



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

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

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*Office of Professional Medical Conduct*

PUBLIC

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*Vice Chair*  
*Katherine A. Hawkins, M.D., J.D.*  
*Executive Secretary*

July 20, 2010

***CERTIFIED MAIL-RECEIPT REQUESTED***

Robert Gumberts, D.O.  
REDACTED

Re: License #209230

Dear Dr. Gumberts:

Enclosed is a copy of your Interim Non-disciplinary Order of Conditions issued pursuant to Public Health Law Section 230. The order is effective July 27, 2010.

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

cc: Mark G. Farrell, Esq.  
4455 Transit Road, Suite 2C  
Williamsville, New York 14221

**IN THE MATTER  
OF  
ROBERT GUMBERTS, D.O.**

**INTERIM  
ORDER  
OF CONDITIONS  
PURSUANT TO  
N.Y. PUB. HEALTH  
LAW § 230**

Upon the application of ROBERT GUMBERTS, D.O. (Licensee) in the attached Stipulation and Application for an Interim Order of Conditions Pursuant to N.Y. Pub. Health Law § 230, which is made a part of this Interim Order of Conditions Pursuant to N.Y. Pub. Health Law § 230, it is agreed that

- the Application, and its terms, are adopted, and
- this Order shall be effective upon issuance by the Board, either by mailing of a copy of this Order by first class mail to Licensee at the address in the attached Application or by certified mail to Licensee's attorney, or upon facsimile transmission to Licensee or Licensee's attorney, whichever is first.

**SO ORDERED.**

REDACTED

DATE: 07/20/2010

\_\_\_\_\_  
KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional Medical Conduct

**IN THE MATTER  
OF  
ROBERT GUMBERTS, D.O.**

STIPULATION AND  
APPLICATION  
FOR AN INTERIM  
ORDER OF  
CONDITIONS  
PURSUANT TO  
N.Y. PUB. HEALTH  
LAW § 230

ROBERT GUMBERTS, D.O., ("Licensee") represents that all of the following statements are true:

That on or about December 23, 1997, I was licensed to practice as a physician in the State of New York, and issued License No. 209230 by the New York State Education Department.

My current address is REDACTED I am affiliated with the following hospital and/or facilities:

UB Family Medicine, 2447 Sheridan Drive, Tonawanda, NY 14150.

I will notify the Director of the Office of Professional Medical Conduct ("the Director") of any change in my residence, employment, medical practice addresses or hospital affiliations.

I understand that the New York State Board for Professional Medical Conduct ("the Board") is investigating alleged misconduct by me, and may pursue a proceeding pursuant to N.Y. Pub. Health Law § 230 with respect to the issues set forth in attached Exhibit "A" ("matters under investigation").

I agree to the Board's issuance of an Interim Order of Conditions precluding me from practicing medicine in New York State; during this period, I shall also be precluded from practicing in any setting where my practice is based solely on my New York license, and I shall be precluded from reliance upon my license to practice medicine in New York to exempt me from the license, certification or other requirements set forth in statute or regulation for the practice of any other profession licensed, regulated, or certified by the Board of Regents, Department of Education, Department of Health or the Department of State. I agree to be bound by the Order, which shall continue in effect until:

- a determination by the Director of the Office of Professional Medical Conduct that no hearing is warranted; or
- the resolution by consent order of the matters under investigation; or
- issuance and service of a Hearing Committee's Determination and Order after the conclusion of a hearing held pursuant to a determination of the Commissioner of Health or the Director of the Office of Professional Medical Conduct. The Hearing Committee's Determination and Order shall replace this Interim Order of Conditions. If either party requests review by the Administrative Review Board, the Hearing Committee's Determination and Order, and any sanction, terms or conditions imposed upon me, shall remain in effect until the ARB renders its determination and shall, in the same manner as a Commissioner's Order pursuant to N.Y. Pub. Health Law § 230-c(4), not be subject to a stay.

I understand that nothing in this Application shall be construed as an admission by me of any act of alleged misconduct or as a finding of misconduct as to the matters under investigation. My application for the proposed Interim Order is made in consideration of the value to me of the Board's allowing me to continue to provide explanation of the issues under investigation to the Office of Professional Medical Conduct ("OPMC") and, if the Board pursues disciplinary proceedings against me, to allow for additional preparation time. I deny any acts of misconduct and reserve my right to assert all defenses on my behalf in any later or other proceeding.

This Interim Order shall set the following Conditions upon my practice:

1. Licensee's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Licensee as defined in N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of this Order and may subject Licensee to an action pursuant to N.Y. Pub. Health Law § 230.
2. Licensee shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that this information is kept current: a full description of Licensee's employment and practice; all professional and residential

addresses and telephone numbers within and outside New York State; all current and past affiliations and/or privileges, with hospitals, institutions, facilities, medical practices, managed care organizations, and/or applications for such affiliations and/or privileges; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Licensee shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.

3. Licensee shall cooperate fully with OPMC in its administration and enforcement of this Interim Order and in its investigation of Licensee. Licensee shall respond in a timely manner to all OPMC requests for written periodic verification of compliance with the terms of this Interim Order. Licensee shall meet in person with the Director's designee, as directed. Licensee shall respond promptly and provide all documents and information within Licensee's control, as directed. This condition shall take effect upon the effective date of the Interim Order and shall continue while Licensee possesses a license.
4. Licensee shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients.
5. The Director may review Licensee's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Licensee and staff at practice locations or OPMC offices.
6. Licensee shall provide access for DOH personnel to Licensee's office(s) to verify Licensee's compliance with this Interim Order; this access shall include, but not be limited to, on-site inspections, observation and interviews.
7. Licensee shall comply with this Order and all its terms, and shall bear all associated compliance costs.

I stipulate that:

My failure to comply with the Conditions imposed by this Interim Order shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(29); and

Any practice of medicine by me in New York State in violation of this Interim Order shall be unauthorized and constitute professional misconduct as defined in N.Y. Educ. Law § 6530(2); and

Unauthorized medical practice is a felony as defined in N.Y. Educ. Law § 6512.

I understand and agree that my failure to comply with any of the terms of this Interim Order shall authorize the Director, exercising reasonable discretion, to vacate the Interim Order and to pursue further investigation and/or prosecution of misconduct charges against me as to the issues under investigation to the full extent authorized by N.Y. Pub. Health Law and N.Y. Educ. Law.

I understand that an Interim Order issued upon this Application does not limit the Department's authority to investigate or pursue proceedings pursuant to N.Y. Pub. Health Law § 230(12) based upon allegations of violations of N.Y. Educ. Law § 6530 unrelated to the issues under investigation, whether those alleged violations occurred before or after the date of this Application.

I agree that, if the Board grants this Application, the Chair of the Board shall issue an Interim Order of Conditions in accordance with its terms. I further agree that the Department of Health shall notify the National Practitioner Data Bank and the Federation of State Medical Boards of this Interim Order of Conditions pursuant to N.Y. Pub. Health Law § 230 and that the change in my licensure status is not disciplinary in nature. This Interim Order of Conditions shall be posted on the Department of Health website(s).

I make this Application 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 Application, I waive my right to contest the Interim Order for which I apply, whether administratively or judicially, I agree to be bound by the Interim Order, and I ask that the Board grant this Application.

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 Interim 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.

7/02/10  
DATE

REDACTED

~~ROBERT GUMBERTS, D.O.~~  
Licensee

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

IN THE MATTER  
OF  
ROBERT GUMBERTS, D.O.

STIPULATION AND  
APPLICATION  
FOR AN INTERIM  
ORDER  
OF CONDITIONS  
PURSUANT TO  
N.Y. PUB. HEALTH  
LAW §230

The undersigned agree to Licensee's attached Application and to the issuance of the proposed Interim Order of Conditions Pursuant to N.Y. Pub. Health Law § 230.

DATE:

7/2/10

REDACTED

MARK G. FARRELL, Esq.  
Attorney for Licensee

DATE:

7/8/10

REDACTED

MICHAEL G. BASS, Assistant Counsel  
Bureau of Professional Medical Conduct

DATE:

7/14/10

REDACTED

KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

**EXHIBIT "A"**

Scope of Investigation

Possible misconduct under New York State Education Law Section 6530  
and violation of a previous OPMC Board Order.