



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Dennis P. Whalen
Executive Deputy Commissioner of Health
Anne F. Saille, Director
Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau of Professional Medical Conduct

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

November 9, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Michael J. Kinney, M.D.
c/o Richard J. Zahnleuter, Esq.
52 Redfield Park
Clifton Park, New York 12065-1672

RE: License No. 092889

Dear Dr. Kinney:

Enclosed please find Order #BPMC 98-260 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **November 9, 1998.**

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Peter D. Van Buren, Esq.

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

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IN THE MATTER : SURRENDER
OF : ORDER
MICHAEL J. KINNEY, M.D. : BPMC # 98-260

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MICHAEL J. KINNEY, M.D., says:

On or about August 25, 1964, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 092889 by the New York State Education Department.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York. I represent to the New York State Board for Professional Medical Conduct that I have not practiced medicine in New York since at least 25 years ago; I am retired; and I am no longer practicing medicine in the State of Florida.

I understand that I have been charged with one specification of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

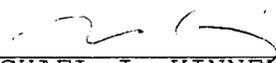
I hereby agree not to contest the allegation and specification set forth in the Statement of Charges (Exhibit A).

I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such proposed agreement shall not be used against me in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that in the event the State Board for Professional Medical Conduct agrees with my proposal, this Order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind or

manner.


MICHAEL J. KINNEY, M.D.
Respondent

AGREED TO:

Date: 10/26, 1998


RICHARD ZAHNLEUTER, ESQ.
Attorney for Respondent

Date: October 28, 1998


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

Date: October 30, 1998


ANNE F. SAILE
Director, Office of
Professional Medical Conduct

ORDER

Upon the proposed agreement of MICHAEL J. KINNEY, M.D., to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon Respondent, upon mailing of this Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 11/2/98



PATRICK F. CARONE, M.D., M.P.H.
Chair
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
MICHAEL J. KINNEY, M.D. : CHARGES

-----X

MICHAEL J. KINNEY, M.D., the Respondent, was authorized to practice medicine in New York State on August 25, 1964 by the issuance of license number 092889 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

1. On or about December 24, 1997 the State of Florida Board of Medicine issued a Final Order in DOAH Case No.: 96-5501, AHCA Case No. 95-13237 with respect to license No.: ME0011208 finding that Respondent Dr. Kinney did not timely pay all of his original fine or timely submit the required article, and that he thereby violated the October 18, 1994, Final Order. The Board Order found Respondent guilty of violating Section 458.331(1)(x), Florida Statutes which allows discipline for violating a lawful order of the Board or department previously entered in a disciplinary hearing; entered a formal written reprimand; and fined Respondent \$5,000.
2. The conduct found by the Florida Board would, if committed

in New York State, constitute professional misconduct under N.Y. Education Law Section 6530(29).

FIRST SPECIFICATION

HAVING DISCIPLINARY ACTION TAKEN

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(d) by reason of his having disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action involving the license 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 paragraph 1 and/or 2.

DATED: *October 28*, 1998
Albany, New York


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