



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

July 6, 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Timothy J. Mahar, Esq.
NYS Department of Health
Corning Tower, Room 2509
Empire State Plaza
Albany, New York 12237

Alvin J. Levinson, M.D.
3801 O'Meara Drive, Apt. #366
Houston, Texas 77025

RE: In the Matter of Alvin J. Levenson, M.D.

Dear Mr. Mahar and Dr. Levenson:

Enclosed please find the Determination and Order (No. 98-133) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
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.

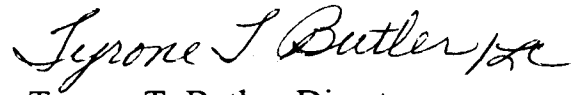
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:lcc
Enclosure

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

COPY

**IN THE MATTER
OF
ALVIN J. LEVENSON, M.D.**

DETERMINATION

AND

ORDER

BPMC-98-133

DAVID T. LYON, M.D., Chairperson, **TERESA S. BRIGGS, M.D.** and **JAMES P. MILSTEIN, ESQ.**, duly designated members of the State Board for Professional Medical Conduct appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **JEFFREY ARMON, ESQ.**, served as Administrative Officer for the Hearing Committee. After consideration of the entire record, the Hearing Committee submits this Determination.

SUMMARY OF PROCEEDINGS

Notice of Hearing and Statement of Charges:	April 28, 1998
Service of Notice of Hearing and Statement of Charges:	May 18, 1998
Date of Hearing:	June 10, 1998
Department of Health appeared by:	Henry M. Greenberg, General Counsel NYS Department of Health BY: TIMOTHY J. MAHAR, Esq. Division of Legal Affairs NYS Department of Health Corning Tower, Room 2509 Albany, New York 12237
Respondent :	No appearance
Witnesses for the Department of Health:	None
Witnesses for the Respondent:	None
Deliberations held:	June 10, 1998

Numbers in parenthesis refer to transcript pages or exhibits, and they denote evidence that the Hearing Committee found persuasive in determining a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited. All Hearing Committee findings were unanimous unless otherwise specified.

NOTE: Petitioner's Exhibits are designated by Numbers.
 Respondent's exhibits are designated by Letters.
 T = Transcript

A copy of the Notice of Hearing and Statement of Charges (Ex. 1) is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

1. The Respondent was authorized to practice medicine in New York State on April 20, 1988 by the issuance of license number 174212 by the New York State Education Department. (Ex.3)

2. By a Determination and Order of a Special Investigative Committee of the State Board for Professional Medical Conduct dated October 24, 1997, Respondent was directed to submit to an evaluation by a specified New York state physician pursuant to Public Health Law Section 230(7) within 60 days of the date of service of said Determination and Order on Respondent. (Ex. 1, 4)

3. Respondent was personally served with the Determination and Order on November 18, 1997. (Ex. 4)

4. Respondent failed to contact the offices of the physician to whom he was directed for performance of the evaluation and has failed to submit to the ordered evaluation. (Ex. 5)

5. Respondent was personally served with the Notice of Hearing and Statement of Charges for this proceeding on May 18, 1998. (Ex. 2)

CONCLUSIONS OF LAW and DISCUSSION

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee.

The Hearing Committee concluded that all Factual Allegations should be **SUSTAINED** and that, based on the sustained Factual Allegations, the Specification of professional misconduct should be **SUSTAINED**. The Committee concluded that the Department had met its burden of proof by demonstrating by a preponderance of the evidence that the Respondent had been ordered to submit to an evaluation, had properly received notice of such Order and had failed to comply by submitting to an evaluation. The Committee therefore determined to sustain the Specification that Respondent had failed to comply with an order issued pursuant to Section 230(7) of the Public Health Law.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine in New York state be suspended until such time as he complies with the Order issued by the Special Investigative Committee of the State Board for Professional Medical Conduct. This determination was reached upon due consideration of the full spectrum for penalties available

Investigative Committee of the State Board for Professional Medical Conduct. This determination was reached upon due consideration of the full spectrum for penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The Committee rejected the Department's request that Respondent's license be revoked because it felt that the severity of Respondent's misconduct did not justify imposition of the harshest penalty. The Committee had concerns that Respondent may not have been fully aware of the implications of the instant proceeding. Consideration was also given to the fact that Respondent, currently a Texas resident, may not have had the financial resources available to comply with the Order to be evaluated by a New York physician. The Committee believed that the effect of suspending Respondent's license until such time as he complies with the Order for an evaluation would be the same as if his license were to be revoked, but that he could have his license promptly restored should he submit to an evaluation and ultimately be found to be fit to practice. The Committee felt that a license suspension would be the most equitable penalty based on the circumstances of this case.

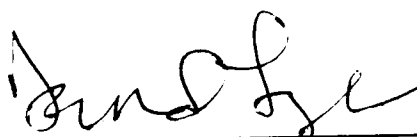
ORDER

Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The Specification of professional misconduct is **SUSTAINED**; and
2. Respondent's license to practice medicine in New York State be and hereby is **SUSPENDED** until such time as he has been found to have complied with the Order of the Special Investigative Committee of the State Board for Professional Medical Conduct dated October 24, 1997; and
3. This Order shall be effective upon service on the Respondent by personal service or by certified or registered mail.

DATED: Albany, New York

6/30, 1998



DAVID T. LYON, M.D. Chairperson

**TERESA S. BRIGGS, M.D.
JAMES P. MILSTEIN, ESQ.**

TO:

Timothy J. Mahar, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
Corning Tower, Room 2509
Empire State Plaza
Albany, New York 12237-0032

Alvin J. Levenson, M.D.
3801 O'Meara Drive, Apt. # 366
Houston, Texas 77025

APPENDIX I



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

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IN THE MATTER : NOTICE
OF : OF
ALVIN J. LEVENSON, M.D. : HEARING

-----X

TO: Alvin J. Levenson, M.D.
3801 O'Meara Drive, No. 6
Houston, Texas 77025

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 10th day of June, 1998, at 10:00 in the forenoon of that day at the New York State Department of Health, Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in

order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.


The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(c) 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 date of the hearing. Any Charge and 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. 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.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO THE OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW SECTION 230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
April 28, 1998


PETER D. VAN BUREN
Deputy Counsel

Inquiries should be directed to: Timothy J. Mahar
Associate Counsel
Division of Legal Affairs
Bureau of Professional
Medical Conduct
Corning Tower Building
Room 2509
Empire State Plaza
Albany, New York 12237-0032
(518) 473-4282

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

-----X

IN THE MATTER : STATEMENT
OF : OF
ALVIN J. LEVENSON, M.D. : CHARGES

-----X

ALVIN J. LEVENSON, M.D., the Respondent, was authorized to practice medicine in New York State on April 20, 1988 by the issuance of license number 174212 by the New York State Education Department. Respondent is currently not licensed to practice in the State of New York State.

FACTUAL ALLEGATIONS

- A. On October 24, 1997, a Special Investigative Committee of the State Board for Professional Medical Conduct ordered Respondent to submit to an evaluation pursuant to Public Health Law §230(7) within 60 days of the date of the service of the order on Respondent.
- B. Respondent was served with the order requiring the evaluation on November 18, 1997. Attached hereto as Exhibit A is a copy of that order.
- C. Respondent failed to submit to the ordered evaluation.

SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(15) by reason of his having failed to comply with an order issued pursuant to subdivision seven of section two hundred thirty of the Public Health Law, in that Petitioner charges:

1. The facts in paragraphs A, B and C.

DATED: *April 28*, 1998
Albany, New York

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