



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

December 5, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Gordon Joseph Cuzner, M.D.
1526 Turquoise Road
Bullhead City, Arizona 86442-6092

Robert Bogan, Esq.
NYS Department of Health
433 River Street
Hedley Bldg Annex
Troy, New York 12180

RE: In the Matter of Gordon Joseph Cuzner, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 03-338) 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.

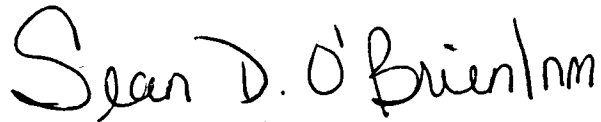
The notice of review served on the Administrative Review Board should be forwarded to:

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,

A handwritten signature in black ink that reads "Sean D. O'Brien/nm". The signature is written in a cursive, slightly slanted style.

Sean D. O'Brien, Director
Bureau of Adjudication

SDO:nm
Enclosure

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

**IN THE MATTER
OF
GORDON JOSEPH CUZNER, M.D.**

**DETERMINATION
AND
ORDER**

BPMC-03-338

A Notice of Referral Proceeding and Statement of Charges, both dated August 1, 2003, were served upon the Respondent, **GORDON JOSEPH CUZNER, M.D.** **JOEL H. PAULL, D.D.S., M.D.**, Chairperson, **RICHARD F. KASULKE, M.D.** and **NANCY J. MACINTYRE, R.N., PH.D.**, 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 November 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 in person or by representative.

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 Sections 6530(9)(b) and (d), based upon actions constituting violations of subdivisions (3), (20) and (32). 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. **GORDON JOSEPH CUZNER, M.D.**, the Respondent, was authorized to practice medicine in New York State on April 4, 1980, by the issuance of license number 141618 by the New York State Education Department (Ex.s 4 and 1).
2. On October 12, 2003, the Arizona Medical Board adopted a Consent Agreement and Order, wherein Respondent was found guilty of unprofessional conduct for inadequately maintaining and storing patient records, self-prescribing or dispensing controlled substances, dispensing drugs when he was not registered to dispense drugs, failing to maintain a dispensing log for controlled substances, and failing to comply with requirements for limiting access to, and keeping inventories of, scheduled drugs. As a result of these findings, the Arizona Board issued a Letter of Reprimand, required Respondent to pay a civil penalty of \$500.00, required him to complete Continuing Medical Education courses in pharmacology and recordkeeping, and required him to submit to the Board's Monitored Aftercare Program and comply with its recommendations (Ex. 5).

HEARING COMMITTEE CONCLUSIONS

The hearing Committee concludes that the conduct resulting in the Arizona Board's disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to New York Education Law §6530(9)(b) and (d), in that the conduct would have constituted misconduct in New York, had it been committed here, under:

- New York Education Law §6530(3) (negligence on more than one occasion);
- New York Education Law §6530(32) (inadequate record keeping);

The Hearing Committee concludes, however, that the Arizona findings did not detail acts that would have constituted acts of moral unfitness had they been committed in New York, as charged by the Department.

The Hearing Committee concludes that the appropriate penalty for Respondent's misconduct under New York law is the issuance of a Censure and Reprimand against his license.

VOTE OF THE HEARING COMMITTEE

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §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 Education Law §6530(9)(d) by having had disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the 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 establishes that Respondent was found guilty of misconduct by the Arizona board, as specified above in Fact-Finding #2. Accordingly, pursuant to Public Health Law §230(10)(p), the Arizona findings are binding on this tribunal, and only issue remaining to be decided in this decision is the penalty to be imposed.

Respondent did not appear at the hearing, nor did he present any evidence in mitigation of any penalty that might be imposed herein, although he did, in a letter to the Department's attorney (Ex. A), indicate that, despite his feeling that he was not guilty of misconduct, he would be willing, if necessary to accept a censure and reprimand. Inasmuch as the Department indicated at the hearing that a penalty consistent with the Arizona penalty, such as a censure and reprimand, was appropriate, the Hearing Committee hereby concludes that a censure and reprimand should be issued against Respondent's license.

ORDER

IT IS HEREBY ORDERED THAT:

1. A **CENSURE AND REPRIMAND** are hereby issued against the New York medical license of **GORDON JOSEPH CUZNER, M.D.**

This **ORDER** shall be effective upon service on the Respondent pursuant to Public Health Law section 230(10)(h).

DATED: Eggertsville, New York

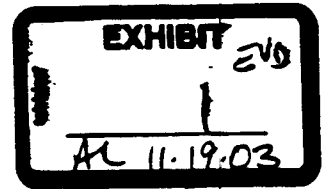
November, 2003



JOEL H. PAULL, D.D.S., M.D.
Chairperson

RICHARD F. KASULKE, M.D.
NANCY J. MACINTYRE, R.N., PH.D.

APPENDIX 1



IN THE MATTER
OF
GORDON JOSEPH CUZNER, M.D.
CO-03-04-1755-A

NOTICE OF
REFERRAL
PROCEEDING

TO: GORDON JOSEPH CUZNER, M.D.
1526 Turquoise Road
Bullhead City, AZ 86442-6092

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 17th day of September 2003, at 10:00 in the forenoon of that day at the 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 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, 5th Floor, 433 River Street, Troy, New York, ATTENTION: HON. JAMES F. HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, (hereinafter

"Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before September 8, 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 September 8, 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

August 1, 2003

Peter D. Van Buren

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
GORDON JOSEPH CUZNER, M.D.
CO-03-04-1755-A

STATEMENT
OF
CHARGES

GORDON JOSEPH CUZNER, M.D., the Respondent, was authorized to practice medicine in New York state on April 4, 1980, by the issuance of license number 141618 by the New York State Education Department.

FACTUAL ALLEGATIONS

A On or about February 21, 2003, the Arizona Board of Medical Examiners (hereinafter "Arizona Board"), by a Consent Agreement and Order (hereinafter "Arizona Order"), issued Respondent a Letter of Reprimand, imposed a \$600.00 civil penalty, required him to successfully complete twenty (20) hours of CME in pharmacology and fifteen (15) hours in record keeping, and that he be evaluated by the Arizona Board's Monitored Aftercare Program and comply with recommendations, based on failing or refusing to maintain adequate records on a patient, using controlled substances except if prescribed by another physician for use during a prescribed course of treatment, and failure to keep scheduled drugs in a locked cabinet or room, have written procedure for controlling access to such a cabinet or room or maintain an on going inventory.

B. The conduct resulting in the Arizona Board disciplinary actions 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(3) (negligence on more than one occasion);
2. New York Education Law §6530(20) (moral unfitness); and/or
3. New York Education Law §6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly 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 Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the 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: *August 1*, 2003
Albany, New York


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