



*Public*  
**STATE OF NEW YORK  
DEPARTMENT OF HEALTH**

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

October 30, 2006

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

William Lenard, M.D.  
125 SW 7<sup>th</sup> Street  
Williston, Florida 32696

William Lenard, M.D.  
3324 West University Ave., #122  
Gainesville, Florida 32653

Robert Bogan, Esq.  
NYS Department of Health  
Hedley Building – 4<sup>th</sup> Floor  
433 River Street  
Troy, New York 12180

**RE: In the Matter of William Lenard, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 06-245) 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), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "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,

  
Sean D. O'Brien, Director  
Bureau of Adjudication

SDO:cah  
Enclosure

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

COPY

IN THE MATTER  
OF  
WILLIAM LENARD, M.D.

DETERMINATION

AND

ORDER

BPMC #06-245

A hearing was held on October 18, 2006, 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 17, 2006, were served upon the Respondent, **William Lenard, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Fred S. Levinson, M.D.**, Chairperson, **Marvin L. Hartstein, M.D.**, and **Ms. Frances E. Tarlton**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **John Wiley, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Donald P. Berens, Jr., Esq.**, General Counsel, by **Robert Bogan, Esq.**, of Counsel. The Respondent did not appear at the hearing, either in person or by counsel. He did send a document for inclusion in the hearing record, which the Administrative Law Judge admitted into evidence as Respondent's Ex. A.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

## **BACKGROUND**

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 Section 6530(9)(b) and (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. William Lenard, M.D., the Respondent, was authorized to practice medicine in New York State on August 10, 1972, by the issuance of license number 113190 by the New York State Education Department (Petitioner's Ex. 4).

2. On July 21, 2002, the Florida Board of Medicine ("Florida Board"), by a Final Order ("Florida Order 1"), reprimanded the Respondent, fined him \$2,000.00, required him to pay \$1,075.74 administrative costs, required him to complete ten hours of continuing medical education, required him to complete twenty hours of community service and issued him a letter of concern, based on his failure to practice medicine with that level of care, skill and treatment which is required by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances (Petitioner's Ex. 5).

3. On October 18, 2004, the Florida Board, by a Final Order ("Florida Order 2"), fined the Respondent \$5,000.00, temporarily restricted his license to practice medicine so that he could practice only to the extent necessary to fulfill the community service requirements of the Florida Board, required him to complete 25 hours of community service in addition to the community service required by Florida Order 1, and required him to pay costs of \$504.42. This action was based on the Respondent's failure to fulfill the continuing medical education and community service requirements of Florida Order 1. (Petitioner's Ex. 6).

4. On December 9, 2005, the Florida Board, by a Final Order ("Florida Order 3"), reprimanded the Respondent, required him to pay \$943.82 costs, required him to perform 50 hours of community service, and suspended his license to practice medicine until he complied with Florida Orders 1 and 2, based on his failure to pay the fines and costs imposed by Florida Orders 1 and 2 (Petitioner's Ex. 7).

#### **HEARING COMMITTEE CONCLUSIONS**

The Hearing Committee concludes that the conduct of the Respondent would constitute professional misconduct under the laws of New York State, had the conduct

occurred in New York State, pursuant to New York Education Law Section 6530(29) -  
"Violating any term of probation or condition or limitation imposed on the licensee..."

### **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 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 suspended or disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state..."

VOTE: Sustained (3-0)

### **HEARING COMMITTEE DETERMINATION**

The Respondent did not appear at the hearing, either in person or by counsel. He did not request an adjournment of the hearing. He did submit a document for inclusion in the record (Respondent's Ex. A). After examining the evidence on service of the Notice of Referral Proceeding and the Statement of Charges, the Administrative Law Judge ruled that the requirements of law had been met for the service of these documents on the Respondent, that jurisdiction had been obtained over the Respondent, and that the

hearing could proceed on the merits despite the absence of the Respondent (Petitioner's Ex. 2, 3[a], 3[b]).

The initial Florida disciplinary proceeding was based on allegations that the Respondent provided inadequate treatment to a patient he treated at an emergency room. After an exploration of the patient's complaints and symptoms, the Respondent discharged the patient with instructions to see his primary physician and to return if his condition worsened. The patient returned to the hospital by ambulance a few days later with an intracerebral hemorrhage. This hemorrhage caused the patient's death. The Department contended that the Respondent's treatment of this patient constituted gross negligence.

The Hearing Committee has come to the conclusion that the hearing record does not contain enough information to support this charge. A description of the patient's symptoms and the Respondent's treatment is found in the Florida Administrative Complaint, which is part of Petitioner's Ex. 5. This document states that the patient complained of left hand numbness and weakness, serious enough to cause an inability to hold anything with that hand. The patient also complained of pain in his chest for two days with no shortness of breath, nausea or vomiting. Regarding the left hand problem, there is no description of the duration and frequency of the problem or of whether it was present during the visit to the emergency room. Regarding the chest pain, its severity is not described nor is it clear that the pain was present on the date of the examination. The nature and scope of the physical examination performed by the Respondent is not described. The Petitioner did not explain why this was a case of gross negligence rather than ordinary negligence. (Under New York State Law, one act of ordinary negligence does not constitute professional misconduct – Education Law Section 6530[3]). There

simply is not enough information about the encounter between the Respondent and the patient to sustain a charge of gross negligence rather than ordinary negligence.

The charge of failure to comply with an order of the Florida Board is another matter. The Respondent did not comply with Florida Orders 1 and 2, which is why Florida Order 3 had to be issued. In Respondent's Ex. A, the Respondent defended his failure to pay the fines imposed by Florida Orders 1 and 2 by arguing that they were unfair. It does the Respondent more harm than good to argue that a physician does not need to comply with what he considers to be unfair disciplinary orders. It is a reason to conclude that any penalty imposed other than a revocation of his New York license will be inadequate.

The Respondent argued in Respondent's Ex. A that any disciplinary action taken against him in New York State for the Florida disciplinary problems would be "tantamount to double jeopardy." The Respondent fails to realize that this Hearing Committee has the authority and the responsibility to protect the people of New York State from physicians who cannot be trusted to comply with the laws that govern the practice of medicine. This is true regardless of what punishment has or has not been imposed in other states. The Petitioner has recommended that the Respondent's license be revoked. Nothing in Respondent's Ex. A effectively counters that recommendation. The recommendation will be accepted.

### **ORDER**

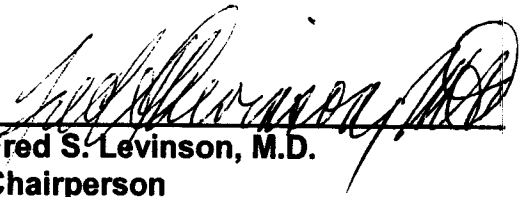
#### **IT IS HEREBY ORDERED THAT:**

1. The Respondent's license 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: Middletown, New York

October 30, 2006

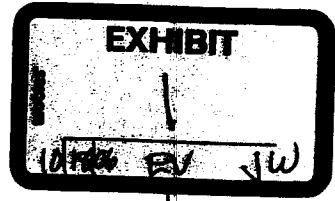


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Fred S. Levinson, M.D.  
Chairperson

Marvin L. Hartstein, M.D.  
Frances E. Tarlton

# **APPENDIX I**



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

ORIGINAL

IN THE MATTER

NOTICE OF

OF

REFERRAL

WILLIAM LENARD, M.D.  
CO-04-12-6107-A

PROCEEDING

TO: WILLIAM LENARD, M.D.  
125 SW 7<sup>th</sup> St.  
Williston, FL 32696

WILLIAM LENARD, M.D.  
3324 West University Ave., #122  
Gainesville, FL 32653

**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 October, 2006, 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

*August 17, 2006*



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  
WILLIAM LENARD, M.D.  
CO-04-12-6107-A

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STATEMENT  
OF  
CHARGES

**WILLIAM LENARD, M.D.**, Respondent, was authorized to practice medicine in New York state on August 10, 1972, by the issuance of license number 113190 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about July 21, 2002, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order 1"), REPRIMANDED Respondent, fined him \$2,000.00, required him to pay \$1,075.74 administrative costs, required him to complete ten (10) hours of CME in the area of emergency medicine and twenty (20) hours of community service, and issued him a Letter of Concern, based on failing to practice medicine with that level of care, skill, and treatment which is required by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

B. On or about October 18, 2004, the Florida Board, by a Final Order (hereinafter "Florida Order 2"), fined Respondent \$5,000.00; restricted his license to practice medicine so that he may only practice medicine in order to fulfill the community service hours required by Florida Order 1, set forth in Paragraph A, above, until such time when he documents completion of the terms of that Order; required him to complete twenty five (25) hours of additional community service, and to pay \$504.42 costs, based on violating a lawful Order of the Florida Board previously entered in a disciplinary hearing.

C. On or about December 9, 2005, the Florida Board, by a Final Order (hereinafter "Florida Order 3"), reprimanded Respondent's license to practice medicine, required him to pay \$943.82 costs, required that he perform fifty (50) hours of community service, and suspended his license to practice medicine until Florida Order 1 and Florida Order 2 have been complied with, based on a violating a lawful Order of the Florida Board previously entered in a disciplinary hearing.

D. The conduct resulting in the Florida Board disciplinary actions 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(4) (gross negligence); and/or
2. New York Education Law §6530(29) (violating any term of probation or condition or limitations imposed on the licensee).

### **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, B, and/or D.

#### **SECOND THROUGH FOURTH SPECIFICATIONS**

Respondent violated New York State Education Law §6530 (9)(d) by having his license to practice medicine suspended or disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license suspension 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 D.
3. The facts in Paragraphs A, B, and/or D.
4. The facts in Paragraphs A, B, C, and/or D.

DATED: *August 17*, 2006  
Albany, New York



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