

October 10, 2014

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David W. Quist, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2511
Albany, New York 12237

Richard Reid Wilson, D.O.
REDACTED

RE: In the Matter of Richard Reid Wilson, D.O.

Dear Parties:

Enclosed please find the Determination and Order (No. 14-249) 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
Office of Professional Medical Conduct
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.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2013) and §230-c subdivisions 1 through 5, (McKinney Supp. 2013), "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., Chief Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway -- Suite 510
Albany, New York 12204

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,

REDACTED

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH:cah
Enclosure

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

**IN THE MATTER
OF
RICHARD REID WILSON, D.O.**

**DETERMINATION
AND
ORDER**
BPMC #14-249

COPY

A hearing was held on September 18, 2014 at the offices of the New York State Department of Health ("the Department"), Bureau of Adjudication, 150 Broadway, Suite 510, Albany, New York 12204. A Notice of Referral Proceeding and a Statement of Charges, both dated June 25, 2014, were served upon the Respondent, Richard Reid Wilson, D.O. Therese G. Lynch, M.D., Chair, Eleanor C. Kane, M.D., and Janet M. Miller, R.N., duly designated members of the State Board for Professional Medical Conduct, served as the hearing committee in this matter. Denise Lepicier, Administrative Law Judge, served as the administrative officer. The Department appeared by David W. Quist, Associate Attorney, Bureau of Professional Medical Conduct. The Respondent, Richard Reid Wilson, D.O., did not appear, although personally served. Evidence was received and transcripts of these proceedings were made. After consideration of the entire record, the hearing committee issues this Determination and Order.

STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for a hearing with circumscribed issues when a licensee is charged based upon a violation of New York Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a criminal conviction regarding conduct which is a crime under federal law or in New York State or upon an administrative adjudication in another state regarding conduct that would amount to professional misconduct if committed in New York. The scope of the hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee. PHL §230(10)(p).

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(d), by having had disciplinary action taken by the State of Florida Board of Osteopathic Medicine where the conduct upon which the settlement of the proceeding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state.

Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Exhibits will be referred to in parentheses by an "Ex." followed by the appropriate exhibit number or letter. These citations refer to evidence found persuasive by the hearing committee in arriving at a particular finding. All hearing committee findings were unanimous.

1. Richard Reid Wilson, D.O., the Respondent, did not appear at the hearing although

notified of the hearing by personal service on July 2, 2014. (Ex. 2)

2. The Respondent was authorized to practice medicine in New York State on January 28, 2003, by the issuance of license number 227433 by the New York State Education Department. (Ex. 3)
3. On or about June 3, 2013 the Board of Osteopathic Medicine, State of Florida (hereinafter the "Florida Board"), entered into a Settlement Agreement with the Respondent. (Ex. 4)
4. Respondent neither admitted nor denied the allegations of fact contained in two administrative complaints that the Florida Board had brought against him and agreed to the terms of the settlement agreement. (Ex. 4, p. 8)
5. The settlement imposed a reprimand on Respondent's license; a fine of \$15,000; the reimbursement of costs of \$12,170; requirements that Respondent take courses in the prescribing of controlled substances and record keeping; a review by a certified licensed risk manager with the mandate that Respondent implement any suggestions; a Continuing Medical Education course in risk management; a prohibition on prescribing controlled substances until completion of the risk management review; a permanent restriction on owning, operating, working in, or being the designated physician in a pain management clinic; and additional general provisions for settlement. (Ex. 4, pp. 9-18)
6. The Respondent agreed to the settlement for the purpose of "avoiding further administrative action with respect to this case." (Ex. 4, p. 17)
7. The Department of Health in Florida charged Respondent with a "failure to practice medicine in accordance with the level of care, skill, and treatment recognized" . . . "as acceptable and appropriate by reasonably prudent similar health care providers" with respect to six patients. (Ex. 4, pp. 28, 63)

8. The Department of Health in Florida charged that "Respondent prescribed, dispensed, and/or administered controlled substances other than in the course of [his] professional practice by prescribing, dispensing, and/or administering controlled substances inappropriately, without regard to the patient's best interests or in excessive or inappropriate quantities" with respect to six patients. (Ex. 4, pp. 30, 65)
9. The Department of Health in Florida charged that Respondent prescribed "controlled substances without documenting one or more of the following: appropriate evaluations; written treatment plans that state objectives that will be used to determine treatment success" with respect to six patients (Ex. 4, pp. 32, 67) With respect to five of the patients, the Department also charged that the Respondent failed to perform "adequate drug monitoring in the form of pill counts, and urinalysis and/or blood tests; and periodic reviews." (Ex. 4, p. 67)
10. The Department of Health in Florida charged that Respondent "failed to keep medical records that justified the course of treatment" with respect to six patients. (Ex. 4, pp. 33, 68)

CONCLUSIONS OF LAW

All the following determinations with respect to the specifications were unanimous. The committee relied where appropriate on a memorandum of law by former counsel for the Department of Health relating to various definitions of misconduct to make its determinations.

The only specification charges that Respondent violated Education Law § 6530 (9)(d) by having had "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 involving the license . . . would, if committed in New York state, constitute professional misconduct under the laws of New York state." Respondent's conduct was alleged to violate Education Law § 6530(3) (negligence on more than one occasion) and § 6530(32) (failure to maintain a record). The hearing committee sustained the specification and found that Respondent's conduct would be misconduct under each of the misconduct provisions charged in the specification had the conduct occurred in New York state. **The Specification is Sustained.**

DETERMINATION AS TO SANCTION

The hearing committee has considered the full range of sanctions available pursuant to PHL Education § 230-a, including: (1) censure and reprimand; (2) suspension of the license, wholly or partially; (3) limitation on practice; (4) revocation of the license; (5) annulment of the license or registration; (6) limitation on registration or further licensure; (7) monetary penalties; (8) a course of education or training; (9) performance of public service; and, (10) probation. The hearing committee has unanimously concluded that the only appropriate sanction is a revocation of Respondent's license.

The committee feels that Respondent's conduct demonstrated a dangerous pattern of practice evidencing a disregard for the health of his patients. A revocation is the only sanction which can adequately protect the health of patients in this state.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges, is **SUSTAINED**.
2. The license of the Respondent to practice medicine in New York State is **REVOKED**.
3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law § 230(10)(h).

DATED: Rochester, New York

October 4, 2014

REDACTED

Therese G. Lynch, M.D., Chair

**Eleanor C. Kane, M.D.
Janet M. Miller, R.N.**

To:

David W. Quist
Associate Attorney
Bureau of Professional Medical Conduct
Corning Tower – 25th floor
Empire State Plaza
Albany, N.Y. 12237

Richard Reid Wilson, D.O.

REDACTED

APPENDIX 1

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

IN THE MATTER
OF
RICHARD REID WILSON, D.O.
CO-13-06-2879A

NOTICE OF
REFERRAL
PROCEEDING

TO: Richard Reid Wilson, D.O.
REDACTED

Richard Reid Wilson, D.O.
REDACTED

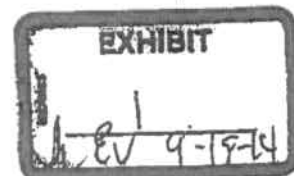
Richard Reid Wilson, D.O.
Bonita Springs Family Practice
1021 Arcos Avenue, Suite 202
Estero, FL 33928

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 18th day of September, 2014, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Albany, NY 12204-2719.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, that 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 who shall be an attorney admitted to practice in New York state. You may produce evidence and/or sworn testimony on your behalf. Such evidence and/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



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, Riverview Center, 150 Broadway, Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES F. HORAN, ACTING 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 (10) 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 (10) 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 (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) 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 demands, hereby, disclosure of the evidence that 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 and/or other evidence that cannot be photocopied.

YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here

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 (5) 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

June 25, 2014

REDACTED

MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

David W. Quist
Associate Attorney
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

IN THE MATTER
OF
RICHARD REID WILSON, D.O.

STATEMENT
OF
CHARGES

RICHARD REID WILSON, D.O., the Respondent, was authorized to practice medicine in New York State on or about January 28, 2003, by the issuance of license number 227433 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 3, 2013, the Florida Board of Osteopathic Medicine ("Board"), entered a Final Order Accepting Settlement Agreement ("Order"), accepting and partially amending a Settlement Agreement signed by Respondent on or about July 9, 2012. The Board ~~found that~~ ^{Amended Order 8/1/14} "neither admitted nor denied that he had failed to practice medicine with the level of skill, care, and treatment recognized as acceptable by a reasonably prudent physician in several respects, with respect to multiple patients, including but not limited to by failing to perform appropriate patient histories or examinations, by prescribing excessive and/or inappropriate amounts of controlled substances without documented medical justification, by failing to enter into appropriate pain management agreements, and by failing to perform adequate drug monitoring. The Board also found that Respondent had failed to document patient evaluations and treatment-related matters with regard to multiple patients."

B. Pursuant to the terms of the Settlement Agreement as amended by the Order, Respondent was directed to be reprimanded, pay a \$15,000 administrative fine and additional costs, complete specified coursework addressing the prescribing of controlled substances, medical record keeping, and risk management. Respondent was also made subject to a condition requiring a review of his practice by an independent, certified licensed risk manager, a prohibition against the prescribing of any controlled substances until Respondent satisfied the Board that he had completed a risk management review and complied with any resulting recommendations, and a permanent prohibition preventing Respondent from owning, operating, or working in a pain management clinic, from being the designated physician of a pain management clinic, or from applying to the Florida Department of Health for registration of a pain management facility.

C. The conduct resulting in the Board's Decision and Order against Respondent would constitute misconduct under the laws of New York State pursuant to New York Education Law Sec. 6530(3) (negligence on more than one occasion) and/or New York Education Law Sec. 6530(32) (failure to maintain a record).

SPECIFICATION OF CHARGES

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a

...ise refused, revoked or suspended or having voluntarily or otherwise surrendered his
... her license after a disciplinary action was instituted by a duly authorized professional
disciplinary agency of another state, where the conduct resulting in the revocation,
suspension or other disciplinary action involving the license or refusal, revocation or
suspension of an application for a license or the surrender of the license would, if
committed in New York state, constitute professional misconduct under the laws of New
York state (namely N.Y. Educ. Law §§ 6530(3) and/or (32)) as alleged in the facts of the
following:

1. The facts in Paragraphs A through C.

DATE: June 25, 2014
Albany, New York

REDACTED

MICHAEL A. HISER, ESQ.
Deputy Counsel
Bureau of Professional Medical Conduct