



# 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*

April 5, 2000

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Robert Bogan, Esq.  
Paul Robert Maher, Esq.  
NYS Department of Health  
Hedley Park Place  
433 River Street – Fourth Floor  
Troy, New York 12180

Kevin G. Coonley, M.D.  
P.O. Box 1606  
El Cerrito, California 94530

Kevin G. Coonley, M.D.  
1621 Fulton Avenue  
Suite 33  
Sacramento, California 95825-5127

**RE: In the Matter of Kevin G. Coonley, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 00-102) 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T' and 'B'.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

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

COPY

IN THE MATTER  
OF  
KEVIN G. COONLEY, M.D.

DECISION

AND

ORDER

BPMC-00-102

A Commissioner's Order and Notice of Hearing, dated February 4, 2000 and Statement of Charges, dated February 3, 2000, were served upon the Respondent, **KEVIN G. COONLEY, M.D.**

**DATTA WAGLE, M.D.**, Chairperson, **RICHARD KASULKE, M.D.** and **MR. JOHN TORRANT**, 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 March 23, 2000, at the Office 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.**, of Counsel, by **ROBERT BOGAN, ESQ.**, and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent failed to appear.

Evidence was received and transcripts of these proceeding 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 Section 6530(9)(b) and (d). A copy of the Notice 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 number 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. All Hearing Committee findings were unanimous unless otherwise stated.

1. **KEVIN G. COONLEY, M.D.**, the Respondent, was authorized to practice medicine in New York state on June 19, 1987, by the issuance of license number 170393 by the New York State Education Department. (Pet's. Ex. 3)

2. On September 17, 1999, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, (hereinafter "California Board"), by a Default Decision and Order, (hereinafter "California Order"), revoked the Respondent's Physician and Surgeon's Certificate, based on a mental competency examination that found he was unable to practice medicine with safety to the public because he suffers from bipolar I affective disorder, manic with psychotic features, refusal of treatment for his illness, he cannot practice safely because his mood disorder impairs his ability to interact with patients, and his cognitive processes and judgment are impaired. (Pet's. Ex. 4)

3. By Commissioner's Order, dated February 4, 2000, the Commissioner of Health of the State of New York upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that Kevin G. Coonley, M.D. has been disciplined by a duly authorized professional disciplinary agency of another jurisdiction, namely the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, for acts which if committed in the state of New York would have constituted the basis for summary action pursuant to New York Health Law Section 230(12)(a), and has further determined that the continued practice of medicine in the state of New York by Kevin G. Coonley, M.D., the Respondent, constitutes imminent danger to the health of the people of this state."

The Commissioner further "ORDERED, pursuant to New York Public Health Law Section 230(b), that effective immediately, Kevin G. Coonley, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to New York Public Health Law Section 230(12)." (Pet's. Ex. 1)

### **HEARING COMMITTEE CONCLUSIONS**

The Hearing Committee concludes that the conduct resulting in the California Board's disciplinary action against the Respondent would, if committed in New York state, constitute misconduct under the laws of New York state.

### **VOTE OF THE HEARING COMMITTEE**

#### **SPECIFICATION**

#### **FIRST SPECIFICATION**

Respondent violated New York Education §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 State Education Law §6530(9)(d) by having had his license revoked or having other disciplinary action taken after a disciplinary action was instituted against him by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation or other 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 record in this case indicates that the Respondent's California medical license was revoked based on determination by the "California Board" that the Respondent was mentally impaired.

Based on the California action, the Commissioner of Health of the State of New York determined that the Respondent's practice of medicine in the state of New York constitutes an imminent danger to the people of this state and ordered the Respondent not to practice medicine in New York state.

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

The Hearing Committee determines unanimously (3-0) that the Respondent 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. The **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

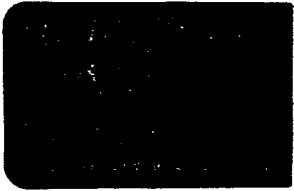
4/11, 2000

  
\_\_\_\_\_  
DATTA WAGEL, M.D., Chairperson

RICHARD KASULKE, M.D.  
MR. JOHN TORRANT

APPENDIX I

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



-----X

IN THE MATTER  
OF  
KEVIN G. COONLEY, M.D.

COMMISSIONER'S  
ORDER AND  
NOTICE OF HEARING

-----X

TO: Kevin G. Coonley, M.D.  
P.O Box 1606  
El Cerrito, CA 94530

Kevin G. Coonley, M.D.  
1621 Fulton Avenue  
Suite 33  
Sacramento, CA 95825-5127

The undersigned, Antonia C. Novello, M.D., M.P.H., Commissioner of the New York State Department of Health, after an investigation, upon the recommendation of a committee on professional medical conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that Kevin G. Coonley, M.D. has been disciplined by a duly authorized professional disciplinary agency of another jurisdiction, namely, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, for acts which if committed in the state of New York would have constituted the basis for summary action pursuant to New York Public Health Law Section 230(12)(a), and has further determined that the continued practice of medicine in the state of New York by Kevin G. Coonley, M.D., the Respondent, constitutes imminent danger to the health of the people of this state.

It is therefore,

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, Kevin G. Coonley, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the

Commissioner of Health pursuant to N.Y. Public Health Law Section 230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Public Health Law Section 230, and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 23rd day of March, 2000 at 10:00 am in the forenoon at the Hedley Park Plaza, 5th Floor, 433 River Street, Troy, New York, 12180, and at such other adjourned dates, times, and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. 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 hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the Administrative Law Judge's Office, Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180, (518-402-0751), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact,

conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU MAY BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW SECTION 230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY IN THIS MATTER.

DATED: Albany, New York  
2/4, 2000

  
ANTONIA C. NOVELLO, M.D., M.P.H.  
Commissioner

Inquiries should be directed to:

Robert Bogan  
Assistant Counsel  
NYS Department of Health  
Division of Legal Affairs  
Hedley Park Place  
433 River Street - Suite 303  
Troy, New York 12180  
(518) 402-0820

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

-----X

IN THE MATTER	STATEMENT
OF	OF
KEVIN G. COONLEY, M.D.	CHARGES

-----X

KEVIN G. COONLEY, M.D., the Respondent, was authorized to practice medicine in New York state on June 19, 1987, by the issuance of license number 170393 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about September 17, 1999, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, (hereinafter "California Board"), by a Default Decision and Order, (hereinafter "California Order"), revoked the Respondent's Physician and Surgeon's Certificate, based on a mental competency examination that found he was unable to practice medicine with safety to the public because he suffers from bipolar I affective disorder, manic with psychotic features, refusal of treatment for his illness, he cannot practice safely because his mood disorder impairs his ability to interact with patients, and his cognitive processes and judgment are impaired.

B. The conduct resulting in the California Board's disciplinary action 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(8) (having a psychiatric condition which impairs his ability to practice); and/or
2. New York Education Law §6530 (16) (failure to comply with federal, state, or local laws, rules, or regulations, governing the practice of medicine).

## **SPECIFICATIONS**

### **FIRST SPECIFICATION**

Respondent violated New York Education §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 had his license revoked or having other disciplinary action taken after a disciplinary action was instituted against him by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation 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:

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

DATED: *Feb. 3*, 2000  
Albany, New York

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