

Public



STATE OF NEW YORK
DEPARTMENT OF HEALTH

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

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

December 15, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Charles Lee Liggett, Jr., M.D.
Redacted Address

Robert Bogan, Esq.
NYS Department of Health
Bureau of Professional Medical Conduct
433 River Street, Suite 303
Troy, New York 12180-2299

RE: In the Matter of: Charles Lee Liggett, Jr., M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 08-237) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct
New York State Department of Health
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:


James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

Redacted Signature

 James F. Horan, Acting Director
Bureau of Adjudication

JFH:djh

Enclosure

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

COPY

DETERMINATION

AND

ORDER

IN THE MATTER
OF
CHARLES LEE LIGGETT, JR., M.D.

BPMC NO. 08-237

A hearing was held on November 20, 2008, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated September 22, 2008, were served upon the Respondent, **CHARLES LEE LIGGETT, JR., M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Scott B. Groudine, M.D., Chair, Uma B. Mishra, M.D.,** and, **Frank J. King, R.P.A.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A, Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer. The Petitioner appeared by **Thomas Conway, Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent, **CHARLES LEE LIGGETT, JR., M.D.**, did not appear, although attempts at service were duly made. Evidence was received and transcripts of these proceedings were made. After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10) (p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law §6530(9) (b) and Education Law §6530(9) (d). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:	None
For the Respondent:	None

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. CHARLES LEE LIGGETT, JR., M.D., the Respondent, did not appear at the hearing although attempts at personal service were duly made and jurisdiction was achieved as per the affidavit of October 28, 2008. (Petitioner's Exhibits 2 and 2A)
2. CHARLES LEE LIGGETT, JR., M.D., the Respondent, was authorized to practice medicine in New York State on July 1, 1974, by the issuance of license number 120381 by the New York State Education Department (Petitioner's Ex. 4).
3. On February 8, 2008, an Order was issued by the Board of Medicine of the State of Texas, which caused the Respondent's license to practice medicine to be suspended for thirty days for failing to meet the standard of care. (Petitioner's Ex. 5).
4. The Texas Medical Board found that the Respondent held Texas Medical License No. F-2324, which was issued in Texas on August 27, 1978. (Petitioner's Exhibit 5.)
5. The Texas Medical Board also found that the Respondent held a license to practice medicine in the State of Arkansas. (Petitioner's Exhibit 5.)
6. The Texas Board found that the Respondent performed a colonoscopy on May 3, 2006, which resulted in a colonic perforation. (Petitioner's Exhibit 5.)
7. The Texas board found that the Respondent, by his own admission, failed to appreciate the seriousness of the situation. (Petitioner's Exhibit 5.)
8. The Texas board found several instances of negligence, to wit:
 - a. Respondent's failure to appreciate the seriousness of the situation.
 - b. The Respondent did not begin to appropriately respond to the patient's condition until almost eleven hours after being first informed of the patient's profound hypotension.
 - c. The Respondent delayed in initiating basic resuscitative efforts.
 - d. Respondent's decision to administer ketorolac to the patient while she was hypotensive.

e. The Respondent never repeated the morning labs despite the significant deterioration in the patient's condition. (Petitioner's Exhibit 5.)

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized disciplinary agency of another state where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State in that Respondent's license to practice medicine was suspended for failing to practice medicine in an acceptable manner consistent with public health and welfare, failing to treat according to the generally accepted standard of care, and failing to use proper diligence in his practice; and unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

VOTE: Sustained (3-0)

SECOND SPECIFICATION

Respondent violated New York Education Law Section 6530(9) (d) by having his license to practice medicine suspended and/or having other disciplinary action taken against him by a duly authorized disciplinary agency of another state where the conduct resulting in the disciplinary action would, if committed in New York State, constitute

professional misconduct under the laws of New York State, pursuant to the following sections of New York State Law:

1. New York Education Law § 6530 (3) (negligence on more than one occasion);
2. New York Education Law § 6530 (4) (gross negligence);
3. New York Education Law § 6530 (5) (incompetence on more than one occasion);
4. New York Education Law § 6530 (6) (gross incompetence);

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing, either in person or by counsel. The Administrative Law Judge, after considering the documentary evidence, which included an Affidavit of Non-Service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Exhibit 2), ruled that the Petitioner had met the requirements of law for due diligence in the service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits notwithstanding the Respondent's absence. It is noted that the Affidavit of non-service, Petitioner's Exhibit 2 A, indicated five attempts at personal service, with the process server being called by the respondent and being told that the respondent would come to the process server's office to pick up the papers but he did not appear. Clearly, the Respondent had actual knowledge of the proceeding and chose to ignore this proceeding. Clearly due diligence was exercised in the several attempts at personal service. Also, Petitioner's Exhibit 3 is a copy of a letter sent to the Respondent, advising him of the date of this proceeding.

The record in this case indicates that Respondent's license to practice medicine was suspended in the State of Texas, by a Consent Order . (See Exhibit 5). The Texas Board also indicated that their Order would constitute a Public Reprimand for the Respondent's actions.

It is clear from the documentary record that the basis of the Texas action was certain conduct that eventually resulted in the Texas Board of Medicine taking disciplinary action against Respondent and that the Respondent's actions would also constitute misconduct under the laws of New York State. Respondent did not appear at the hearing, and the record does not contain any evidence of mitigating circumstances, or remorse. The panel noted that that the Respondent was aware of this proceeding and chose to ignore it. As to the penalty, the Hearing Committee determined that the people of New York State would be protected by a revocation of the Respondent's license.

The panel recognized that the Texas board chose to impose a relatively light penalty, a thirty-day suspension, for actions that resulted in the death of patient. The panel, however, also recognized that this doctor was fully aware of this proceeding and yet chose to ignore it and did not respond to the communications from the New York State Department of Health. If a physician wishes to be licensed in New York it is imperative that he or she respect that license and respond to such communications. Accordingly, the panel decided to revoke his license under the circumstances of this case.

ORDER

IT IS HEREBY ORDERED THAT:

1. The license of the Respondent to practice medicine in New York State is revoked.

2. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

**DATED: Latham, New York
December 11, 2008**

Redacted Signature

Scott B. Groudine, M.D., Chair

**Uma B. Mishra, M.D.,
Frank J. King, R.P.A.**

To:

CHARLES LEE LIGGETT, JR., M.D.
Respondent

Redacted Address

Robert Bogan, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
433 River Street, Suite 303
Troy, New York 12180-2299

APPENDIX 1

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



IN THE MATTER
OF
CHARLES LEE LIGGETT, JR., M.D.
CO-08-03-1503-A

NOTICE OF
REFERRAL
PROCEEDING

TO: CHARLES LEE LIGGETT, JR., M.D. CHARLES LEE LIGGETT, JR., M.D.
Redacted Address Redacted Address

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 20th day of November, 2008, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. JAMES HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518)-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. 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. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York

Sept. 22, 2008

Redacted Signature

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

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
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
CHARLES LEE LIGGETT, JR., M.D.
CO-08-03-1503-A

STATEMENT
OF
CHARGES

CHARLES LEE LIGGETT, JR., M.D., Respondent, was authorized to practice medicine in New York state on July 1, 1974, by the issuance of license number 120381 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 8, 2008, the Texas Medical Board (hereinafter "Texas Board"), by an Agreed Order (hereinafter "Texas Order"), inter alia, SUSPENDED Respondent's medical license, however after 30 calendar days the suspension shall automatically terminate and PUBLICLY REPRIMANDED him, based on failing to practice medicine in an acceptable manner consistent with public health and welfare, failing to treat according to the generally accepted standard of care, and failing to use proper diligence in his practice; and unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

B. The conduct resulting in the Texas Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence on more than one occasion);

and/or

4. New York Education Law §6530(6) (gross incompetence).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B.

DATED: *Sept 22*, 2008
Albany, New York

Redacted Signature

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