

At a Term of the Supreme Court of the State of New York, Appellate Division, Third Department, at Troy, New York, on the 31st day of January, 2006.

PRESENT: HON. EDWARD O. SPAIN
ASSOCIATE JUSTICE

-----X
IN THE MATTER OF MOSHE H. OSTAD, M.D.

Case No.:

Petitioner,

ORDER TO SHOW
CAUSE WITH STAY

-against-

NEW YORK STATE DEPARTMENT OF HEALTH and
ANTONIA C. NOVELLO, M.D., M.P.H, as the
Commissioner of the New York State Department of Health,

Respondents.

For a Judgment pursuant to Article 78 of the Civil Practice
Law and Rules.

-----X

UPON the annexed Affidavit of Moshe H. Ostad, M.D., sworn to on January 25, 2006, the
Verified Petition, verified on January 25, 2006, and all of the exhibits annexed thereto,

LET respondents the New York State Department of Health and Antonia C. Novello, M.D.,
M.P.H., as the Commissioner of the New York State Department of Health, show cause before this
Court at the Appellate Division, Third Department, located at the Courthouse at the Justice Building,
Empire State Plaza, Albany, New York, ~~to be held~~ on the 8TH day of February, 2006, at 9:30
o'clock in the forenoon of that day or as soon thereafter as counsel can be heard; * - *

WHY an Order should not be made and entered ~~for a stay~~, pursuant to Public Health Law

* WHY a judgment should not be made and entered granting the relief
demanded in the verified petition, and *

905


§230-c(5), staying and enjoining respondent New York State Department of Health from enforcing the terms of the Determination and Order No. 06-008 of the State Board for Professional Medical Conduct pending determination of this proceeding; and it is

ORDERED THAT, pending determination of the motion brought on by this Order to Show Cause, respondent New York State Department of Health is temporarily enjoined from enforcing the terms of the Determination and Order No. 06-008 of the State Board for Professional Medical Conduct, and it is further

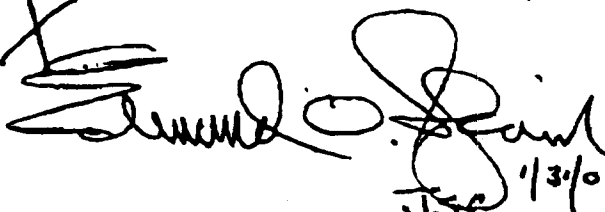
ORDERED that overnight mail service of a copy of this Order, together with the papers upon which it is based, upon the New York State Department of Health and Antonia C. Novello, M.D., M.P.H., as Commissioner of the New York State Department of Health, at the Department of Health, Division of Legal Affairs in the Tower Building, Empire State Plaza, Albany, New York 12237, and on the Attorney General of the State of New York, Litigation Bureau at 120 Broadway, 24th Floor, New York, New York 10271, on or before the 1st day of FEBRUARY, 2006, be deemed good and sufficient service, and it is further

ORDERED that the motion brought on by this order to show cause shall not be orally argued unless counsel are notified to the contrary by the Clerk of the Court.

DATED: January 31, 2006

~~ENTER.~~

Hon. Edward O. Spain
Associate Justice

however,
X SUBJECT, to the condition that PETITIONER shall NOT TREAT ANY PATIENT/PERSON UNDER 20 YEARS OF AGE, UNDER ANY CIRCUMSTANCES


JSE 1/31/06