

Public

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

IN THE MATTER
OF
DAVID WEXLER, M.D.
CO-05-02-1055-A

COMMISSIONER'S
SUMMARY
ORDER AND
NOTICE OF
HEARING

TO: DAVID WEXLER, M.D.
Inmate No. 55248-054
MDC Brooklyn
Metropolitan Detention Center
P.O.Box 329002
Brooklyn, NY 11232

DAVID WEXLER, M.D.
5 East 76 Street
New York, NY 10021

The undersigned, Dennis P. Whalen, Executive Deputy 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 **DAVID WEXLER, M.D.**, Respondent, licensed to practice medicine as a physician in New York state on September 6, 1973, by license number 117973, has been found guilty of committing acts constituting felonies under federal law, in the United State District Court, Southern District of New York.

It is therefore,

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately, **DAVID WEXLER, M.D.**, Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine. This order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to New York Public Health Law § 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board of Professional Medical Conduct, on the 21st day of June, 2006 at 10:00 am in the forenoon at Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180. 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, that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. Respondent shall appear in person at the hearing and may be represented by counsel. 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 §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 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 New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180
ATTENTION: HON. SEAN D. O' BRIEN, DIRECTOR, BUREAU OF ADJUDICATION,
and by telephone (518-402-0748), 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 that 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 FOR THIS
MATTER.**

DATED: Albany, New York

MAY 8, 2006



DENNIS P. WHALEN
Executive Deputy Commissioner

Inquires should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street - Suite 303
Troy, New York 12180
(518) 402-0828

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

IN THE MATTER
OF
DAVID WEXLER, M.D.
CO-05-02-1055-A

STATEMENT
OF
CHARGES

DAVID WEXLER, M.D., Respondent, was authorized to practice medicine as a Physician in New York state on September 6, 1973, by the issuance of license number 117973 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 16, 2006, in the United States District Court, Southern District of New York, Respondent was found guilty, of Count 1: 21 U.S.C. §846, Conspiracy to Distribute and Possess with Intent to Distribute, Which Resulted in Death; Count 2: 21 U.S.C. 812, 841(a)(1) and 841(b)(1)(C) and 18 U.S.C. 2, Distribute and Possess with Intent to Distribute a Controlled Substance; Count 3: 21 U.S.C. 812, 841(a)(1) and 841(b)(2), and 18 U.S.C. 2, Distribute and Possess with Intent to Distribute a Controlled Substance (Xanax); Count 4: 21 U.S.C. 812, 841(a)(1) and 841(b)(1)(C) and 18 U.S.C. 2, Distribute and Possess with Intent to Distribute a Controlled Substance (Dilaudid); Count 5: 21 U.S.C. 812, 841(a)(1), and 841(b)(1)(D), Distribute and Possess with Intent to Distribute a Controlled Substance (Vicodin); Count 6: 21 U.S.C. 812, 841(a)(1), and 841(b)(1)(D) Distribute and Possess with Intent to Distribute a Controlled Substance (Vicodin); Count 7: 21 U.S.C. 812, 841(a)(1), and 841(b)(1)(C), and 18 U.S.C. 2, Distribute and Possess with Intent to Distribute a Controlled Substance (Percocet); Count 8: 21 U.S.C. 812, 841(a)(1), and 841(b)(1)(C), and 18 U.S.C. 2, Distribute and Possess with Intent to Distribute and Controlled Substance (Dilaudid); Count 9: 21 U.S.C. 812, 841(a)(1), and 841(b)(1)(C), and 18 U.S.C. 2, Distribute and Possess with Intent to Distribute a Controlled Substance (Dilaudid); Count 10: 18 U.S.C. 371, Conspiracy to Make False Statements and To Commit Health Care Fraud; Count 11: 18 U.S.C. §§1347 and 2, Health Care Fraud; Count 12: 18 U.S.C. 371, Conspiracy to Make False Statements and To Commit Health Care Fraud; Count 13: 18 U.S.C. §§1347 and 2, Health Care Fraud; Count 14: 18 U.S.C. §§1347 and 2, Health Care Fraud; Count 15: 18 U.S.C. §§1347 and 2, Health Care Fraud; Count 16: U.S.C. §§1347 and 2, Health Care Fraud; Count 17: 18 U.S.C. §§1347 and 2,

Health Care Fraud; and was sentenced to twenty (20) years imprisonment on Counts 1, 2, 4, 7, 8, and 9; three (3) years imprisonment on Count 3; five (5) years imprisonment on Counts 5, 6, 10, and 12; ten (10) years imprisonment on Counts 11 and 13-17, all to run concurrently, upon release from imprisonment, Respondent shall be on supervised release for a term of five (5) years on Count 1; three (3) years on Counts 2, 4, 7, 8, and 9; three (3) years on Counts 3, 5, 6, and 10-17, all to run concurrently, and to pay a \$1,700.00 Assessment and \$887,812.00 Restitution.

SPECIFICATION

Respondent violated New York State Education Law §6530(9)(ii) by having been convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *May 8*, 2006
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct