



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., Dr.P.H.  
Commissioner

Dennis P. Whalen  
Executive Deputy Commissioner

**PUBLIC**

July 31, 2003

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Ira S. Kaufman, M.D.  
2630 Fountain View Drive  
Houston, Texas 77057-7608

Ira S. Kaufman, M.D.  
13 Coundon Court  
Killiney Avenue, Dublin  
Killiney Co., Ireland

Robert Bogan, Esq.  
Paul Robert Maher, Esq.  
NYS Department of Health  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180

Ira S. Kaufman, M.D.  
954-D Heritage Hills  
Somers, New York 10589

**RE: In the Matter of Ira S. Kaufman, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 03-211) 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.

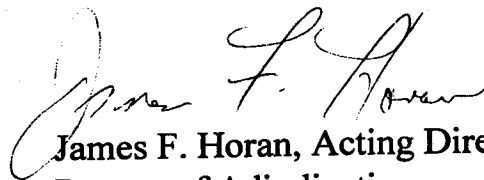
The notice of review served on the Administrative Review Board should be forwarded to:

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,



James F. Horan, Acting Director  
Bureau of Adjudication

JFH:djh  
Enclosure

**COPY**

**IN THE MATTER  
OF  
IRA S. KAUFMAN, M.D.**

**DETERMINATION**

**AND**

**ORDER**

BPMC NO. 03-211

A Notice of Referral Proceeding and Statement of Charges, both dated February 4, 2003, were issued against the Respondent, **IRA S. KAUFMAN, M.D.**. **SHARON KURITZKY, M.D.**, Chairperson, **LYON M. GREENBERG, M.D.** and **ANTOINETTE MYERS, R.N., COHN-S, CCM**, 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. **STEPHEN L. FRY, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on June 19, 2003, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **DONALD P. BERENS, JR., ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.**, of Counsel. The Respondent did not appear at the hearing.

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 cases, 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)(a)(iii), based upon his convictions of crimes under the laws of other states. A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix 1.

### **WITNESSES**

For the Petitioner:	None
For the Respondent:	None

### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex.". These citations refer to 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.

1. **IRA S. KAUFMAN, M.D.**, the Respondent, was authorized to practice medicine in New York State on June 29, 1971, by the issuance of license number 108953 by the New York State Education Department (Ex. 4).
2. On February 11, 1997, Respondent was adjudged guilty, based upon a guilty plea, of the Class B Misdemeanor of Driving While Intoxicated by the County Criminal Court at Law #12, Harris County Texas. He was sentenced to 180 days incarceration, but the sentence was suspended and Respondent was placed on probation for one year, fined \$500 and assessed court costs of \$277. The terms of probation included requirements that Respondent refrain from the use of alcohol, that he submit to monthly urine testing, that he submit to an alcohol evaluation, and that he complete an approved alcohol and drug education program (Ex. 5).
3. On September 25, 1997, Respondent was adjudged by the same court to be in violation of his probation due to his failure to report for a probation appointment. He was resentenced to 100 days in jail on the DWI charge and suspension of his driver's license for one year (Ex. 6).
4. On July 25, 2000, Respondent was convicted of Reckless Driving, a Second Degree Misdemeanor, in the County Court of the Fifteenth Judicial Circuit, Criminal Division, Palm Beach Florida, after he was stopped for driving while intoxicated. He was sentenced to payment of \$1,173.50 in fines and assessments. Respondent's appearance in court was secured by an arrest warrant and \$5,000 appearance bond after he failed to appear for a plea conference (Ex 7).
5. On February 12, 2003, the Department attempted unsuccessfully to serve Respondent with the Notice of Hearing and Statement of Charges personally at the address he gave when he was arrested in Florida, 954D Heritage Hills, Somers, NY (FF #4). The

Department also attempted unsuccessfully to serve him by Certified Mail Return Receipt Requested and first-class mail sent to the Somers address and to a Texas address for him the Department had obtained. In addition, the Department sent the notifications by registered and first-class mail to an address in Ireland Respondent had provided to the New York State Education Department in the year 2000 (Ex. 3; Tr. 6-7).

6. Thereafter, on April 30, 2003 and May 2, 2003, a Department investigator spoke with postal officials responsible for delivering mail to the address Respondent had given in Ireland, and learned that Respondent had moved from that address approximately four months previously without leaving a forwarding address (Tr. 8-9).

#### **RULING AS TO SERVICE**

The Administrative Law Judge, after hearing the Department's evidence at the instant hearing as to its efforts to serve Respondent with notice of the hearing, ruled that even though there is no specific evidence that Respondent actually received notice of the hearing, the service requirements of the statute dealing with service were met.

The statute, Public Health Law §230(10)(d), provides that a copy of the charges and notice of hearing shall be served on the licensee personally by the board at least twenty days before the hearing, and that if such personal service cannot be made after due diligence and such fact is certified under oath, a copy of the documents shall be served by registered or certified mail "...to the licensee's last known address..." (emphasis supplied).

In this case, the Board attempted and failed to achieve personal service at Respondent's last known U.S. address. This attempt, coupled with the Department's verification that Respondent had moved away from the Ireland address the Department obtained, was sufficient to satisfy the personal service "due diligence" requirement.

Having met the "due diligence" requirement, the Department was authorized by the statute to make service by certified or registered mail sent "to" Respondent's last known address, and the Department, in fact, mailed process to all the addresses it had for him.

The crucial point with respect to service is that the Department's inability to serve Respondent personally or, apparently, by mail, was due entirely to his own failure to keep the Education Department or other authorities apprised of his current address. The Department is not required to search the world to try to find Respondent or to delay acting until it locates him. The Department has the legally mandated responsibility to protect the residents of New York State from practitioners who repeatedly violate the law, and that responsibility cannot be thwarted by the practitioner's moving from place to place without keeping the government authorities apprised of his whereabouts.

### **HEARING COMMITTEE CONCLUSIONS**

The hearing Committee concludes that Respondent's convictions of crimes in Texas and Florida constitute misconduct under the laws of New York State pursuant to New York Education Law §6530(9)(a)(iii), and that his license should be revoked.

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

#### **SPECIFICATIONS**

#### **FIRST AND SECOND SPECIFICATIONS**

Respondent violated New York Education Law §6530(9)(a)(iii) by having been convicted of crimes in another jurisdiction where the acts, if committed in New York State, would constitute crimes in this state.

**VOTE: SUSTAINED (3-0)**

## HEARING COMMITTEE DETERMINATION

The record in this case establishes that Respondent was convicted in two different states of motor vehicle crimes, both of which were related to his abuse of alcohol. In addition, he violated his probation for the Texas conviction by not appearing for a probation appointment, resulting in his incarceration, and had to be re-arrested in Florida after he failed to appear for a plea conference.

Respondent's convictions constitute misconduct in this state by statute (Education Law §6530(9)(a)(iii)). Inasmuch as the Department's disciplinary action is based solely on his criminal convictions, the only issue that can be addressed at this hearing is the appropriate penalty to be imposed (Education Law §6530(10)(p)).

Unfortunately, the Hearing Committee is hampered considerably in its effort to determine the appropriate penalty by Respondent's absence from the hearing. On the one hand, the Hearing Committee feels that a stiff sanction is called for, given Respondent's repeated violation of the law and failure to appear for legally mandated appointments. The Hearing Committee is also seriously concerned that Respondent appears to have an alcohol problem that might adversely affect his practice of medicine.

On the other hand, the Hearing Committee is equally cognizant of the fact that Respondent may well not have received actual notice of this hearing. Even though the lack of evidence bearing on penalty was largely brought about by Respondent's own failure to keep authorities apprised of his address, the Hearing Committee is uncomfortable with the notion that his license should be unqualifiedly revoked as requested by the Department.

Accordingly, the Hearing Committee feels that the appropriate penalty is a stayed revocation, with stringent probation to be imposed should Respondent return to New York State. Since the Respondent may well not receive notice of this decision, this decision



should be provided to the Education Department so that should he return to New York and attempt to activate his license by registering to practice, he will be informed of his probationary conditions, which are set forth in the attached order.

## ORDER

### IT IS HEREBY ORDERED THAT:

1. The New York medical license of **IRA S. KAUFMAN, M.D.** IS HEREBY REVOKED.  
The revocation is **STAYED**.
2. Respondent is hereby placed on **PROBATION** for a period of **FIVE (5)** years, to be activated when and if Respondent returns to New York State to practice. The terms of probation are set forth in the attached Order.
3. The Board shall file a copy of this decision with the New York State Education Department, so that should Respondent return to this state and apply for reactivation of his license, he will receive notice of this determination and the conditions of his probation.
4. If, at some future date, the Respondent chooses to resume practice in New York, Respondent must provide thirty (30) days prior written notice concerning his intention, by registered or certified mail, return receipt requested, to the Board, addressed to the Director, Office of Professional Medical Conduct ("OPMC"), Hedley Park Place, 433 River Street - Fourth Floor, Troy, New York 12180-2299. Said notice is to include a full description of any employment and practice since the date of this hearing, as well as a listing of professional and residential addresses and telephone numbers within or without New York State. The notification must also list any and all investigations, charges, convictions or disciplinary actions against him by any local, state or federal agency, institution or facility to which Respondent has been subjected at any time.

5. The terms of Respondent's probation are as follows:

- A). Prior to commencing practice in New York State, Respondent must obtain a complete alcohol and drug abuse evaluation by a practitioner or agency to be selected by OPMC. During the period of probation set forth above, Respondent shall comply with any recommendations made by the practitioner or agency that conducts the evaluation set forth in #5, immediately above, and all recommendations of practitioners or agencies providing monitoring and/or treatment of Respondent.
- B). Should Respondent return to New York to practice, his practice shall be monitored by a physician who shall meet with Respondent no less than quarterly, to review his practice. This monitoring physician shall review randomly selected medical records and evaluate whether Respondent's practice comports with generally accepted standards of medical practice. This monitoring physician shall be selected by Respondent and is subject to the approval of the Director of the Office of Professional Medical Conduct. Respondent shall not practice medicine in New York until an acceptable monitoring physician is approved by the Director.
- C). Respondent shall notify in writing any group, clinic or medical facility with whom he becomes affiliated or at which he practices during the effective period of this probation, of the contents of this order and terms of probation, and provide a copy of any such notification to OPMC.
- D). OPMC may, at its discretion, take any and all steps necessary to monitor Respondent's status, condition or professional performance. Respondent must cooperate in providing releases permitting unrestricted access to records and other information, to the extent permitted by law, from any employer, medical facility or institution with which he is affiliated or at which he practices; any treatment facility, treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of Respondent, or maintained by a rehabilitation program for impaired Respondents. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of his compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
- E). Respondent shall submit written descriptive notification to OPMC at the address listed above, of any changes in employment and practice, professional and residential addresses or telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility during the probationary period, within 30 days of each event;
- F). Respondent shall notify the Director of OPMC, in writing, if he ceases to

be engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall again notify the Director prior to any change in that status. Respondent's probation shall be tolled while Respondent is not practicing in New York during such period and shall resume upon his return to practice in New York State.

- G). Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession. Respondent shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients.
- H). Respondent shall comply with all terms, conditions, and restrictions to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance.
- I). If there is full compliance with every term and condition set forth herein, Respondent may practice as a physician in New York State; provided, however, that on receipt of evidence of non-compliance or any other violation of the term(s) and condition(s) of probation, a violation of probation proceeding and/or such other proceeding as may be warranted, may be initiated against Respondent pursuant to New York Public Health Law Sections 230 or any other applicable laws.

The **ORDER** shall be effective upon service on the Respondent by personal service or by certified or registered mail, pursuant to Public Health Law section 230(10(h)).

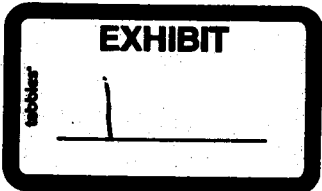
**DATED: Amherst, New York**

*July 30*, 2003

  
**SHARON KURITZSKY, M.D.**  
Chairperson

**LYON M. GREENBERG, M.D.**  
**ANTIONETTE MEYERS, R.N.,**  
**COHN-S, CCM**

# APPENDIX 1



**IN THE MATTER**

**OF**

**IRA S. KAUFMAN, M.D.  
PM-02-10-5339-A**

**NOTICE OF**

**REFERRAL**

**PROCEEDING**

**TO:** IRA S. KAUFMAN, M.D.  
2630 Fountain View Drive  
Houston, TX 77057-7608

IRA S. KAUFMAN, M.D.  
954-D Heritage Hills  
Somers, NY 10589

IRA S. KAUFMAN, M.D.  
13 Coundon Court  
Killiney Avenue, Dublin  
Killiney Co. Ireland

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law § 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 19<sup>th</sup> day of March 2003, at 10:00 in the forenoon of that day at the Hedley Park Place, 5<sup>th</sup> Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the attached Statement of Charges. 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 that 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, 5<sup>th</sup> Floor, 433 River Street, Troy, New York, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before March 10, 2003.

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 of 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 March 10, 2003, 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

*February 4*, 2003



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

Inquiries should be addressed to:

Robert Bogan  
Associate Counsel  
New York State Department of Health  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180  
(518) 402-0828



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

---

IN THE MATTER  
OF  
IRA S. KAUFMAN, M.D.  
PM-02-10-5339-A

---

STATEMENT  
OF  
CHARGES

IRA S. KAUFMAN, M.D., the Respondent, was authorized to practice medicine in New York state on June 29, 1971, by the issuance of license number 108953 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about February 11, 1997, in the County Criminal Court of Law No. 12, Harris County, Texas (hereinafter "Texas Court"), Respondent was found guilty, based on a plea of guilty, of Driving While Intoxicated, a class B misdemeanor, and was sentenced to 180 days confinement, suspended, one (1) year probation, a \$500.00 fine, and \$277.00 court costs.

B. On or about September 25, 1997, in the Texas Court, Respondent was found to be in violation of the probation set forth in Paragraph A above, and was further sentenced to 100 days confinement.

C. On or about July 25, 2000, in the County Court of the Fifteenth Judicial Circuit, Criminal Division, In and For Palm Beach County, Florida, Respondent was found guilty of Reckless Driving, a misdemeanor, and sentenced to \$1,173.50 fines and fees.

**SPECIFICATIONS**


**FIRST AND SECOND SPECIFICATIONS**

Respondent violated New York Education Law 6530(9)(a)(iii) by being convicted of committing an act constituting a crime under the law of another jurisdiction and which if

committed in New York state, would have constituted a crime under New York state law, in that  
Petitioner charges:

1. The facts in Paragraph A and/or B; and/or
2. The facts in Paragraph C.

DATED: *Feb. 4*, 2003  
Albany, New York

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