



Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

C. Maynard Guest, M.D.
Executive Secretary

October 24, 1994

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Gabriel Cousens, M.D.
200 Spring Hill Road
Petaluma, CA 94952

RE: License No. 142365

Dear Dr. Cousens:

Enclosed please find Order #BPMC 94-223 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

C. Maynard Guest, M.D.
Executive Director
Board for Professional Medical Conduct

Enclosure

cc: Marc Zimmerman, Esq.
Hassard, Bonnington, Rogers & Huber
50 Fremont Street, Suite 3400
San Francisco, CA 94105

Cindy Fascia, Esq.

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

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IN THE MATTER :
OF : ORDER
GABRIEL KENNETH COUSENS, M.D. : BMC #94-223

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Upon the application of GABRIEL KENNETH COUSENS, 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 Respondent, upon receipt
by Respondent of this order via certified mail, or seven days
after mailing of this order by certified mail, whichever is
earliest.

SO ORDERED,

DATED: 20 October 1994

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
: APPLICATION
IN THE MATTER :
OF : FOR
GABRIEL KENNETH COUSENS, M.D. : CONSENT
: ORDER
-----X

STATE OF CALIFORNIA)
ss.:
COUNTY OF SAN FRANCISCO)

GABRIEL KENNETH COUSENS, being duly sworn, deposes and says:

1. I was authorized to practice medicine in New York State on June 13, 1980 by the issuance of license number 142365 by the New York State Education Department.
2. I am not currently registered to practice medicine in New York State.
3. I understand that the New York State Board for Professional Medical Conduct [hereafter "Board"] has charged me with one specification of professional misconduct. A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as "Exhibit A."
4. I do not contest the one specification of professional misconduct which is set forth in the Statement of

Charges, in that I was disciplined by the California Board of Medicine, and that said discipline formed the basis for the New York charge against me.

5. I hereby agree to the penalty of a censure and reprimand.

6. I hereby make this Application to the Board and request that it be granted.

7. I understand that, in the event 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 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.

8. 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.

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

Gabriel Kenneth Couzens, M.D.
GABRIEL KENNETH COUSENS, M.D.
RESPONDENT

Sworn to before me this
11th day of October

William Phillips
NOTARY PUBLIC

1994.
WILLIAM PHILLIPS
NOTARY PUBLIC, State of New York
No. 03-3083900
Qualified in Bronx County
Commission Expires ~~March 30, 1995~~
April

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

-----X
IN THE MATTER : APPLICATION
OF : FOR
GABRIEL KENNETH COUSENS, M.D. : CONSENT
: ORDER
-----X

The undersigned agree to the attached Application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 10/11/94 Gabriel Kenneth Cousens, M.D.
GABRIEL KENNETH COUSENS, M.D.
RESPONDENT

DATE: 10-7-94 Marc N. Zimmerman
MARC N. ZIMMERMAN, ESQ.
ATTORNEY FOR RESPONDENT

DATE: October 17, 1994 Cindy M. Fascia
CINDY M. FASCIA
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: Oct. 19, 1994

Kathleen M. Tanner

KATHLEEN M. TANNER
DIRECTOR
Office of Professional
Medical Conduct

DATE: 20 October 1994

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 : STATEMENT
OF : OF
GABRIEL KENNETH COUSENS, M.D. : CHARGES

-----X

GABRIEL KENNETH COUSENS, M.D., the Respondent, was authorized to practice medicine in New York State on June 13, 1980, by the issuance of license number 142365 by the New York State Education Department. The Respondent is not currently registered to practice medicine in New York.

FACTUAL ALLEGATIONS

1. On or about April 22, 1993, the California Medical Board filed an Accusation charging Respondent with unprofessional conduct. Respondent was charged with repeated acts of excessive prescribing of drugs as determined by the standard of the community, which constitutes unprofessional conduct for a physician pursuant to Section 725 of the California Business and Professions Code. Respondent was also charged with incompetence pursuant to Section 2234(d) of the California Business and Professions Code, based upon the same allegations, and with inappropriate prescribing of drugs to a patient whom Respondent knew to be an addict, in violation of Section 2241 of the California Business and Professions Code and Section 11156 of the California Health and Safety Code.

2. Respondent, on or about November 4, 1993, entered into a Stipulation and Waiver with the California Medical Board. In said Stipulation and Order, Respondent agreed that the California Medical Board's Division of Medical Quality issue an Order imposing disciplinary action against him. Said Order was issued by the Board on January 27, 1994.

3. The conduct set forth in the California Board's Accusation, which was the conduct resulting in the California Board's disciplinary action against Respondent would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically N.Y. Educ. Law §6530(5) [practicing the profession with incompetence on more than one occasion] and/or N.Y. Educ. Law §6530(3) [practicing the profession with negligence on more than one occasion].

4. Pursuant to the California Board's Order, Respondent's license to practice medicine in California was revoked. The revocation was stayed, and Respondent was placed on probation for a period of three years. The terms of probation included a requirement that Respondent maintain a record of all controlled substances prescribed, dispensed or administered to all patients. During the period of his probation, Respondent was forbidden to prescribe, administer, dispense, order or possess any controlled substances except for those drugs listed in Schedules III, IV and V. Respondent was required to immediately surrender his DEA permit to the Drug Enforcement Administration and reapply for a

new DEA permit limited to the Schedule drugs authorized by the Order. Respondent was forbidden to reapply for an unrestricted DEA permit without express permission from the California Board. Respondent was also required to complete Continuing Medical Education (CME) requirements as follows: At least forty course hours during the first year of said Order, said courses to be related to controlled substances, including the management of patients with intractable pain. For each remaining year of probation, Respondent was required to complete an additional twenty-five hours of CME. All CME requirements were in addition to the twenty-five hours of CME required each year by the California Board for all licensees. In addition to the above CME requirements, Respondent was required to complete an Ethics course during the first year of probation.

SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994) by reason of having had his license to practice medicine revoked, suspended or having other disciplinary action taken, where the conduct resulting in the revocation, suspension or other disciplinary action 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 1 through 5.

DATED: *August 8*, 1994
Albany, New York

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