



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*

July 3, 2000

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Robert Bogan, Esq.  
NYS Department of Health  
Hedley Park Place  
433 River Street - 4<sup>th</sup> Floor  
Troy, New York 12180

Tova Li Babad, M.D.  
18432 Gridley Road  
Artesia, California 90701

Tova Li Babad, M.D.  
918 Kenter Way  
Los Angeles, California 90049

**RE: In the Matter of Tova Li Babad, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 00-191) 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.

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.

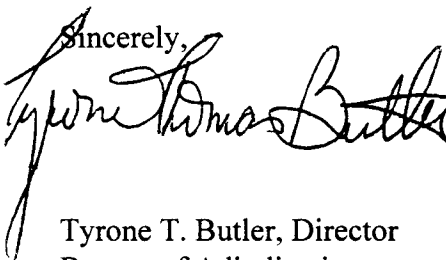
All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

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:cah  
Enclosure

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

COPY

IN THE MATTER  
OF  
TOVA LI BABAD, M.D.

DETERMINATION

OF

ORDER

BPMC #00-191

A Commissioner's Order and Notice of Hearing dated, March 31, 2000 and a Statement of Charges dated March 31, 2000, were served upon the Respondent **TOVA LI BABAD, M.D.**

**DAVID HARRIS, M.D.**, Chairperson, **J. LaRUE WILEY, M.D.** and **MR. MICHAEL WALKER**, 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 June 15, 2000, 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 **ROBERT BOGAN, ESQ.**, of Counsel. The Respondent did not personally appear at the hearing, but she did participate by telephone conference with the Hearing Committee and testified under oath.

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 Law Section 6530(9)(d). A copy of the Commissioner's Order and Notice of Hearing and the Statement of Charges is attached to this Determination and Order as Appendix 1.

**WITNESSES**

For the Petitioner:

None

For the Respondent:

Tova Li Babad, M.D., the Respondent  
(by Telephone)

## 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. The 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. **TOVA LI BABAD, M.D.**, the Respondent, was authorized to practice medicine in New York on January 6, 1975, by the issuance of license number 122726 by the New York Education Department. (Pet's. Ex. 4)

2. On November 16, 1999, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision (hereinafter "California Order"), revoked the Respondent's physician and surgeon's certificate, stayed the revocation, and placed her on probation for four (4) years with terms and conditions, based on a mental competency examination that found she was unable to practice medicine with safety to the public because she suffers from a debilitating mental illness that has impaired her ability to practice medicine safely. (Pet's. Ex. 5)

3. By Order dated March 31, 2000, 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 **TOVA LI BABAD, 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 **TOVA LI BABAD, M.D.**, the Respondent, constitutes imminent danger to the health of the people of this state.

The Commissioner ORDERED, pursuant to New York Public Health Law Section 230(12)(b), that effective immediately, **TOVA LI BABAD, 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 Respondent suffers from a psychiatric condition which impairs her ability to practice medicine.

## VOTE OF HEARING COMMITTEE

### SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having had her license revoked or having other disciplinary action taken after a disciplinary action was instituted against her 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 on November 16, 1999, the Medical Board of California revoked the Respondent's physician and surgeon's certificate, stayed the revocation, and placed her on probation for four (4) years with terms and conditions, based on a mental competency examination that found she was unable to practice medicine with safety to the public because she suffers from a debilitating mental illness that has impaired her ability to practice medicine safely.

By Order, dated March 31, 2000, the Commissioner of Health of the State of New York determined that the continued practice of medicine in the State of New York by the Respondent constitutes an imminent danger to the health of the people of this state and Ordered that the Respondent shall not practice in New York.

The Respondent testified under oath via telephone. She is currently living in a board and care facility where she receives psychiatric care.

The Respondent stated that her psychiatrist believes that her illness lies somewhere within the schizophrenic spectrum though she falls at the very high-functioning end, what he would term schizoaffective. She is eager to resume the practice of medicine.

The Respondent seemed to be an earnest, honest, and credible witness.

Given the facts of this case, the Hearing Committee determines unanimously (3-0) that the interest of the people of the State of New York would best be served by suspending the Respondent's license to practice medicine in the State of New York until such time as her license to practice medicine in the State of California is fully restored. The Respondent's license to practice medicine in New York should be restored when the Respondent makes a showing to the satisfaction of a committee of professional medical conduct of the state board for professional medical conduct that she is not incapacitated for the active practice of medicine provided, however, that the committee may impose reasonable conditions on the licensee, if it determined that due to the nature and extent of the licensee's former incapacity such conditions are necessary to protect the health of the people.



ORDER

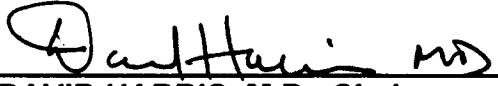
IT IS HEREBY ORDERED:

1. The Respondent's license to practice medicine in the State of New York is SUSPENDED until such time as her license to practice medicine in the State of California is fully restored.

2. The Respondent's license to practice medicine in New York shall be restored when the Respondent makes a showing to the satisfaction of a committee of professional conduct of the state board for professional medical conduct that she is not incapacitated for the active practice of medicine provided, however, that the committee may impose reasonable conditions on the licensee, if it determined that due to the nature and extent of the licensee's former incapacity such conditions are necessary to protect the health of the people.

3. 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: June 23, 2000  
, New York

  
DAVID HARRIS, M.D., Chairperson

J. LaRUE WILEY, M.D.  
MR. MICHAEL WALKER

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

IN THE MATTER  
OF  
TOVA LI BABAD, M.D.

STATEMENT  
OF  
CHARGES

TOVA LI BABAD, M.D., the Respondent, was authorized to practice medicine in New York state on January 6, 1975, by the issuance of license number 122726 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about November 16, 1999, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision (hereinafter "California Order"), revoked the Respondent's physician and surgeon's certificate, stayed the revocation, and placed her on probation for four (4) years with terms and conditions, based on a mental competency examination that found she was unable to practice medicine with safety to the public because she suffers from a debilitating mental illness that has impaired her ability to practice medicine safely.

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 her 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).

**SPECIFICATION**

Respondent violated New York State Education Law §6530(9)(d) by having had her license revoked or having other disciplinary action taken after a disciplinary action was instituted against her 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:

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

DATED: *Mar. 31*, 2000  
Albany, New York

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