STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner of Health

October 5, 2007

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Jan Arnett, M.D.
32-07 30th Avenue
Astoria, New York 11103

Re: License # 136859

Dear Dr. Arnett:

Enclosed is a copy of your **Non-disciplinary Order of Conditions** pursuant to Public Health Law Section 230. The order is effective October 11, 2007.

Sincerely,

Redacted Signature

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

cc: Gregory J. Naclerio, Esq.
Ruskin Moscou Falitschek, P.C.
1425 Bockson Plaza East Tower 15th Floor
Uniondale, New York 11558-1425

Enclosure

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

IN THE MATTER OF JAN ARNETT, M.D.	INTERIM NONDISCIPLINARY ORDER OF CONDITIONS PURSUANT TO N.Y. PUB. HEALTH LAW § 230

Upon the application of JAN ARNETT, M.D. (Licensee) in the attached Stipulation and Application for an Interim Nondisciplinary Order of Conditions Pursuant to N.Y. Pub. Health Law § 230, which is made a part of this Interim Nondisciplinary 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 Signature

DATE: 10-4-2007

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

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

IN THE MATTER OF JAN ARNETT, M.D. [redacted]	STIPULATION AND APPLICATION FOR AN INTERIM NONDISCIPLINARY ORDER OF CONDITIONS PURSUANT TO N.Y. PUB. HEALTH LAW § 230

JAN ARNETT, M.D., ("Licensee") representing that all of the following statements are true, deposes and says:

That on or about November 24,1978, I was licensed to practice as a physician in the State of New York, and issued License No. [redacted] by the New York State Education Department. 136859

My current address is 42-07 30th Avenue, Astoria, NY 11103. I am affiliated with the following hospital and/or facilities: Mackool Eye Institute, Astoria, New York.

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 except as specifically permitted under the conditions set forth below, and 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), New York State Department of Health, Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such 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; 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. 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 offices 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 practice medicine only when monitored by a licensed physician, board-certified in an appropriate specialty ("practice monitor"), proposed by Licensee and subject to the written approval of the Director.

   a. Licensee shall make available to the practice monitor all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Licensee's medical practice at every location on a random unannounced basis at least monthly and shall examine a selection of records (no fewer than twenty) maintained by Licensee, including patient records, prescribing information and office records, to determine whether the Licensee's medical practice is conducted in accordance with generally accepted standards of professional medical care. The practice monitor shall report to OPMC within 24 hours of any perceived deviation by Licensee from accepted standards of medical care or any refusal by Licensee to cooperate with the monitoring.

   b. Licensee shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.

   c. Licensee shall cause the practice monitor to report quarterly, in writing, to the Director.

d. Licensee shall maintain medical malpractice insurance coverage with limits no less than $2 million per occurrence and $6 million per policy year, in accordance with Public Health Law § 230(18)(b). Licensee shall provide the Director with proof of such coverage before Licensee may practice medicine after the effective date of this Order.

8. Licensee shall not perform any retinal surgery.

9. Licensee shall not perform glaucoma surgery unless his "practice monitor" has determined that there are appropriate medical indications for the performance of the glaucoma surgery. The "practice monitor" shall base the determination on both review of the licensee's medical record **and** upon the "practice monitor's" independent examination of the patient, including but not limited to taking a history from the patient, performing a physical examination and ordering and/or performing medically appropriate diagnostic tests.

10. 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 by 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 by N.Y. Educ. Law § 6530(2); and

Unauthorized medical practice is a felony as defined by 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 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.

Redacted Signature

DATE 9/21/07

JAN ARNETT, M.D.
Licensee

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

IN THE MATTER OF JAN ARNETT, M.D.	STIPULATION AND APPLICATION FOR AN INTERIM NONDISCIPLINARY 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 Nondisciplinary Order of Conditions Pursuant to N.Y. Pub. Health Law § 230.

DATE: Sept 21, 2007

Redacted Signature

GREGORY J. NACLERIO, ESQ.
Ruskin, Moscou, Evans and Faltischek., P.C.
Attorney for Licensee

DATE: Oct. 1, 2007

Redacted Signature

DANIEL GUENZBURGER, ESQ.
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 10/1/07

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct