

PUBLIC

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

IN THE MATTER

OF

LIOR KAHANE, M.D.
CO-03-07-3209-A

**COMMISSIONER'S
ORDER
AND
NOTICE OF
REFERRAL
PROCEEDING**

TO: **LIOR KAHANE, M.D.**
 4343 N. 21st Street
 Apt. 107
 Phoenix, AZ 85016

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. 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 **LIOR KAHANE, M.D.**, Respondent, licensed to practice medicine in New York state on July 23, 2001, by license number 222160, has been disciplined by a duly authorized professional disciplinary agency of another state, the state of Arizona, (hereinafter "Arizona Board"), for acts which if committed in New York state would have constituted an imminent danger to the health of the people.

It is therefore,

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, **LIOR KAHANE, M.D.**, Respondent, shall not practice medicine in the state of New York or in any other jurisdiction where that practice is dependent on a valid New York state license to practice medicine. 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 of Professional Medical Conduct, on the 20th day of November, 2003, at 10:00 am in the forenoon at Hedley Park Place, 433 River Street, 5th Floor, Troy, New York 12180. 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, that 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 and to issue or have subpoenas issued on his behalf for the production of witnesses and documents. 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. Respondent has the right 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 adjournment requests are, therefore, 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, 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 that 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 FOR THIS
MATTER.**

DATED: Albany, New York

October 15, 2003



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

Inquires should be addressed to:

Robert Bogan
Associate Counsel
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
LIOR KAHANE, M.D.
CO-03-07-3209-A

STATEMENT
OF
CHARGES

LIOR KAHANE, M.D., the Respondent, was authorized to practice medicine in New York state on June 21, 2001, by the issuance of license number 222160 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about September 26, 1997, effective September 30, 1997, Carondelet Holy Cross Hospital, Nogales, AZ, restricted Respondent's colonoscopy privileges for one (1) month, due to a complication involving the bowel perforation and subsequent death of a patient after a colonoscopy procedure and concerns for patient safety and well being.

B. On or about April 5, 1998, effective April 1, 1998, Health Partners Health Plans, Tucson, AZ, summarily suspended Respondent from performing colonoscopies until documentation is received from Holy Cross Hospital that his privileges have been fully restored.

C. On or about March 22, 2001, effective March 22, 2001, Carondelet St. Mary's Hospital, Tucson, AZ, permanently revoked Respondent's clinical privileges for hand and wrist procedures, because of concerns regarding care deemed to be possibly detrimental to patient safety and/or to the delivery of quality patient care.

D. On or about April 6, 2001, effective April 6, 2001, Carondelet St. Mary's Hospital, Tucson, AZ, indefinitely suspended the Respondent's surgical privileges, because of concerns regarding and deemed to be possibly detrimental to patient safety and/or to the delivery of quality patient care.

E. On or about April 17, 2001, Respondent prepared, signed under penalty of perjury, and submitted, to the New York State Education Department, New York, an Application for Licensure and First Registration, that was finally approved on July 23, 2001, wherein he falsely answered "No" to question, "15. Has any hospital or licensed facility restricted or terminated your professional training, employment, or privileges or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such measures?"

F On or about June 12, 2003, the Arizona Board of Medical Examiners (hereinafter "Arizona Board"), by a Findings of Fact, Conclusions of Law and Order for Revocation and Probation (hereinafter "Arizona Order"), revoked Respondent's license to practice medicine and required him to pay the costs of the administrative hearing, based on failing or refusing to maintain adequate records on a patient; conduct or practice that is or might be harmful or dangerous to the health of the patient or the public; knowingly making a false or fraudulent statement, written or oral, in connection with the practice of medicine or if applying for privileges or renewing an application for privileges at a health care institution; knowingly making a false or misleading statement to the board or on a form required by the board or in a written correspondence, including attachments, with the board; gross negligence, repeated negligence or negligence resulting in harm to or death of the patient.

G. The conduct resulting in the Arizona Board 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(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (negligence on more than one occasion);
3. New York Education Law §6530(4) (gross negligence);
4. New York Education Law §6530(5) (incompetence on more than one occasion);
5. New York Education Law §6530(6) (gross incompetence);
6. New York Education Law §6530(20) (moral unfitness); and/or
7. 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(1) by obtaining the license fraudulently, in that Petitioner charges:

1. The facts in Paragraphs A, B, C, D, and/or E.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(20) by engaging in conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner charges:

2. The facts in Paragraphs A, B, C, D, and/or E.

THIRD SPECIFICATION

Respondent violated New York Education Law §6530(21) by willfully making or filing a false report required by law or by the department of health or the education department, in that Petitioner charges:

3. The facts in Paragraphs A, B, C, D, and/or E.

FOURTH 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 resulting in the disciplinary action would constitute professional misconduct under the laws New York state, in that Petitioner charges:

4. The facts in Paragraphs F and/or G.

FIFTH SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked or having other disciplinary action taken 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:

5. The facts in Paragraphs F and/or G.

DATED: *Oct. 15*, 2003
Albany, New York


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

1

2