



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*

January 15, 2009

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Steven Dick, M.D.  
Redacted Address

Robert Bogan, Esq.  
NYS Department of Health  
Hedley Building – Suite 303  
433 River Street  
Troy, New York 12180-2299

**RE: In the Matter of Steven Dick, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 09-09) 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:cah

Enclosure

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

IN THE MATTER  
OF  
STEVEN DICK, M.D.

DETERMINATION  
AND  
ORDER

BPMC #09-09

COPY

A hearing was held on December 16, 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 August 4, 2008, were served, by substituted service, upon the Respondent, **Steven Dick, M.D.**

Pursuant to Section 230(10)(e) of the Public Health Law, **Denise M. Bolan, R.P.A. –C., Chair, Trevor A. Litchmore, M.D.,** and, **Rajan K. Sriskandarajan, M.D.,** 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, **Steven Dick, M.D.,** did appear, *pro se*, without counsel. 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(3) (negligence on more than one occasion), Education Law §6530(4)(gross negligence), Education Law §6530(5)(incompetence on more than one occasion); and/or Education Law §6530(35)(ordering excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient. 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:

Steven Dick, M.D.

## 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. **Steven Dick, M.D.**, the Respondent, did appear at the hearing, and personal jurisdiction was had through attempts at personal service and due diligence was established in this case, beginning on August 14, 2008. (Petitioner's Ex. 2).
2. **Steven. Dick, M.D.**, the Respondent, was authorized to practice medicine in New York State on July 1, 1985, by the issuance of license number 162849 by the New York State Education Department (Petitioner's Ex. 4).
3. The Respondent did not appear before the Alabama Board to contest the charges against him although he was aware of the date and time of the hearing. (Petitioner's Ex. 5).
4. The Alabama Board received from the Respondent, via Express Mail on June 23, 2008, his wall certificate of his Alabama Medical license and the Alabama Board deemed this submission evidence of the Respondent's intention not to contest the allegations in the complaint and the Alabama Board proceeded with the hearing on June 25<sup>th</sup> in the Respondent's absence and sustained the charges against him. (Petitioner's Ex. 5).

5. Based upon the evidence presented by the Board of Medical Examiners, the Alabama Medical Licensure Commission found that the Respondent committed gross malpractice and repeated malpractice in his treatment of 19 patients, patients A through S, as set forth in the complaint. (Petitioner's Ex. 5.)

### **VOTE OF THE HEARING COMMITTEE**

#### **FIRST SPECIFICATION**

Respondent violated New York Education Law Section 6530(9)(a)(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.

VOTE: Sustained (3-0)

#### **SECOND SPECIFICATION**

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

VOTE: Sustained (3-0)

## HEARING COMMITTEE DETERMINATION

The Respondent did appear at the hearing, in person, without counsel. The Administrative Law Judge, inquired if the Respondent wished an adjournment to obtain counsel. The Respondent indicated that he could not afford to retain a lawyer and he stated that he was prepared to go forward with the hearing, *pro se*.

In light of his presence and 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), the Administrative Law Judge ruled that the Petitioner had met the requirements of law for service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed.

According to his testimony, the Respondent was a practicing neurologist in the State of Alabama and his practice focused on Chronic inflammatory demyelinating polyneuropathy (CIDP) which is a neurological disorder characterized by progressive weakness and impaired sensory function in the legs and arms. The disorder, which is sometimes called chronic relapsing polyneuropathy, is caused by damage to the myelin sheath (the fatty covering that wraps around and protects nerve fibers) of the peripheral nerves. CIDP is closely related to Guillain-Barre syndrome and it is considered the chronic counterpart of that acute disease.

From the testimony at the hearing it appears that treatment for CIDP includes corticosteroids such as prednisone, which may be prescribed alone or in combination with immunosuppressant drugs. Plasmapheresis (plasma exchange) and intravenous immunoglobulin (IVIg) therapy are effective.

The Alabama board found that the Respondent's care was wrongful in that they found that the clinical history of several patients was not suggestive of CIDP in that they had normal reflexes and thus it was unnecessary to treat the patient with IVIg, a treatment to which identified patients had no response. The Alabama board went on to find in numerous cases that there was no clinical history suggestive of CIDP, and that, nevertheless, the Respondent conducted repeated treatments with excessive doses of IVIG, which endangered the health of these patients. In addition, they found several instances of misinterpretation of nerve conduction data.

Furthermore, the Alabama board found repeated, unnecessary doses of IVIg, along with Methadone, Lortab, Percocet and excessive nerve conduction studies, which were misinterpreted. With other patients the board concluded that there were excessive and repeated doses of IVIg; poorly-administered and misinterpreted nerve conduction studies.

When asked to explain why he didn't contest the charges brought against him in Alabama, the Respondent stated that he had discussed the matter with attorneys who had asked for some \$40,000 to represent him and he had did not have this money due to an expensive divorce. The Respondent also acknowledged that he understood that some, namely two, of the charges would be sustained as the evidence would show that the allegations brought against him in the complaint were accurate. Since he knew he was guilty of at least two of the charges he stated that a defense would be futile and so he chose to mail in his license and not contest the action in Alabama.



The hearing committee was troubled by the fact that the Respondent admitted, in his testimony, that he has continued to practice medicine in Alabama, after his Alabama license had been revoked. The Respondent acknowledged at the hearing that he reads radiological reports, and gives his opinions, as part of his business when he is in the State of Alabama. The hearing committee deemed this activity to be practicing medicine in flagrant violation of the Alabama order.

The Respondent contended that the legal process in the State of Alabama was unfair and was initiated by Blue Cross in retaliation for the expensive treatment that he was providing. It was explained to the Respondent that this was not the forum to challenge the Alabama verdict. That must be done in Alabama and New York will not revisit their determination. The finding of Alabama was that the Respondent was found guilty of improper professional practice and the purpose of this proceeding was to determine the New York penalty.

In determining the appropriate penalty the panel recognized that the Respondent admitted to at least two of the Alabama charges and also took into account that he has continued to practice in Alabama, notwithstanding his revocation.

The Respondent did submit a number of reference letters in support of his case, Respondent's Exhibits A through D. These letters were initially generated in support of his position at the University of Buffalo, a position he obtained after Alabama had begun the process to revoke his license. The value of these letters of commendation was offset by the fact that the Respondent quit the position at the University at Buffalo after being accused of making improper sexual advances and coming to work under the influence of alcohol. The testimony at the hearing shows that the Respondent quit that position rather than respond to those accusations in Buffalo.

The panel took all these factors into account in making its decision and, as to the penalty, the panel determined that the people of New York State would be protected by a revocation of the Respondent's license.

**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: Newcomb, New York  
January 13, 2009**

Redacted Signature

**Denise M. Bolan, R.P. A. -C., Chair**

**Trevor A. Litchmore, M.D.,  
Rajan K. Sriskandarajan, M.D.,**

TO: Steven Dick, 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

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IN THE MATTER

OF

STEVEN DICK, M.D.  
CO-08-07-4386-A

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NOTICE OF

REFERRAL

PROCEEDING

TO: STEVEN DICK, M.D.

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 18<sup>th</sup> day of September, 2008, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5<sup>th</sup> 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. SEAN D. O'BRIEN, 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

*Aug. 4*, 2008

Redacted Signature

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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

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IN THE MATTER  
OF  
STEVEN DICK, M.D.  
CO-08-07-4386-A

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STATEMENT  
OF  
CHARGES

STEVEN DICK, M.D., Respondent, was authorized to practice medicine in New York state on July 1, 1985, by the issuance of license number 162849 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about December 17, 2007, the Alabama State Board of Medical Examiners, Medical Licensure Commission of Alabama (hereinafter "Alabama Board"), by an Order (hereinafter "Alabama Order"), REVOKED Respondent's license to practice medicine, based on, inter alia, gross malpractice and repeated malpractice or gross negligence.

B. The conduct resulting in the Alabama 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);
4. New York Education Law §6530(6) (gross incompetence); and/or
5. New York Education Law §6530(35) (ordering excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient).

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

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

DATED:

*Aug. 4*, 2008  
Albany, New York

Redacted Signature

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