



# 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

*Public*

July 10, 2006

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Edward A. Kent, M.D.  
30 Red Feather Trail  
Wakefield, Rhode Island 02879

Edward A. Kent, M.D.  
77 Franklin Street - Route 1  
Suite B  
Westerly, Rhode Island 02891

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 Edward A. Kent, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 06-152) 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.

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 Respondent or the Department may seek a review of a committee determination.

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.

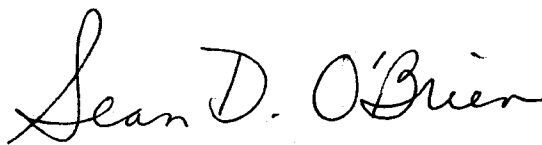
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in cursive script that reads "Sean D. O'Brien".

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  
EDWARD A. KENT, M.D.

DETERMINATION

AND

ORDER

BPMC #06-152

A hearing was held on June 21, 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 May 3, 2006, were served upon the Respondent, **Edward A. Kent, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Patrick F. Carone, M.D., M.P.H.**, Chairperson, **Trevor A. Litchmore, M.D.**, and **Ms. Virginia R. Marty**, 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 mail documents for inclusion in the record to the Administrative Law Judge. Three of those documents were admitted into evidence:

- Respondent's Ex. A – a redacted version of a May 30, 2006, statement of the Respondent's arguments,
- Respondent's Ex. B – the Respondent's curriculum vitae,
- Respondent's Ex. C – a July 9, 2003, article from the Narragansett Times.

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. Edward A. Kent, M.D., the Respondent, was authorized to practice medicine in New York State on July 24, 1991, by the issuance of license number 186317 by the New York State Education Department (Petitioner's Ex. 4).

2. On or about January 3, 2006, the Rhode Island Department of Health, Board of Medical Licensure and Discipline, ("Rhode Island Board"), by a Consent Order ("Rhode Island Order"), placed the Respondent on one year probation, based on violating acceptable practice standards by conducting an epidural pain procedure in his home on a patient who was a hospital employee (Petitioner's Ex. 5).

### **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(6) - "Practicing the profession with gross incompetence..."

### **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 disciplinary action taken after a disciplinary action was instituted by a duly authorized professional 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..."

VOTE: (Sustained 3-0)

### HEARING COMMITTEE DETERMINATION

The Respondent did not appear at the hearing. Instead, he submitted documents for inclusion in the hearing record, some of which were admitted by the Administrative Law Judge. The Administrative Law Judge ruled that the Petitioner had met the requirements of law for service of the Notice of Referral Proceeding and the Statement of Charges and that the hearing could proceed on the merits despite the absence of the Respondent.

The Rhode Island Board found fault with the Respondent's treatment of a patient at the Respondent's home. The Respondent provided the patient with an epidural pain procedure, which, according to the Rhode Island Order, "violated acceptable practice standards." (Petitioner's Ex. 5, p. 2). The New York Statement of Charges alleges that the Respondent's conduct, had it occurred in New York State, would constitute gross negligence pursuant to Public Health Law Section 6530(4). The Respondent provided, in his written argument, the following information relevant to the question of gross negligence:

I performed an epidural steroid injection, under sterile technique, with full documentation and monitoring in my home. The patient was a hospital employee that I had known for many years that had intractable back and leg pain...She called me on a Saturday evening complaining of incapacitating pain. I asked the patient to meet me in the ER to perform an epidural steroid injection. She did not wish to go through that arduous process and refused. ...She could not wait until Monday and wanted immediate treatment and relief from pain now. I agreed to accommodate this suffering patient and treat her. I have my own EKG, Blood Pressure, Pulseoximetry, respiratory monitor, epidural kits, medications and resuscitative medications...I agreed to treat her with her EMT Fireman husband present. I obtained a written History & Physical, a written Consent: I wrote a procedure note and documentation (sic)

her vital signs that include pre-intra-post-procedure EKG, Blood Pressure, Respirations, and oxygen saturation. (Respondent's Ex. A, p. 2).

There is one crucial item missing from the equipment that the Respondent had in his home. The Respondent did not have the equipment needed to treat any cardiovascular problem that might occur. If the patient had suffered such a problem, the Respondent would have been unable to respond quickly and effectively at his home. The consequences of this problem could be fatal. For this reason, the epidural treatment at the Respondent's home constituted gross negligence.

The Petitioner recommended that the Petitioner be censured and reprimanded, fined \$2,500.00, and placed on probation for three years. Nothing in this hearing record leads this Hearing Committee to conclude that this would be an excessive penalty. The recommendation will be adopted.

#### **ORDER**

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

1. The Respondent is censured and reprimanded.
2. The Respondent is fined \$2,500.00. The fine is payable in full within 30 days of the effective date of this Order. Payment must be submitted to the New York State Department of Health, Bureau of Accounts Management, Empire State Plaza, Corning Tower, Room 1258, Albany, New York 12237. Failure to pay the fine on time will subject the Respondent to all provisions of law relating to debt collection by New York State, including imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits and licenses (Tax Law Section 171[27], State Finance Law Section 18, CPLR Section 5001, Executive Law Section 32).

3. The Respondent is placed on probation for three years. The commencement of probation is tolled until the Respondent resumes the practice of medicine in New York State. The terms of probation are stated in paragraphs 4 through 15 of this Order.

4. The Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.

5. The Respondent shall submit to the Office of Professional Medical Conduct ("OPMC") (New York State Department of Health, Office of Professional Medical Conduct, Hedley Park Place, 433 River Street, Suite 303, Troy, New York 12180-2299), written notification of any change in employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.

6. The Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of the Respondent's compliance with the terms of this Order and shall personally meet with a person designated by OPMC when so requested.

7. The period of probation shall be tolled during periods in which the Respondent is not engaged in the active practice of medicine in New York State. After the period of active probation begins, the Respondent shall notify OPMC, in writing, if the Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of 30 consecutive days or more. The Respondent shall notify OPMC again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon the



Respondent's return to practice in New York State.

8. The Respondent's professional performance may be reviewed by OPMC. This review may include, but shall not be limited to, a review of office records, patient records and hospital charts, interviews with or periodic visits with the Respondent and his staff at practice locations or OPMC offices.

9. The Respondent shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State regulations regarding controlled substances.

10. During the period of probation, the Respondent shall practice medicine only when monitored by a practice monitor, who must be a licensed physician, board certified in an appropriate specialty, proposed by the Respondent and subject to the written approval of OPMC. An approved practice monitor must be in place prior to the Respondent's resumption of the active practice of medicine in New York State.

11. The Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The monitor shall visit the Respondent's medical practice at each and every location, on a random, unannounced basis at least monthly and shall examine at least twenty records maintained by the Respondent, including patient records, prescribing information and office records. The purpose of this review is to determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation from accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.

12. The Respondent shall be solely responsible for all expenses associated with monitoring, including fees to the monitoring physician.

13. The Respondent shall cause the practice monitor to report quarterly, in

writing, to OPMC.

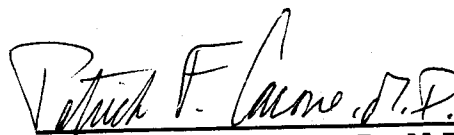
14. The Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2,000,000.00 per occurrence and \$6,000,000.00 per policy year, in accordance with Public Health Law Section 230(18)(b). Proof of coverage shall be submitted to OPMC prior to the Respondent's resumption of the active practice of medicine in New York State.

15. Upon receipt of evidence of noncompliance with the terms of probation, OPMC or the State Board for Professional Medical Conduct may initiate a violation of probation proceeding and/or any other proceeding against the Respondent as may be authorized by law.

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

**DATED: Massapequa Park, New York**

5 July, 2006

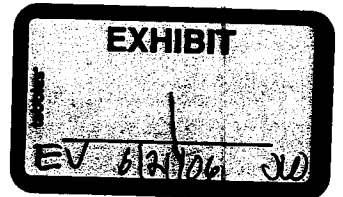


**Patrick F. Carone, M.D., M.P.H.**  
Chairperson

**Trevor A. Litchmore, M.D.**  
**Virginia R. Marty**

# APPENDIX 1

ORIGINAL



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

IN THE MATTER

OF

EDWARD A. KENT, M.D.  
CO-06-01-0366-A

NOTICE OF

REFERRAL

PROCEEDING

TO: EDWARD A. KENT, M.D.  
30 Red Feather Trail  
Wakefield, RI 02879

EDWARD A. KENT, M.D.  
77 Franklin Street Route 1  
Suite B  
Westerly, RI 02891

**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 Procedure Act Sections 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 21<sup>st</sup> day of June 2006, at 10:00 in the forenoon of that day at the Hedley Park Place, 5<sup>th</sup> Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. 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 that 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, 5<sup>th</sup> Floor, 433 River Street, Troy, New York, ATTENTION: HON. SEAN O' BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before June 12, 2006.


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 no later than ten days prior to the hearing. Any Charge of Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an 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 brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before June 12, 2006, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 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 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  
*May 3*, 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

IN THE MATTER

OF

EDWARD A. KENT, M.D.  
CO-06-01-0366-A

STATEMENT

OF

CHARGES

EDWARD A. KENT, M.D., the Respondent, was authorized to practice medicine in New York state on July 24, 1991, by the issuance of license number 186317 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about January 3, 2006, the State of Rhode Island and Providence Plantations, Department of Health, Board of Medical Licensure and Discipline (hereinafter "Rhode Island Board"), by a Consent Order (hereinafter "Rhode Island Order"), placed Respondent on one (1) year probation, based upon violating acceptable practice standards by conducting an epidural pain procedure in his home on a "patient" who was a hospital employee.

B. The conduct resulting in the Rhode Island 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(4) (gross negligence).

**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 disciplinary action taken after a disciplinary action was instituted by a duly authorized professional 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 New York state, in that Petitioner charges:

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

DATED: *May 3*, 2006  
Albany, New York

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



**SUMMARY OF DEPARTMENT OF HEALTH HEARING RULES**

**(Pursuant to Section 301 SAPA)**

The following items are addressed by the Uniform Hearing Procedures Rules of the New York State Department of Health:

Applicability

Definitions

Notice of Hearing

Adjournment

Answer or Responsive Pleading

Amendment of Pleadings

Service of Papers

Discovery

Hearing Officer/Pre-Hearing Conference

Pre-Hearing Conference

Stipulations and Consent Orders

The Hearing

Hearing Officer's Report

Exceptions

Final Determination and Order

Waiver of Rules

Time Frames

Disqualification for Bias

The exact wording of the rules is found at 10 NYCRR Part 51 Volume 10 of the New York Code of Rules and Regulations. Each of the above items may be summarized as following:

51.1 Applicability. These regulations apply to most hearings conducted by the Department of Health.

51.2 Definitions.

1. "Commissioner" means Commissioner of the New York State Department of Health.
2. "CPLR" means Civil Practice Law and Rules.
3. "Department" means New York State Department of Health.
4. "Hearing Officer" means the person appointed to preside at the hearing or the person designated as administrative officer pursuant to Public Health Law Section 230.
5. "Party" means all persons designated as petitioner, respondent or intervenor.
6. "Report" means the Hearing Officer's summary of the proceeding and written recommendation or findings, conclusions and determination of the hearing committee pursuant to Public Health Law Section 230.

51.3 The Department's Notice of Hearing and/or Statement of Charges should be served at least 15 days prior to the first hearing date, specify time, place and date(s) and should contain the basis for the proceeding. Pursuant to Public Health Law §230, the Notice of Hearing must, additionally, specify that the licensee shall file a written answer.

51.4 Adjournment. Only the Hearing Officer may grant an adjournment and only after he/she has consulted with both parties. In hearings pursuant to Public Health Law Section 230 an adjournment on the initial day may be granted by the hearing committee.

51.5 Answer or Responsive Pleading. A party may serve a answer or response to the allegations of the Department. In matters governed by PHL §230, the licensee is required to file a written answer to each of the charges and allegations of the Department. Under the law, any charge or allegation which is not so answered shall be deemed admitted.

51.6 Amendment to Pleadings. A party may usually amend papers if no substantial prejudice results by leave of the Hearing Officer.

51.7 Service of Papers. Except for the Notice of Hearing and/or Statement of Charges, all papers may be served by ordinary mail.

51.8 Disclosure. Generally, there is no disclosure of any kind and the Hearing Officer cannot require it, unless all parties agree. If agreed to, the Hearing Officer will ensure all parties proceed in accordance with their agreement. However, in a hearing in which revocation of a license or permit is sought or possible, a party may demand in writing that another party disclose the names of witnesses, document or other evidence such other party intends to offer at the hearing. A demand for such disclosure must be served at least 10 days prior to the first scheduled hearing date. Disclosure or a statement that the party has nothing to disclose must be made at least 7 days before the first scheduled hearing date. A party that determines to present witnesses or evidence not previously disclosed must supplement its disclosure as soon as is practicable. The Hearing Officer may, upon good cause shown, modify the times for demands for and response to disclosure or allow a party not to disclose or limit, condition or regulate the use of information disclosed and may preclude the introduction of evidence not disclosed pursuant to a demand.

51.9 Hearing Officer. He/she presides over the hearing and has the authority to ensure it is conducted in an orderly fashion. He/she may also order the parties to meet before the hearing to discuss the procedure. He/she does not have the authority to remove testimony from the transcript and/or dismiss charges unless authorized by delegation.

51.10 Stipulation and Consent and Surrender Orders. At any

time prior to a final order, parties may resolve all or any issues by stipulation. An order issued pursuant to a stipulation has the same force and effect as one issued after hearing.

51.11 The Hearing. A party may have an attorney represent him or her. Failure to appear may result in an adverse ruling. A hearing may be combined with or separated from another hearing depending on whether such action will result in delay, cost or prejudice. While the rules of evidence as applied in a courtroom are not observed, witnesses must be sworn or give an affirmation and each party has the right to present its case and to cross-examine. The Department has broad discretion to place documents into evidence. A record of the proceeding must be made. In enforcement cases, the Department has the burden of proof and of going forward. In matters relating to neglect or abuse of patients under Public Health Law Section 2803-d, the Hearing Officer may not compel disclosure of the identity of the person making the report or who provided information in the investigation of the report.

Complaints relating to Public Health Law Section 230 may not be introduced into evidence by either party and their production cannot be required by the Hearing Officer.

Claims that a hearing has been unreasonably delayed is treated as an affirmative defense (Section 51.5) or as part of the claimant's case. The burden of going forward and of proof are on the claimant.

A verbatim record of the proceeding shall be made by any means determined by the Department. The record shall include notice of hearing and any statement of charges, responsive pleadings, motions, rulings, transcript or recording, exhibits, stipulations, briefs, any objections filed, any decision, determination, opinion, order or report rendered.

51.12 Hearing Officer or Hearing Committee Report. The report or determination should be submitted within 60 days of completion of the hearing.

51.13 Filing of Exceptions. Within 30 days of the date of a copy of the report of the Hearing Officer and proposed order any party may submit exceptions to said report and proposed order.

to the Supervising Administrative Law Judge. On notice of all parties, a party may request, before the expiration of the exception period, the Supervising Law Judge to extend the exception period. All parties have the opportunity to state their position on the extension on the record. Extensions may be granted on good cause shown; however, they are not granted to allow a party to respond to exceptions already filed. Pursuant to PHL 230(c), a notice of request for review of the Hearing Committee determination must be served upon the ARB within 14 days of service of the determination. All parties have 30 days thereafter to submit briefs and 7 days from service of a brief to submit a reply.

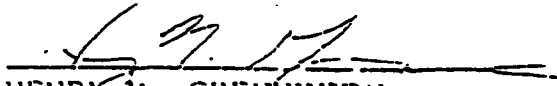
51.14 Final Determination Order. The hearing process ends when an order is issued by the Commissioner or his designee or the appropriate board of council. The order should state a basis for the decision. Each party receives a copy of the order.

51.15 Waiver of Rules. These rules and regulations may be dispensed with by agreement and/or consent.

~~51.16 Establishment, Construction, Rate Hearings.~~ Hearings involving any of these issues have time limits concerning the issuance of notices of hearing of 365 days of receipt by the Department of a request for hearing.

51.17 Disqualification for Bias. Bias shall disqualify a Hearing Officer and/or a committee member in hearings governed by Public Health Law Section 230. The party seeking disqualification must submit to the hearing officer an affidavit pursuant to SAPA Section 303. Mere allegations are insufficient. The Hearing Officer rules on the request.

DATED: Albany, New York  
March 10, 1997

  
HENRY M. GREENBERG  
General Counsel