



STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE
137 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0137

EDWARD DAVID, M.D.J.D.
CHAIRMAN

JOHN ELIAS BALDACCI
GOVERNOR

RANDAL C. MANNING
EXECUTIVE DIRECTOR

February 27, 2007

Bruce H. Davis, MD
PO Box 67
Brewer, ME 04412

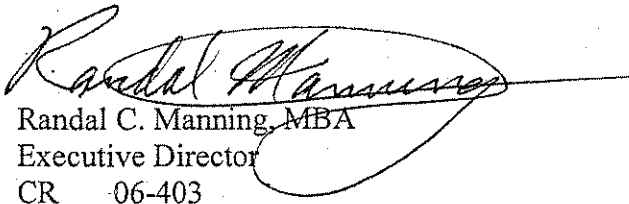
Dear Dr. Davis:

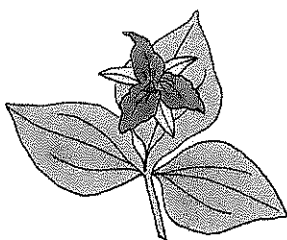
On February 20, 2007, the Board of Licensure in Medicine reviewed your letter dated February 12, 2007, in which letter you proffered the surrender of your license to practice medicine in the State of Maine. Following its review, the Board voted to accept your voluntary surrender of your license to practice medicine and surgery (license # 015279). Effective February 20, 2007, you are no longer licensed to practice medicine or surgery in the State of Maine.

While the Board did not agree with the factual assertions made in your letter, it accepted your surrender of licensure in lieu of any other disposition of the outstanding complaint. A voluntary surrender while under investigation is reportable to the National Practitioner Data Bank and the Federation of State Medical Boards.

Notwithstanding the surrender of your license, your failure to comply with the Board's Decision and Order dated June 13, 2006, constitutes grounds for the denial of licensure pursuant to Title 10 M.R.S.A. § 8003(5). If you choose to re-apply for licensure at some future date, full compliance with the Decision and Order will have to be established before you become eligible for licensure.

Sincerely,


Randal C. Manning, MBA
Executive Director
CR 06-403



www.trilliumdx.com

Trillium Diagnostics, LLC

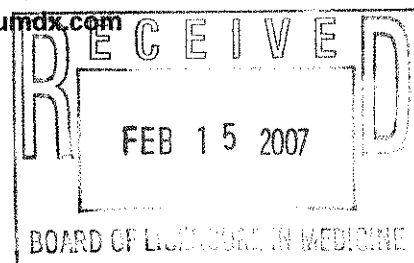
P.O. Box 67
Brewer, Maine 04412-0067

Bruce H. Davis, M.D., President

1-207-653-5247

FAX 1-207-942-0346

Email: brucedavis@trilliumdx.com



Maureen S. Lathrop
Maine Board of Medical Licensure
137 State House Station
Augusta, ME 04333-0137

12 February 2007

FAX TO: 207-287-6590 2/12/07 BMD

RE: Medical License

Dear Ms Lathrop,

Part in response to your letter dated 22 November 2006, recent communications with Mr. Dennis Smith and also in response to the failure of the Board to respond to my requests, submitted through my lawyer Mark Lavoie, to correct the omission of one of the boards votes and numerous factual inaccuracies in the hearing summary dated 13 June 2006, I hereby respectfully request my medical license (#015279) be moved to an inactive status. If that is not possible due to the current probationary status, then I secondarily request you accept my voluntary surrender my medical license. I have retired from the practice of medicine to focus on my diagnostic manufacturing business interests and do not wish to expend more of my time or that of the Board with continued dialogue regarding present and passed complaints by the Board.

As I wish this letter entered into my permanent file at the Board, I will comment briefly on the seemingly questionable conduct of the Board in dealing with me over their complaints.

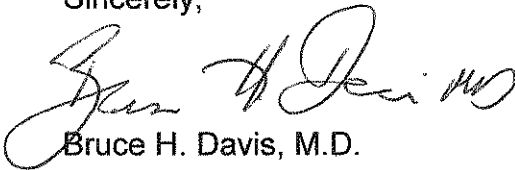
- 1) The initial complaint, CR03-082, generated in response to a letter to the Board by Dr. David Simmons in the form of a letter sent to me in September 2003 was not formally dealt with by the Board until nearly three years later in May 2006. This inactivity by the Board on an open complaint unnecessarily delayed resolution of the matter.
- 2) The summary of the May 2006 Hearing for CR03-082 on 13 June 2006 was an incomplete and inaccurate reflection of the testimony and procedural guidelines of the hearing. The biggest omission was the failure to document the decision by the Board that Dr. Davis did not violate 32 M.R.S.A. 3282-A(2)(B) by virtue of any "habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients". There were incorrect historical facts and out of context references that created a prejudicial summary. For example, although Dr Davis was instructed during testimony that

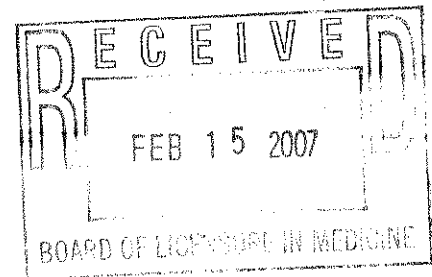
information regarding the events leading to voluntarily entering the Maine Physician's Health Program, reference was repeatedly made to this in the Summary in manner to justify conclusions by the Board after the hearing. Aside from being a disregard for judicial process and fairness, the Board through its public comments and written Summary seemingly shows a disregard and lack of respect for the efforts of the Maine Physician's Health Program. Additionally the Summary alleges that Dr Davis failed to contact the PHP regarding the OUI conviction until July, 2003. This is false and as stated during the hearing, I contacted Dr Dalco in December, 2002, just following the court decision on my OUI. This false allegation is cited as one of two reasons given by the Board for the adverse decision of unprofessional behavior.

- 3) In an effort to comply with order of the summary judgment, Dr Davis informed an agent of the Board, Ms Maria McDonald, of a prospective therapist, Ms Carolyn Parker, LCPC, PADC, CCS, on 30 October 2006. To which Dr. Davis has not received a formal board response as to her suitability. Dr. Davis, in response to CR06-403, informed both Ms Maria McDonald and Ms Maureen S. Lathrop in writing on 30 December 2006, that another therapist has been identified. Dr Davis requested approval of Deborah J Bailly, Director of Outpatient Services for Wellspring of Bangor, ME, to which he has not received a response from the Board as of 12 February 2007. In telephone conversation with Mr. Dennis Smith, Dr. Davis was informed that the Board would only accept a physician therapist. When challenged that the orders did not stipulate a M.D. therapist, Mr. Smith informed Dr Davis that that was what the Board meant. Hence through the vague wording of the Summary orders and a failure to communicate with Dr. Davis, they have set Dr Davis up to fail the stipulations of the Summary orders.

The above comments are made only to set the record correct and complete and express my personal disappointment with the process. Nonetheless, I am pragmatic as to the pressures of public perception that a Board is actually finding the "bad Docs" and feel relief that in my personal situation to continue to dispute allegations would be a mere emotional and intellectual dispute and not a practical one affecting my personal income. Accordingly, I enclose my current medical license and consider the matter closed.

Sincerely,


Bruce H. Davis, M.D.

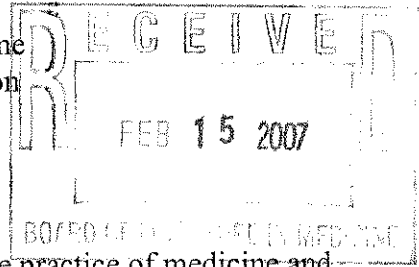


Cc : Mark Lavoie, Esq.
David Simmons, MD
Edward David, MD, JD



Maine Board of Licensure in Medicine
Medical Practice License Registration

Expiration Date: May 31, 2007

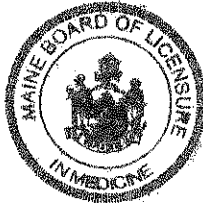


This is to certify that the physician named below is licensed for the practice of medicine and surgery in the State of Maine and that the license is validly registered for the period June 01, 2005 through May 31, 2007 pursuant to Title 32, Maine Revised Statutes of 1964, Chapter 48, as amended. If this registration certificate is marked "Inactive", the licensee may not lawfully provide professional services within the borders of the State of Maine without having first satisfied the Board of his/her Continuing Medical Education qualification in compliance with Board Rules, Chapter 1, Section 13.

LICENSEE NAME:

MAINE LICENSE CERTIFICATE No. 015279

Davis, Bruce H, MD
Trillium Diagnostics, LLC
PO Bx 6357, 81 Research Dr
Scarborough, ME, 04070-6347



Sheridan R. Oldham, MD

Sheridan R. Oldham, M.D. Secretary
Maine Board of Licensure in Medicine

DISPLAY WITH LICENSE

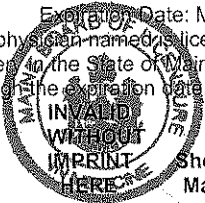
VOID WITHOUT IMPRINTED BOARD SEAL

**Maine Board of Licensure in Medicine
Medical Practice License Registration Verification**

Licensee Name: Bruce H Davis , MD
Maine License #: 015279
Expiration Date: May 31, 2007

The physician named is licensed for the practice of medicine and surgery in the State of Maine. The registration of this license is valid through the expiration date. See reverse side for limitations.

Sheridan R. Oldham, MD
Sheridan R. Oldham, M.D. Secretary
Maine Board of Licensure in Medicine



We are pleased to provide you with this certificate of renewal of registration of your Maine medical practice license, which is to be displayed in your primary place of practice with your Maine license certificate and also to provide you with a wallet card evidencing the continuing validity of your Maine license.

Please write to the Board at 137 State House Station, Augusta, ME 04333 if your address changes, if your professional activities alter the basis upon which your Maine license has been renewed and classified in registration, or if you have any question about your Maine license record.

MAINE STATE BOARD OF LICENSURE IN MEDICINE

IN RE: Bruce H. Davis, M.D.)
Complaint No. CR 03-082) DECISION AND ORDER
Licensure Disciplinary Action)

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S.A. Sec. 3263, et seq., 5 M.R.S.A. Sec. 9051, et seq., and 10 M.R.S.A. Sec. 8001, et seq., the Board of Licensure in Medicine (Board) met in public session at the Board's offices located in Augusta, Maine on May 16, 2006. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether Bruce H. Davis, M.D.'s Maine medical license is subject to discipline based on the allegations listed in the Notice of Hearing. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Edward David, M.D., J.D., Chairman, Sheridan Oldham, M.D., David Nyberg, Ph. D., (public member), Kimberly K. Gooch, M.D., Gary Hatfield, M.D., and Cheryl Clukey (public member). Dennis Smith, Ass't. Attorney General, represented the State. Dr. Davis was present and represented by Mark Lavoie, Esq. James E. Smith, Esq. served as Presiding Officer.

There were no conflicts of interest found to disqualify any member of the Board from participating in this proceeding. Subsequent to the admission into the record of State's exhibits 1-19 and Respondent's exhibit 1 and the parties' opening statements, testimony, and closing arguments, the Board deliberated and determined findings of fact by a preponderance of the credible evidence and also made conclusions of law.

II. FINDINGS OF FACT

Bruce H. Davis has been licensed as a physician in the State of Maine since June 1, 2000. His license lists his specialty as hematology and he has been a practicing pathologist for a number of years. In November of 2000, Dr. Davis was employed by the Spectrum Lab as a clinical and research pathologist. Shortly thereafter, some of his co-workers alleged that they smelled marijuana

emanating from Dr. Davis. The licensee was told by his employer that, if he did not refer for self-help with the Maine Physician Health Program (PHP), he would be fired. Dr. Davis reported to the PHP and was then referred by Dr. John Dalco for a psychiatric and addiction evaluation by Dr. Nowak. He was assessed by this psychiatrist as being predominantly narcissistic and focused on his own agenda, aspirations, and accomplishments while also demonstrating difficulty dealing with authority. At the time, Dr. Davis was under severe stress due to a bout of depression and a close friend having contracted terminal breast cancer. His supervisor did not question the quality of Dr. Davis's work, and there was no evidence of clinical problems.

Around January of 2001, Dr. Davis acknowledged his problem with cannabis and apparently stopped using that substance. However, he continued to drink alcohol. At the hearing, he portrayed himself as having "clean" urine tests for the past six years but was not forthcoming regarding the fact that he has been substance (alcohol) free for only three years.

David Simmons, M.D. has been the medical director of the Physician's Health Program for approximately the past four years. That program required that Dr. Davis maintain abstinence from both cannabis and alcohol. Despite this requirement, in September of 2002, Dr. Davis was arrested for driving under the influence of alcohol. His Breathalyzer totaled .14 and he pled guilty to this offense. However, he neglected to inform the PHP of this conviction until approximately July of 2003 which was after his heart attack on May 18, 2003. Dr. Davis was then reevaluated by Dr. Nowak who reported more stressors in Dr. Davis's life including depression due to the death of his good friend, financial problems caused by starting up his own medical diagnostic business and difficulty sleeping. The licensee's treating physician prescribed Wellbutrin and he attended eight to ten sessions with a psychologist.

As of July 1, 2003, Dr. Davis reported to Dr. Nowak that he did not "feel that alcohol is a problem for him, nor does he want someone telling him not to drink."¹ Dr. Nowak then reviewed Dr. Davis's understanding of his contract with the Physician's Health Program and discovered that while the latter had been compliant with drug testing and abstinence from marijuana, he had not taken other steps to learn coping skills or adapt to a substance-free life. He also stated that Dr. Davis had been unwilling to attend Alcoholics Anonymous (AA), Narcotics Anonymous (NA) or Caduceus (a self-help group based on self-help principles for medical professionals). Dr. Nowak

¹ Apparently, Dr. Davis did not abstain from alcohol until approximately October 6, 2003.

was concerned that Dr. Davis's pattern of alcohol use appeared to be escalating and that he demonstrated poor judgment not only by breaking his treatment agreement with PHP but had also placed himself in a position whereby he committed the offense of OUI. Dr. Davis also revealed to Dr. Nowak that he had been reluctant to accept total abstinence and sobriety as a life goal. Dr. Nowak subsequently recommended that circumstances clearly required residential treatment for the licensee at that time. Treatment programs were suggested including those at the Farley Center in Virginia, Talbot Program in Atlanta, and the Caron Foundation in Pennsylvania. However, Dr. Davis was extremely hesitant to attend a residential treatment program due to the fact that he only had two employees and his fledgling business would most likely fail without his physical presence.

On July 31, 2003, David Simmons, M.D. wrote to the Board and reported the violation of the PHP contract as well as the evaluation by Dr. Nowak. Dr. Simmons concluded his letter by stating "I've been working with Dr. Davis...and have not been successful in convincing him to enter a residential treatment program. I am not comfortable endorsing a less aggressive approach given his history of breach of his PHP contract. He must be considered out of compliance at this juncture and no longer an active participant in our program."

On September 22nd, 2003, the Board informed Dr. Davis that it would be issuing a complaint against him alleging unprofessional conduct and habitual alcohol/substance abuse. Dr. Davis responded on October 30, 2003. He explained that the OUI offense was basically due to a report by his angry ex-wife and that he "self-reported in November 2002". He neglected to mention that he would have been fired from his employment had he not self-reported.

Dr. Davis testified that in order to comply with the new PHP contract, he had begun an intensive outpatient treatment program at the Addiction Resource Center of Mid Coast Hospital in Brunswick, Maine and regularly attended the Caduceus meetings in Portland and local AA meetings. He considered these to be an alternative to residential treatment since he again reasoned that he could not enter a residential treatment program because his diagnostic manufacturing company had developed a new product which was a novel diagnostic kit for detection of infection or sepsis. His business activities required him to travel out of the country approximately four times per year from four to 12 days and also at least twice per month to California or Tennessee for several days at a time.

Dr. Davis later corrected his earlier testimony and stated that he attended AA approximately four times and apparently had not attended Caduceus or, if he had, it did not appear to the Board to

be on a regular basis. According to Dr. Simmons, who also testified at the instant hearing, Dr. Davis did not participate in AA, Caduceus, or Narcotics Anonymous. He has, however, been fully compliant with his contract as an active participant in the random testing program.

As part of the first PHP contract, Dr. Davis was required to be treated by an addiction specialist and chose Nancy Shaw, L.C.S.W. However, from July of 2003 until July of 2004, he only appeared for such treatment on eight occasions and Ms. Shaw did not file a report regarding her findings and prognosis. On July 12, 2004, PHP and Dr. Davis entered into a second treatment plan. In this plan, Dr. Davis agreed to urine testing every other week and to attend a self-help group three times per week. He also agreed to receive weekly counseling from psychiatrist Charles Johnson who specializes in addictive behavior. The licensee also agreed to counseling with Nancy Shaw but she closed out her practice.

Although required to attend counseling on a weekly basis, the record reveals that Dr. Davis failed to report to Dr. Johnson for a period of seven months during 2005-2006. Dr. Davis did not attend any sessions with Dr. Johnson from May 24, 2005 until September 16, 2005 and did not appear again to receive counseling until January 3, 2006. Dr. Davis testified that Dr. Johnson did not track him down or encourage him to return to counseling on a more regular basis, thereby implying that it was Dr. Johnson's duty to have Dr. Davis comply with the terms of his PHP contract. Dr. Davis's testimony that currently he was attending Caduceus "when in town" would also constitute a breach of his contract with PHP.

Dr. Johnson testified that Dr. Davis has made "significant improvement" over the past several years. He has been monitored for substance abuse for six years and has passed all urine tests. There has been no evidence of a relapse regarding alcohol since 2004 and by June of 2004 Dr. Johnson concluded that Dr. Davis did not need residential treatment. Dr. Johnson also rendered his opinion that Dr. Davis was competent to practice medicine although remained an average risk for relapse.

Dr. Davis testified that he was not in compliance with the contract but was in compliance with the spirit of the contract. He has investigated the Smart Recovery Program which has a base in California and is a self-effort group which claims to have a higher recovery success rate than AA. Additionally, Dr. Davis agreed with Dr. Johnson that the Wellbutrin has been responsible for relieving his depression and removing his need for alcohol. The licensee testified that life is now

more enjoyable and he sleeps better and is more relaxed and his business is developing in a positive way.

Dr. Davis also testified that he needs his Maine license in order to continue to be able to sign diagnostic reports that he has interpreted. He is a member of the Association of American Pathologists which also requires medical licensure. Dr. Davis added that he has neither treated nor performed any medical services on Maine residents for the past several years and does not intend to in the immediate future. However, he is and has been for the past several years performing testing procedures on various drugs and interpreting various tests which, if he were impaired, could cause harm to patients.

The Board specifically found that Dr. Davis violated both the first and second PHP contracts in a flagrant manner by his consumption of alcohol which resulted in a conviction for operating under the influence and his contemptuous disregard for the terms of counseling which were required. He did not report his OUI to the PHP in a timely manner, and for that matter, neither did the PHP timely report to the Board. The Board also expressed its concerns that additional current stressors may pose a threat to a relapse regarding substance and alcohol abuse. For example, Dr. Johnson will be closing his practice in southern Maine in August and Dr. Davis is planning to move his residence and practice to Bangor. Moreover, the Board did not share Dr. Johnson's lack of concern that Dr. Davis did not appear for therapy for seven months.

The Board also found that the licensee was not trustworthy as a professional and practiced deception by not reporting his OUI and by not living up to the terms of his PHP agreements. The Board was further concerned that Dr. Davis has not regularly attended self-help group meetings and that he has been totally abstinent for only three years.

III.

CONCLUSIONS OF LAW

The Board, after review of the evidence, and utilizing its expertise, training, and experience, concluded by a vote of 6-0 that Dr. Davis violated the provisions of 32 M.R.S.A. §3282-A(2)(F) which defines unprofessional conduct to be a violation of the standard of professional behavior that has been established in the practice for which the licensee is licensed.

IV.

SANCTIONS

The Board, after review of the evidence, and utilizing its expertise, training, and experience, hereby Orders by a vote of 6-0 that:

1. Dr. Davis shall be on probation for a period of five years beginning June 13, 2006. The terms of probation shall not be subject to further review by the Board until at least June 13, 2007. During the probationary time, Dr. Davis shall:

A. Totally abstain from alcohol and drugs except for those prescribed by a physician. He shall participate in a urine random monitoring program at least once per month for 5 years administered by the Physician Health Program with the test results forwarded directly to the Board's Executive Director.

B. Participate, at his own expense, in individual psychotherapy with a therapist pre-approved by the Board at a minimum of two times per month. Dr. Johnson may continue as the pre-approved therapist until September 1, 2006 or until he closes his practice. Dr. Davis shall provide Dr. Johnson and any subsequent therapist with a copy of this Decision and Order. The therapist shall provide the Board with a quarterly written summary of the treatment and progress of the licensee including dates of attendance and length of sessions. The therapist and Dr. Davis shall immediately report to the Board both verbally and in writing any time Dr. Davis:

1. is in repeated or serious violation of the terms of therapy (e.g.-absent from sessions or often tardy);

2. relapses or returns to the usage of alcohol or any psychoactive drug.

C. Participate, at his own expense, in either or both AA or Caduceus self-help abstinence programs at a minimum of two times per month. The licensee shall provide the Board with a quarterly written summary documenting the name of the program, the location, dates of attendance and length of the

meetings. In the event that Dr. Davis desires to participate in some other self-help abstinence program group, he shall first obtain the approval of the Board.

2. Dr. Davis shall pay the Board's costs of this hearing by December 13, 2006 which total \$2,299.48. Hearing officer-(.30 mins. pre-hearing review of record; 7.30 hrs/mins. presiding at the hearing; 6 hours and 30 mins. to write the Decision @ \$115= \$1667.50); and copying costs (\$245); publication costs, (\$386.98). Payment shall be by certified check or money order made payable to: "Maine Board of Licensure in Medicine" and remitted to Randal C. Manning, Executive Director, 137 State House Station, Augusta, Maine 04333-0137. The costs are ordered in accordance with past Board practice regarding serious offenses and actions that require additional staff time and large costs related to reproduction of patient records and because licensees who do not violate Board Rules and statutes should not have to bear the costs of those who do.

3. Failure to comply with the terms of this Decision may result in further disciplinary action.

SO ORDERED.

Dated: June 13, 2006



Edward David, J.D., M.D. Chairman
Maine Board of Licensure in Medicine

V. RIGHTS OF APPEAL

Pursuant to the provisions of 5 M.R.S.A. Sec. 10051.3 and 10 M.R.S.A. Sec. 8003, any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Maine State Board of Licensure in Medicine, all parties to the agency proceedings and the Attorney General.