



Department  
of Health

KATHY HOCHUL  
Governor

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner


KRISTIN M. PROUD  
Acting Executive Deputy Commissioner

September 17, 2021

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

David W. Quist, Esq.  
Bureau of Professional Medical Conduct  
Corning Tower Building, Room 2512  
Empire State Plaza  
Albany, New York 12237

Stephen P. Bradley, M.D.  


Stephen P. Bradley, M.D.  


**RE: In the Matter of Stephen P. Bradley, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 21-193) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon 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to deliver to the Board of Professional Medical Conduct your license to practice medicine **if said license has been revoked, annulled, suspended or surrendered**, together with the registration certificate.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  
Riverview Center  
150 Broadway – Suite 355  
Albany, New York 12204

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.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

A solid black rectangular redaction box covering the signature of James F. Horan.

James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH: cmg  
Enclosure

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

In the Matter of

Stephen P. Bradley, M.D. (Respondent)

A proceeding to review a Determination by a Committee  
(Committee) from the Board for Professional Medical  
Conduct (BPMC)

Administrative Review Board (ARB)

Determination and Order No. 21- 193

**COPY**

Before ARB Members Rabin, Torrelli, Wilson and Milone  
Administrative Law Judge James F. Horan drafted the Determination

For the Department of Health (Petitioner): David W. Quist, Esq.  
For the Respondent: *Pro se*

The Respondent holds a license to practice medicine in New York State (License) as well as a license to practice in California. Following disciplinary action against the Respondent's California license, a BPMC Committee determined that the Respondent's conduct, which resulted in a stayed revocation, probation and continuing education in California, amounted to professional misconduct in New York. The Committee voted to revoke the Respondent's License, stay the revocation, place the Respondent on probation upon his return to practice in New York and limit the Respondent's License permanently. In this proceeding pursuant to New York Public Health Law (PHL) § 230-c (4)(a)(McKinney 2019), the Respondent asked the ARB to modify that Determination by removing the probation and the license limitation. After reviewing the hearing record and the parties' review submissions, the ARB overturns the Committee's Determination to stay the revocation on the Respondent's License. We vote 4-0 to revoke Respondent's License.

### Committee Determination on the Charges

Pursuant to PHL § 230 *et seq*, BPMC and its Committees function as a duly authorized professional disciplinary agency of the State of New York. The BPMC Committee in this case conducted a hearing under the expedited hearing procedures (Direct Referral Proceeding) in PHL §230(10)(p), which provides for a hearing when a licensee faces charges solely under New York Education Law (EL) §6530(9) for conduct resulting in criminal convictions or disciplinary action by another jurisdiction. The Specification of Charges alleged that the Respondent committed misconduct under the definition at EL § 6530(9)(d), by engaging in conduct that resulted in disciplinary action by the duly designated disciplinary body of another state for conduct that would also constitute misconduct if committed in New York. The Specification charged further that the Respondent's conduct in California would constitute misconduct in New York State under EL §§ 6530(3-4) and 6530(32) for practicing with negligence on more than one occasion, practicing with gross negligence and failing to maintain accurate records. In the Direct Referral Proceeding, the statute limits the Committee to determining the nature and severity for the penalty to impose against the licensee, In the Matter of Wolkoff v. Chassin, 89 N.Y.2d 250 (1996). Following the Direct Referral Proceeding, the Committee rendered the Determination now on review.

The evidence before the Committee demonstrated that the Respondent entered into a Stipulated Settlement and Disciplinary Order (Order) with the Medical Board of California (California Board) on February 3, 2020, which revoked the Respondent's California license, stayed the revocation and placed the Respondent on probation for three years under terms that included practicing with a monitor and completing 40 hours continuing medical education for

each year during the probation. The California Board began a disciplinary action against the Respondent by an April 2019 Accusation that charged the Respondent with:

- committing gross negligence by prescribing escalating doses of opioids for chronic pain without paying sufficient attention to the risks of intoxication, overdose and abuse, despite the patient exhibiting signs of abuse;
- continuing to prescribe benzodiazepine combined with opioids for a patient who tested positive for illicit substances and took less than the prescribed amount of medication yet ran out of medication, indicating diversion;
- committing repeated acts of negligence by failing to conduct a thorough psychiatric history in a patient who is self-medicating with street drugs, failing to conduct a substance abuse history, failing to adjust a treatment plan when the patient was non-compliant, failing to obtain informed consent regarding the risk of combining medications; and,
- failing to maintain accurate and adequate records [Hearing Exhibit 4].

The Accusation was attached as Exhibit A to the California Board Order [Hearing Exhibit 4]

The Respondent indicated that he read the Stipulated Settlement and Disciplinary Order, discussed the Order with counsel and, having benefit of counsel, waived his legal rights, including the right to a hearing on the charges in the Accusation. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, the Respondent agreed that, at a hearing, the Board could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline [Department Exhibit 4]. In a Direct Referral Proceeding, when a licensee has waived an adjudication on the merits of an out-of-state complaint by entering a stipulation of settlement, an inference is raised that the

allegations against the licensee have merit, Matter of Hatfield v. Dept. of Health of the State of NY, 245 A.D.2d 703, 665 N.Y.S.2d 755 (3<sup>rd</sup> Dept. 1997); Matter of Sternberg v. Admin. Rev. Bd. For Prof. Med. Conduct, 235 A.D.2d 945, 652 N.Y.S.2d 855 (3<sup>rd</sup> Dept. 1997), lv. denied 90 N.Y.2d 809 (1997).

The Committee found that the Respondent's conduct that resulted in the California Board Order would constitute misconduct under EL § 6530(9)(d) and that the conduct if committed in New York would amount to violations under EL §§ 6530(3-4) and § 6530(32) as practicing medicine with negligence on more than one occasion, practicing with gross negligence and failing to maintain accurate patient records. The Committee agreed with the Department's recommendation to revoke the Respondent's License, but the Committee stayed the revocation, placed the Respondent on probation for three years, if he returns to practice in New York, and limited the Respondent's License to prohibit him from prescribing Schedule II Controlled Substances. The Committee found that the Respondent has changed his practice by referring patients with chronic pain to a pain management practice and has focused his practice on treating addiction. The Committee noted that the Respondent appreciates the serious nature of the penalty the California Board imposed and is complying with the Order.

#### Review History and Issues

The Committee rendered their Determination on March 10, 2021. This proceeding commenced on March 22, 2021, when the ARB received the Respondent's Notice requesting a review and specific modifications to the Committee Determination. The Respondent chose to make the Notice/Request his only submission. The record for review contained the Committee's

Determination, the hearing record, the Respondent's Notice/Requests and the Petitioner's Reply. The record closed when the ARB received the Reply on May 4, 2021.

The Respondent requested that the ARB modify the Committee's Determination so that the Respondent may continue practicing where he is without the requirement of working in New York. The Respondent requested that the License limitation be removed because changes to his practice have made the limitation unnecessary. The Respondent argued that there are common elements to the California Board Order and the Committee Determination, so that his License here should be unencumbered when his California license no longer includes restrictions. The Respondent concluded that his principal reason for requesting changes is that the Respondent's patients would benefit from the Respondent becoming board certified in Addiction Medicine and the process of board certification is not permitted when any license is encumbered.

The Petitioner replied that the restrictions under the Committee Determination are designed to protect the people of New York and ensure that the Respondent can practice safely. The Petitioner argued that the Respondent is asking the ARB to provide less protection to patients in New York in order to allow the Respondent to enhance his practice. The Petitioner asked that the ARB retain in place the penalty the Committee imposed and to add to the license limitation a prohibition on the Respondent administering, dispensing and ordering Schedule II controlled substances in addition to prohibiting prescribing.

#### ARB Authority

Under PHL §§ 230(10)(i), 230-c(1) and 230-c(4)(b), the ARB may review Determinations by Hearing Committees to determine whether the Determination and Penalty are

consistent with the Committee's findings of fact and conclusions of law and whether the Penalty is appropriate and within the scope of penalties which PHL § 230-a permits. The ARB may substitute our judgment for that of the Committee, in deciding upon a penalty Matter of Bogdan v. Med. Conduct Bd. 195 A.D.2d 86, 606 N.Y.S.2d 381 (3<sup>rd</sup> Dept. 1993); in determining guilt on the charges, Matter of Spartalis v. State Bd. for Prof. Med. Conduct 205 A.D.2d 940, 613 NYS 2d 759 (3<sup>rd</sup> Dept. 1994); and in determining credibility, Matter of Minielly v. Comm. of Health, 222 A.D.2d 750, 634 N.Y.S.2d 856 (3<sup>rd</sup> Dept. 1995). The ARB may choose to substitute our judgment and impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate, Matter of Kabnick v. Chassin, 89 N.Y.2d 828 (1996). In determining the appropriate penalty in a case, the ARB may consider both aggravating and mitigating circumstances, as well as considering the protection of society, rehabilitation and deterrence, Matter of Brigham v. DeBuono, 228 A.D.2d 870, 644 N.Y.S.2d 413 (1996).

The statute provides no rules as to the form for briefs, but the statute limits the review to only the record below and the briefs [PHL § 230-c(4)(a)], so the ARB will consider no evidence from outside the hearing record, Matter of Ramos v. DeBuono, 243 A.D.2d 847, 663 N.Y.S.2d 361 (3<sup>rd</sup> Dept. 1997).

A party aggrieved by an administrative decision holds no inherent right to an administrative appeal from that decision, and that party may seek administrative review only pursuant to statute or agency rules, Rooney v. New York State Department of Civil Service, 124 Misc. 2d 866, 477 N.Y.S.2d 939 (Westchester Co. Sup. Ct. 1984). The provisions in PHL §230-c provide the only rules on ARB reviews.



### Determination

The ARB has considered the record and the parties' briefs. We affirm the Committee's Determination that the conduct at issue in the California Board Order would have constituted professional misconduct under EL §§ 6530(3-4) and 6530(32) as practicing with negligence on more than one occasion, practicing with gross negligence and failing to maintain accurate records. The Committee's Administrative Officer noted on several occasions during the hearing that the Respondent was attempting to re-litigate the California Board Order. The hearing was an improper forum to challenge the Order. The Respondent accepted the California Board Order and agreed that, at a hearing, the California Board could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline [Department Exhibit 4]. The California Board Order binds the Respondent before BPMC.

The ARB affirms the Committee's Determination to revoke the Respondent's License; but we overturn the Committee's Determination to stay the revocation and impose less severe sanctions. The ARB may choose to substitute our judgment and impose a more severe sanction than the Committee on our own motion, even without one party requesting the sanction that the ARB finds appropriate, Matter of Kabnick v. Chassin (supra). We choose to do so in this case. The Committee clearly followed the California Board's decision to revoke the Respondent's California license, stay the revocation and impose less severe sanctions on the Respondent's License. The California Board provided no reasoning, however, in the California Board Order as to why the California Board chose to allow the Respondent to continue practicing.

The ARB finds the Respondent's conduct in California illustrative of the role that many in the medical profession played in facilitating the opioid crisis. The Respondent defended his decision to provide opioid doses for Patient A [Hearing Transcript page 43] and admitted that he

continued to prescribe opioids for Patient B after it had become clear that the Patient was diverting the drugs [Hearing Transcript page 40]. In the California Board Order, the Respondent accepted that the California Board could have proven charges in the Accusation that the Respondent failed to maintain accurate/adequate medical records. At the hearing before the Committee, the Respondent claimed that his records were considered very accurate and complete, although there was a typographical error and there was copying and pasting of past ailments that were not being addressed at that particular visit [Hearing Transcript page 44].

The Committee allowed the Respondent to retain his License, if he returned practice in New York, only with patient protections such as monitored practice and a limitation on prescribing. The Respondent's ARB submission requested that the ARB remove those protections because they were no longer necessary and might hinder his prospects to become board certified in addiction medicine. Although the Respondent testified at hearing that he was absolutely remorseful that his practice deficiencies may have caused harm [Hearing Transcript page 54], the Respondent's submission to the ARB indicated that the Respondent was more concerned with his own advancement rather than patient protection.

The ARB questions whether the Respondent has accepted that there were deficiencies in the Respondent's practice in California that exposed patients to harm and we conclude that the Respondent would remain at risk to continue to practice with those deficiencies if he were to return to practice in New York. We conclude that revocation provides the only sufficient protection for patients in New York.

ORDER

NOW, with this Determination as our basis, the ARB renders the following ORDER:

1. The ARB affirms the Committee's Determination that the Respondent committed professional misconduct.
2. The ARB overturns the Committee's Determination to stay the revocation of the Respondent's License, place the Respondent on probation and limit the Respondent's License.
3. The ARB revokes the Respondent's License.

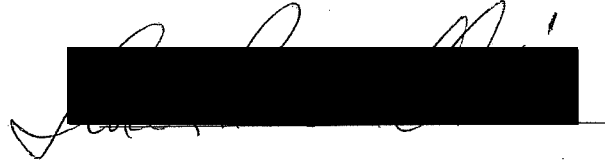
Carmela Torrelli  
Linda Prescott Wilson  
Richard D. Milone, M.D.  
Jill Rabin, M.D.

In the Matter of Stephen P. Bradley, M.D.

Linda Prescott Wilson, an ARB Member concurs in the Determination and Order in the

Matter of Dr. Bradley.

Dated: 13 September 2021

A handwritten signature in cursive script, which is partially obscured by a black rectangular redaction box.

Linda Prescott Wilson

In the Matter of Stephen P. Bradley, M.D.

Carmela Torrelli, an ARB Member concurs in the Determination and Order in the Matter  
of Dr. Bradley.

Dated Sept 8, 2021

A solid black rectangular box redacting the signature of Carmela Torrelli.

Carmela Torrelli

In the Matter of Stephen P. Bradley, M.D.

Jill Rabin, M.D., an ARB Member concurs in the Determination and Order in the Matter  
of Dr. Bradley.

Dated: September 8<sup>th</sup>, 2021



Jill Rabin, M.D.

In the Matter of Stephen P. Bradley, M.D.

Richard D. Milone, M.D., an ARB Member concurs in the Determination and Order in  
the Matter of Dr. Bradley.

Dated September 8, 2021

A large black rectangular redaction box covers the signature area. Above the box, there are faint, handwritten initials that appear to be 'R' and 'D'.

Richard D. Milone, M.D.