



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Public

January 25, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Bruce H Davis, M.D.
915 Union Street
Brewer, Maine 04412

Bruce H. Davis, M.D.
700 Trilium Lane
Clifton, Maine 04428

Bruce H. Davis, M.D.
P.O. Box 67
Brewer, Maine 04412

Robert Bogan, Esq.
NYS Department of Health
Hedley Building - 4th Floor
433 River Street
Troy, New York 12180

RE: In the Matter of Bruce H. Davis, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 07-16) 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.

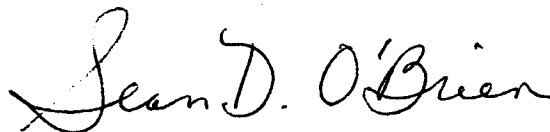
The notice of review served on the Administrative Review Board should be forwarded to:

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
BRUCE H. DAVIS, M.D.

DETERMINATION

AND

ORDER

BPMC #07-16

A hearing was held on January 18, 2007, 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 November 13, 2006, were served upon the Respondent, **Bruce H. Davis, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Ms. Frances E. Tarlton**, Chairperson, **Arsenio G. Agopovich, M.D.**, and **Lyon M. Greenberg, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **William J. Lynch, 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.

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 Sections 6530(9)(a)(iii), 6530(9)(b) and 6530(9)(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. Bruce H. Davis, the Respondent, was authorized to practice medicine in New York State on July 2, 1982, by the issuance of license number 150700 by the New York State Education Department (Petitioner's Ex. 4).

2. On December 3, 2002, in the State of Maine, Portland District Court, Respondent was convicted of operating of a motor vehicle under the influence, a criminal offense. At the time of his arrest, his Blood Alcohol Content ("BAC") was .14 percent alcohol by weight of blood (Petitioner's Ex. 5).

3. On or about June 13, 2006, the Maine State Board of Licensure in Medicine ("Maine Board") issued a Decision and Order ("Maine Order"), finding that Respondent's conduct violated the standards of professional behavior. The Maine Board found that the Respondent continued to abuse alcohol as evidenced by his criminal conviction for operating a motor vehicle under the influence in spite of contracts with the Maine Physician Health Program which required his abstinence. The Maine Order placed the Respondent on five years probation and required his abstinence from alcohol and drugs other than medical prescriptions, his participation in a random urine monitoring program, his participation in individual psychotherapy, his participation in Alcohol Anonymous ("AA") or Caduceus, and payment of the costs of the Maine Board hearing (Petitioner's Ex. 6).

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(8) - "Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates,

amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice;"

- New York Education Law Section 6530(9)(a)(i) – " Being convicted of an act constituting a crime under: (i) New York state law"

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(a)(iii) by being convicted of committing an act constituting a crime under the laws of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law..."

VOTE: Sustained (3-0)

SECOND 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)

THIRD SPECIFICATION

"Respondent violated New York Education Law Section 6530(9)(d) by having discipline [sic] action taken by a duly authorized professional disciplinary agency of

another state, where the conduct 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. The Administrative Law Judge, after considering the documentary evidence concerning service of the Notice of Referral Proceeding and the Statement of Charges (Petitioner's Ex. 2, 3), ruled that the Petitioner had met the requirements of law for the service of process, that jurisdiction had been established over the Respondent, and that the hearing could proceed on the merits despite the absence of the Respondent.

In the Maine Order, the Maine Board found that the Respondent flagrantly violated two contracts that he entered into with the State of Maine Physician's Health Program. The Respondent's violation of these contracts was evidenced by his alcohol consumption which resulted in a criminal conviction and his contemptuous disregard for the required counseling terms. The Board was also concerned that current stressors on the Respondent might pose a threat of relapse to substance and alcohol abuse. Moreover, the Board found that the Respondent was not trustworthy as a professional and was deceptive toward the State of Maine Physician's Health Program in that he failed to report his criminal conviction and abide by the other terms of his contracts with the program.

The Petitioner recommended that Respondent's license to practice medicine be revoked. The Hearing Committee concludes that license revocation is the only penalty that can be imposed that will adequately protect the people of New York State.

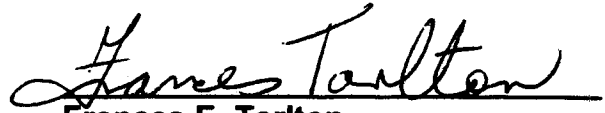
ORDER

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 230(10)(h)

DATED: Albany, New York

Jan. 24, 2007



**Frances E. Tarlton
Chairperson**

**Arsenio G. Agopovich, M.D.
Lyon M. Greenberg, M.D.**

APPENDIX I



IN THE MATTER

NOTICE OF

OF

REFERRAL

BRUCE H. DAVIS, M.D.
CO-06-06-3766-A

PROCEEDING

TO: BRUCE H. DAVIS, M.D.
915 Union Street
Brewer, ME 04412

BRUCE H. DAVIS, M.D.
700 Trilium Lane
Clifton, ME 04428

BRUCE H. DAVIS, M.D.
P.O. Box 67
Brewer, ME 04412

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 21st day of December, 2006, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th 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
November 13, 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

BRUCE H. DAVIS, M.D.
CO-06-06-3766-A

STATEMENT

OF

CHARGES

BRUCE H. DAVIS, M.D., Respondent, was authorized to practice medicine in New York state on July 12, 1982, by the issuance of license number 150700 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 3, 2002, in the State of Maine, District Court, Portland, Maine, Respondent was found guilty, based on a plea of guilty, of Operating Under the Influence, a crime, and was sentenced to a \$400.00 fine and \$100.00 in surcharges and assessments.

B. On or about June 13, 2006, the Maine State Board of Licensure in Medicine (hereinafter "Maine Board"), by an Order and Decision (hereinafter "Maine Order"), inter alia, placed Respondent on (5) years probation, required him to totally abstain from alcohol and drugs except those prescribed by physicians, to participation in individual psychotherapy, to participate in AA or Caduceus, and pay the cost of the Maine Board hearing in the amount of \$2, 299.48, based on habitual alcohol/substance abuse and the criminal conviction set forth in Paragraph A, above.

C. The conduct resulting in the Maine 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(8) (being a habitual abuser of alcohol); and/or
2. New York Education Law §6530(9) (a)(i) being convicted of committing an act constituting a crime under state law).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(iii) by being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(b) 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 New York state, in that Petitioner charges:


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

THIRD SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having discipline action taken 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, in that Petitioner charges:

3. The facts in Paragraphs A, B, and/or C.

DATED: *Nov. 13*, 2006
Albany, New York


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