



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H.
Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Anne F. Saile, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

Denise M. Bolan, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

November 12, 1999

Mr. Robert Bentley, Director
Division of Professional Licensing Services
New York State Education Department
Cultural Education Center
Empire State Plaza
Albany, New York 12230

RE: License No. 166531

Dear Mr. Bentley:

Enclosed please find Order #BPMC 99-277 of the New York State Board for Professional Medical Conduct concerning Virginia Cooke, M.D.

Please be advised that effective September 4, 1996, Public Health Law Sections 230(10)(g) and 230-c(4)(a) provide that the Order shall become public upon issuance and the penalty shall be effective without stay by appeal to the Administrative Review Board in any case in which annulment, suspension without stay or revocation of a physician's license is ordered.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Daniel Kelleher



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.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

November 10, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Lee A. Davis, Esq.
New York State Department of Health
Empire State Plaza
Corning Tower – Room 2504
Albany, New York 12237

Virginia Cooke, M.D.
3 Monarch Bay Plaza, Suite 108
Monarch Beach, California 92629

RE: In the Matter of Virginia Cooke, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 99-277) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

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), 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 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.

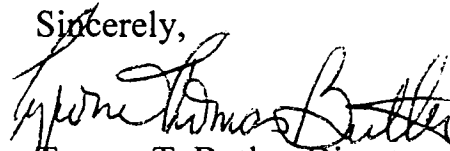
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., 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,



Tyrone T. Butler, Director
Bureau of Adjudication

TTB:mla

Enclosure

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

IN THE MATTER
OF
VIRGINIA COOKE, M.D.

DETERMINATION
AND
ORDER

ORDER # 99-277

COPY

A Notice of Referral Proceedings and Statement of Charges, both dated, November 5, 1998, were served upon the Respondent, **VIRGINIA COOKE, M.D.**

ANDREW MERRITT, M.D., Chairperson, **MARGERY SMITH, M.D.** and **SR. MARY THERESA MURPHY**, 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 October 27, 1999, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **LEE A. DAVIS, ESQ.**, of Counsel. The Respondent failed to appear.

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). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such case, 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 findings. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous unless otherwise stated.

1. VIRGINIA COOKE, M.D., the Respondent, was authorized to practice medicine in New York State on June 30, 1986 by the issuance of license number 166531 by the New York State Education Department. (Pet's. Ex. 2)

2. Pursuant to a Stipulated Settlement and Disciplinary Order, entered into with the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, (hereinafter "California Board"), the Respondent's license to practice medicine was revoked, effective February 20, 1998, with the revocation stayed. The Respondent was placed on probation for a period of three years, under specific terms and conditions.

The sanctions imposed upon the Respondent's license in the State of California resulted from the Respondent's gross negligence, or repeated negligent acts, or both, in the care, treatment and management of nine (9) different patients.

HEARING COMMITTEE CONCLUSION

The Hearing Committee concludes that the conduct resulting in the California Board's disciplinary action against the Respondent's license would constitute professional misconduct under the laws of New York State.

VOTE OF THE HEARING COMMITTEE

SPECIFICAITONS

Respondent is charged with professional misconduct under New York Education Law §6530(9)(b) in that she has been found guilty of 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)

HEARING COMMITTEE DETERMINATION

The evidence in this case indicates that the Respondent admitted that she committed gross negligence or repeated negligent acts, or both, in the care, treatment and management of nine (9) different patients in the State of California.

The "California Board" revoked the Respondent's medical license, stayed the revocation and placed her on probation for a period of three (3) years under specific terms and conditions.

The Respondent did not appear at the present hearing nor did she submit any evidence in mitigation of the charges.

The Hearing Committee determines that, given seriousness of the charges admitted to by the Respondent, her license to practice medicine in the State of New York should be REVOKED.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is hereby REVOKED.
2. 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: *Marcellus*, New York

11, 8 1999



ANDREW MERRITT, M.D.
Chairperson

MARGERY SMITH, M.D.
SR. MARY THERSEA MURPHY

APPENDIX I

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



-----X

IN THE MATTER : NOTICE OF
OF : REFERRAL
VIRGINIA COOKE, M.D. : PROCEEDING

-----X

TO: VIRGINIA COOKE, M.D.
3 Monarch Bay Plaza, Suite 108
Monarch Beach, California 92629

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) and N.Y. State Admin. Proc. 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 22nd day of December, 1998 at 10:00 in the forenoon of that day at 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 Statement of Charges, which 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. 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 which 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 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before December 4, 1998.

Pursuant to the provisions of N.Y. 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 or 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 December 4, 1998 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
November 5, 1998

Peter D. Van Buren

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

Inquiries should be addressed to:

Kalimah J. Jenkins
Assistant Counsel
NYS Department of Health
Division of Legal Affairs
Corning Tower Building
Room 2509
Empire State Plaza
Albany, New York 12237
(518) 473-4282

EXHIBIT A

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

-----X

IN THE MATTER : STATEMENT
OF : OF
VIRGINIA COOKE, M.D. : CHARGES

-----X

VIRGINIA COOKE, M.D., the Respondent, was authorized to practice medicine in New York State on June 30, 1986 by the issuance of license number 166531 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. Respondent's current address is 3 Monarch Bay Plaza, Suite 108, Monarch Beach, CA 92629.

FACTUAL ALLEGATIONS

1. Respondent's license to practice medicine in the State of California became the subject of a disciplinary action relating to events occurring from approximately March 1993 through approximately May 1994.

2. Pursuant to a Stipulation in Settlement and Disciplinary Order entered into with the Medical Board of California, Division of Medical Quality, Respondent's license to practice medicine was revoked, effective February 20, 1998, with the revocation stayed. Respondent was, among other things, also placed on probation for a period of three years.

3. The sanctions imposed upon Respondent's license in the State of California resulted from Respondent's gross negligence or repeated acts of negligence with respect to nine patients.

4. The conduct resulting in the California disciplinary action involving Respondent's license would constitute professional misconduct if committed in New York State under Education Law §§ 6530(3) -- practicing the profession with negligence on more than one occasion and/or (4) -- practicing the profession with gross negligence on a particular occasion.

SPECIFICATION

Respondent is charged with professional misconduct under New York Education Law § 6530(9) ^D ~~(4)~~ ^{as disciplinary action taken} in that she has been found guilty ^{equivalent to} of 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 1 through 4 above.

DATED: *November 5*, 1998
Albany, New York

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