



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

July 28, 2006

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

Chidiadi A. Dike, M.D.
Redacted Address

Chidiadi A. Dike, M.D.
5930 Mansfield Road
Shreveport, LA 71105

RE: In the Matter of Chidiadi A. Dike, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 06-178) 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,

Redacted Signature

Seán 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
CHIDIADI A. DIKE, M.D.

DETERMINATION

AND

ORDER

BPMC #06-178

A hearing was held on July 19, 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 16, 2006, were served upon the Respondent, **Chidiadi A. Dike, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **C. Deborah Cross, M.D.**, Chairperson, **Andrew J. Merritt, M.D.**, and **Mr. John O. Raymond**, 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.

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. Chidiadi A. Dike, M.D., the Respondent, was authorized to practice medicine in New York State on April 28, 1994, by the issuance of license number 195495 by the New York State Education Department (Petitioner's Ex. 4).

2. On August 15, 2005, the Louisiana State Board of Medical Examiners ("Louisiana Board"), by a Consent Order ("Louisiana Order"), officially reprimanded the Respondent, fined him \$3000.00, and placed a restriction on his license. The restriction

prohibited the Respondent from entering a collaborative or supervisory practice agreement with a mid-level provider (nurse practitioner or physician assistant) to render care to his patients. The restriction was a minimum of three years in duration. (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(33) - "Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee;"

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 by a duly authorized 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 either in person or by counsel. The Administrative Law Judge ruled that the Petitioner had met the requirements of law for serving the Notice of Referral Proceeding and the Statement of Charges on the Respondent and that, therefore, the hearing could proceed on the merits of the charges despite the Respondent's absence.

The Louisiana Order is based on the Respondent's having employed a physician assistant who engaged in the provision of medical care and treatment that can be performed legally only by a physician. The Louisiana Board imposed a censure and a fine. The Louisiana Board also restricted the Respondent's license to prohibit him for a minimum of three years from employing nurse practitioners or physician assistants in his practice.

Because the Respondent did not appear at the hearing, the hearing record does not contain any evidence of mitigating circumstances, rehabilitation or remorse. This Hearing Committee concludes that the approach taken by the Louisiana Board is reasonable and will impose a similar (but not identical) penalty on the Respondent.

ORDER

IT IS HEREBY ORDERED THAT:

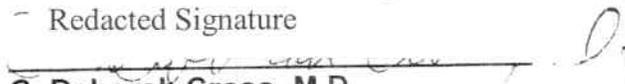
1. The Respondent is censured and reprimanded.
2. A permanent limitation is placed on the Respondent's license. The Respondent will not enter into a collaborative or supervisory practice agreement with a nurse practitioner or a physician assistant to render care to his patients. This limitation does not preclude the Respondent from employing nurses or other medical personnel to assist him in his practice, as long as he is present and directing their activities appropriate to their level of expertise and ability.

3. A fine of \$3000.00 is imposed on the Respondent. 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).

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

DATED: Whitestone, New York
July 25, 2006

- Redacted Signature


C. Deborah Cross, M.D.
Chairperson

Andrew J. Merritt, M.D.
John O. Raymond

APPENDIX I

ORIGINAL

PETITIONER'S EXHIBIT
1
EV 7/19/06 JWC

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

IN THE MATTER

NOTICE OF

OF

REFERRAL

CHIDIADI A. DIKE, M.D.
CO-05-12-6648-A

PROCEEDING

TO: CHIDIADI A. DIKE, M.D.
Redacted Address

CHIDIADI A. DIKE, M.D.
5930 Mansfield Rd.
Shreveport, LA 71105

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 19th day of July 2006, at 10:00 in the forenoon of that day at the Hedley Park Place, 5th 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, 5th 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 July 10, 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 July 10, 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 16, 2006

Redacted Signature

~~_____~~
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
CHIDIADI A. DIKE, M.D.
CO-05-12-6648-A

STATEMENT
OF
CHARGES

CHIDIADI A. DIKE, M.D., Respondent, was authorized to practice medicine in New York state on April 28, 1994, by the issuance of license number 195495 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 15, 2005, the Louisiana State Board of Medical Examiners (hereinafter "Louisiana Board"), by a Consent Order (hereinafter "Louisiana Order"), OFFICIALLY REPRIMANDED Respondent's license to practice medicine, restricted his license (for a minimum of three (3) years) to prohibit him from entering into a collaborative or supervisory practice agreement with a mid-level provider (eg. Nurse Practitioner or Physician Assistant) to render care to his patients, and fined him \$3,000.00, based on allowing an/or failing to prevent his physician assistant from functioning in a manner beyond that authorized.

B. The conduct resulting in the Louisiana Board disciplinary actions 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(33) (failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee).

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 State Education Law §6530(9)(d) by having disciplinary 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:

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

DATED: *May 16*, 2006
Albany, New York

Redacted Signature

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