

PUBLIC

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

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IN THE MATTER :  
OF : ORDER  
DAVID A. STEAD, M.D. : BPMC #97-30

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Upon the Application of DAVID A. STEAD, M.D. (Respondent) for Consent Order, which Application is made a part hereof, it is ORDERED, that the Application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon David A. Stead, upon receipt by him of this Order via certified mail, or seven days after mailing of this Order by certified mail, whichever is earliest.

SO ORDERED,

DATED: 30 January 1997

Charles J. Vacanti

Charles J. Vacanti, M.D.  
Chairperson  
State Board for Professional  
Medical Conduct

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

-----X

IN THE MATTER

: APPLICATION

OF

: FOR

DAVID A. STEAD, M.D.

: CONSENT

: ORDER

-----X

STATE OF *New York* )  
COUNTY OF *Richmond* ) ss.:

DAVID A. STEAD, M.D., being duly sworn, deposes and says:

1. I was licensed to practice as a physician in New York State on October 15, 1969 having been issued License No. 104858 by the New York State Education Department.
2. I am currently registered with the New York State Education Department to practice as a physician in New York State for the period August 1, 1996 through July 31, 1998 with a registration address of Pavillion Road, RR#1, Box 5, East Thetford, Vermont 05043.
3. I understand that the State Board for Professional Medical Conduct (the Board) issued a Determination and Order (BPMC-95-206), dated August 31, 1995, which imposed certain requirements and conditions upon me. A copy of the

Determination and Order is annexed hereto as "Exhibit A."

4. I hereby agree to have the aforesaid Order and its requirements and conditions substituted in their entirety by the Order issued pursuant to this Application and placement of me on probation for two years from the effective date of this Order under the Terms of Probation attached hereto and made a part hereof.
5. I hereby make this Application to the Board and request that it be granted.
6. I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.
7. I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

8. I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

David A. Stead

DAVID A. STEAD, M.D.

Sworn to before me this

27<sup>th</sup> day of January, 1997.

Robert A. Poggalbon  
NOTARY PUBLIC

Notary Public  
Commission Expires 12/27/98

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

-----X  
IN THE MATTER : APPLICATION  
OF : FOR  
DAVID A. STEAD, M.D. : CONSENT  
: ORDER  
-----X

The undersigned agree to the attached Application of DAVID A. STEAD, M.D. and to the terms and conditions thereof.

DATE: \_\_\_\_\_ David A. Stead  
DAVID A. STEAD, M.D.

DATE: 1-24-97 E. Marta Sachey  
E. MARTA SACHEY  
ASSOCIATE COUNSEL  
Bureau of Professional  
Medical Conduct

DATE: 1/29/97 Anne F. Saile  
ANNE F. SAILE  
DIRECTOR  
Office of Professional Medical  
Conduct

DATE: 30 January 1997 Charles J. Vacanti  
CHARLES J. VACANTI, M.D.  
CHAIRPERSON  
State Board for Professional  
Medical Conduct

TERMS OF PROBATION

DAVID A. STEAD, M.D.

1. I shall conduct myself in all ways in a manner befitting my professional status and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and my profession.
2. I shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 4th Floor, 433 River Street, Troy, New York 12180 no later than 30 days following the effective date of this Order of my professional and residential addresses and telephone numbers whether within or without New York State, of a full description of any employment and practice and of any change in the above within 30 days of such change. I shall submit written notification, as provided above, of any and all investigations, convictions or disciplinary actions by any local, state or federal agency, institution or facility within 30 days of each action.
3. I shall cooperate fully with and respond in a timely manner to requests from OPMC to provide written periodic verification of my compliance with the terms of this Order. I shall personally meet with a staff member of OPMC at the discretion of the Director.
4. I shall maintain my registration to practice as a physician in New York State with the New York State Education Department at all times during the period of probation whether I am within or without New York State.
5. The following terms of probation (subparagraphs 5a through 5i) shall be in effect for a total period of two years but shall be tolled during periods of time that I am not engaged in the active practice of medicine in New York State. I shall notify OPMC in writing if I am not currently engaged in or if I intend to leave the active practice of medicine in New York State for a period of 30 consecutive days or more. I shall notify OPMC again prior to any change in that status.
  - a. I shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The records shall contain all information required by New York State rules and regulations regarding controlled substances.
  - b. My professional performance may be reviewed by the Director of OPMC or his/her designee. This review may include, but not limited to,

a review of office records, patient records and/or hospital charts and/or interviews with or periodic visits with me or my staff at my practice locations or OPMC offices. The review will determine whether my medical practice is conducted according to generally accepted standards of professional medical care and is otherwise in compliance with New York State laws and regulations.

- c. My practice of medicine shall be monitored by appropriate practice monitor(s) for each of my practice locations and/or type of practice. The practice monitor(s) shall be a physician(s), board certified in an appropriate specialty, who is approved in advance in writing by the Director of OPMC or his/her designee. I may not practice medicine in New York State at any location and/or engage in any type of practice until an approved practice monitor(s) and monitoring program(s) is in place for each practice location and/or type of practice.
- d. I shall make available to the practice monitor(s) any and all records or access to the practice requested by the practice monitor(s), including on-site observation. The practice monitor(s) shall visit my medical practice at each location at least monthly on a random unannounced basis and shall examine no less than 20% of records maintained by me, including records of controlled substances. The review will determine whether my medical practice, including prescribing practices, is being conducted in accordance with the generally accepted standards of medical care. The practice monitor(s) shall report within 24 hours to OPMC any perceived deviation of accepted standards of medical care or a refusal to cooperate with the practice monitor(s).
- e. The practice monitor(s) shall establish the capability of doing an immediate screen of me for the presence of drugs in response to any complaint or observation that drugs may be responsible for my behavior and shall report within 24 hours to OPMC any positive screen or refusal to submit to a screen.
- f. I shall cause the practice monitor(s) to report quarterly in writing to the Director of OPMC regarding the review of my medical practice.

- g. Any change in practice monitor(s) must be approved in writing in advance by OPMC.
  - h. I shall be solely responsible for all expenses associated with monitoring my practice of medicine, including fees, if any, to the practice monitor(s).
  - i. I shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC within 30 days of the effective date of this Order.
6. I shall comply with all terms, conditions, restrictions, limitations and penalties to which I am subject pursuant to the Order of the Board and shall assume and bear all costs related to compliance. Upon receipt of the evidence of noncompliance with or of any violation of these terms, the Director of OPMC and/or the Board may initiate a Violation of Probation proceeding and/or any other proceeding against me as may be authorized by law.

  
DAVID A. STEAD, M.D.



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

**IN THE MATTER  
OF  
DAVID A. STEAD, M.D.**

**DETERMINATION  
AND  
ORDER**

BPMC-95-206

A Notice of Referral Proceedings and Statement of Charges, both dated July 6, 1995 were served upon the Respondent, **DAVID A. STEAD, M.D.**

**BENJAMIN WAINFELD, M.D.**, Chairman, and **SHARON KURITZKY, M.D.<sup>1</sup>**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on August 24, 1995. The Department of Health appeared by **JEROME JASINSKI, ESQ.**, Acting General Counsel, by **ANN GAYLE, ESQ.**, of Counsel. The Respondent appeared in person on his own behalf.

The parties agreed to proceed with the hearing with only two panel members present.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

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<sup>1</sup>The third designated panel member, Mr. Louis Paris, was not in attendance due to transportation problems.

*EXHIBIT A*

## STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where 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 or another jurisdiction, or upon a prior administrative adjudication regarding conduct which 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). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix I.

## FINDINGS OF FACT

The following findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis refer to transcript page numbers or exhibits. These citations represent 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.

1. David A. Stead, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 15, 1969, by the issuance of license number 104858, by the New York State Education Department (Pet's. Ex. 2).

NEW YORK STATE DEPARTMENT OF HEALTH

2. On August 31, 1990, the New Hampshire Board of Registration in Medicine (the Board) found that the Respondent issued and filed over 40 false prescriptions for controlled drugs between July 1988 and June 1990, and that, prior to July 1, 1990, the Respondent used the controlled drugs obtained by such prescriptions for self-medication, and thereby impaired his ability to practice medicine safely, competently, and honestly in violation of RSA 329:17, VI (b) and (d) (Pet's. Ex. 3).
3. On August 31, 1990, based on the foregoing, the Board ordered, inter alia, that (1) the Respondent be reprimanded, (2) the Respondent's medical license be indefinitely restricted to the extent, inter alia, that he (a) use triplicate controlled substance prescription forms for each and every controlled substance he issues in any medical setting, (b) actively participate in a Practitioner effectiveness Program including obtaining random urine screens for controlled substances, and (c) actively participate in medical treatment and monitoring by a board-approved psychiatrist and cardiologist (Pet's. Ex. 3).
4. On May 2, 1991, in Superior Court in the State of New Hampshire, Grafton County, the Respondent pled guilty to five (5) misdemeanors for possession of a forgery, in violation of New Hampshire RSA Section 638:1, and he was sentenced to the County House of Corrections for one year, all of which was suspended during good behavior and compliance with all terms and conditions of the Board Order. The Respondent was also fined \$5,000 plus statutory penalty assessment, and he was placed on probation (Pet's. Ex. 4)

**VOTE OF THE HEARING COMMITTEE**

**FIRST SPECIFICATION**

**HAVING BEEN FOUND GUILTY OF  
PROFESSIONAL MISCONDUCT**

The Respondent is charged with committing professional misconduct as defined in N.Y. Education Law §6530(9)(b)(McKinney Supp. 1995) 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 (namely N.Y. Education Law §§6530(2), (3), (7) and/or (20).

**SUSTAINED**

**SECOND SPECIFICATION**

**HAVING HAD DISCIPLINARY ACTION TAKEN**

The Respondent is charged with committing professional misconduct as defined in N.Y. Education Law §6530(9)(d)(McKinney Supp. 1995) by having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having his application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another



"Since 1991 I have been responsible to the New Hampshire Board of Registration in Medicine to monitor the medical (psychiatric) treatment or practitioner effectiveness program (including random urine screens) of Dr. Stead. Because Dr. Beskind, his psychiatrist, insisted that therapeutic confidentiality interdicted direct reports of treatment to any governmental agency, the New Hampshire Board agreed that I would submit quarterly reports based upon Dr. Beskind's direct reports to me, and perform the random urine screens. \*\*\*

All of his random urine screens have been negative for methylphenidate and ritalinic acid. He insists that he has abstained from it's use since the NH Board's reprimand in 1990. He takes only medications (tri-cyclic antidepressants, anxiolytic: desipramine 300 mgm/day, clonazepam 1.0 mgm/day) prescribed by Dr. Beskind. Dr. Beskind reports that he has made improvement with his personality problems. His small child psychiatry practice in Hanover, NH appears to me to meet acceptable standards of medical practice."

Based on a review of the entire record the Hearing Committee determines that an appropriate penalty in this case would be a two (2) year suspension, suspension stayed, with the Respondent placed on probation under the terms hereinafter set forth.

### ORDER

#### **IT IS HEREBY ORDERED THAT:**

1. The Respondent's license to practice medicine in the State of New York is **SUSPENDED** for a period of two (2) years, **SUSPENSION STAYED** subject to the following conditions. Unless otherwise indicated, these conditions shall remain in effect for a period of two(2) years after the effective date of this Order.
2. The Respondent shall remain drug free.

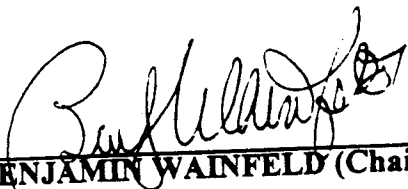
3. The Respondent shall continue to be monitored by Dr. Payson or by another licensed physician approved by the Director of the Office of Professional Medical Conduct.
4. The Respondent shall submit the name of a successor monitoring licensed physician to the Director of the Office of Professional Medical Conduct for approval within seven (7) days of the Respondent's becoming aware that Dr. Payson will no longer serve as a monitoring physician.
5. The monitoring physician, or an approved successor monitoring physician, shall monitor the Respondent's compliance with the terms of probation imposed and cause to be performed, at least twice every three months, unannounced urine tests for the presence of drugs in the Respondent. The monitoring physician must actually observe the collection of the urine sample, and the sample shall be subject to a full drug screen to including Ritalin and Xanax.
6. The monitoring physician, shall immediately notify the Office of Professional Medical Conduct if the Respondent refuses such a test.  
If such a test reveals, or the monitoring physician otherwise learns that the Respondent is not drug free, the monitoring physician shall immediately notify the Office of Professional Medical Conduct.
7. The Respondent shall be supervised in his medical practice by a licensed physician who is familiar with the Respondent's history of drug abuse and with the terms of this Order and who is approved by the Director of the Office of Professional Medical Conduct.
8. The Respondent shall obtain a successor supervising licensed physician, subject to the approval of the Director of the Office of Professional Medical Conduct, within seven (7) days of the Respondent's becoming aware that his initial supervisor will no longer serve as a supervising physician.

9. The supervising physician, or an approved successor supervising physician, shall supervise the Respondent's medical practice and shall establish the capability of doing a "stat" screen for the presence of drugs in the Respondent in response to any complaint or observation that drugs may be responsible for Respondent's behavior. The supervising physician, shall submit a report to the Office of Professional Medical Conduct every three (3) months regarding the quality of the Respondent's medical practice, any unexplained absences from work and compliance or failure to comply with each condition described herein.
10. The Respondent will continue in treatment with his psychiatrist, Dr. Beskind.
11. If the treatment afforded by Dr. Beskind becomes unavailable, the Respondent shall submit the name of a successor treating psychiatrist to the Director of the Office of Professional Medical Conduct for approval within seven (7) days of the Respondent's becoming aware that Dr. Beskind will no longer serve as Respondent's treating psychiatrist.
12. Every three (3) months, the monitoring physician shall submit to the Office of Professional Medical Conduct a report certifying compliance with each of the terms of probation by the Respondent or describing in detail any failure to comply. The report shall include the results of all tests for the presence of drugs performed during that three (3) month period. The report shall also certify the Respondent's compliance with treatment by Dr. Beskind or other approved successor treating psychiatrist.
13. The monitoring physician shall immediately report to the Office of Professional Medical Conduct any discontinuation of treatment or any significant pattern of abuses from scheduled treatment sessions.



14. If the Respondent decides to return to the practice of medicine in the State of New York, he shall so notify the Office of Professional Medical Conduct, at least thirty (30) days prior to commencing such practice.
15. Failure to comply with any of the conditions above will result in automatic reinstatement of the two year suspension of the Respondent's license to practice medicine upon notice to the Respondent.
16. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: ~~New York, New York~~  
8/31 1995

  
BENJAMIN WAINFELD (Chairman)  
SHARON KURITZKY, M.D.