Committee shares the concern of the Peer Review Panel about the applicant's ability to practice medicine at this point in time. In addition to the reasons cited in the Peer Panel's recommendation for denial of this petition, the Committee also notes that the petitioner has had a variety of administrative disciplinary actions as a result of his practice as a physician in New York since 1972. In his meeting with the Committee, petitioner referenced a finding by Medicaid that he was to be fined \$30,000 for improper billing. Petitioner's ability to prescribe certain controlled substances was suspended by the New York State Health Department for a period of two years. Petitioner was disciplined in 1987 for improper prescribing of controlled substances. In 1990, petitioner was disciplined for failure to pay the fine while on probation from his previous disciplinary action and found guilty of incompetence and negligence for his treatment of several patients at Community General Hospital in 1987.

Petitioner's explanation of the actions determined by the Regents to be negligence and incompetence is that these were judgment calls that turned out to be bad judgments. This approach does not indicate that he fully recognizes the level of seriousness of his mistakes. Dr. Lambert has not demonstrated appropriate insight regarding the breadth or seriousness of the proven misconduct charges. Accordingly, the Committee finds that the petitioner has not demonstrated how he has been rehabilitated from this variety of misconduct to assure that the public would not be at risk of recurrence. Based on all of the above, the Committee on the Professions voted unanimously to recommend to the Board of Regents that Dr. Melville Lambert's petition for the restoration of his medical license be denied.