



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

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

December 24, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

PUBLIC

Henry Hemsley, M.D.
RD 3, Box 126-1
East River Road
Norwich, New York 13815

RE: License No. 105106

Dear Dr. Hemsley:

Enclosed please find Order #BPMC 97-325 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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.

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: Irwin Birnbaum, Esq.
One Lincoln Center
Syracuse, New York 13202-2507

Cindy M. Fascia, Esq.

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

-----X

IN THE MATTER : CONSENT
OF : AGREEMENT
HENRY HEMSLEY, M.D. : AND ORDER
: BPMC # 97-325

-----X

HENRY HEMSLEY, M.D., says:

On or about October 31, 1969, I was licensed to practice as a physician in the State of New York, having been issued license number 105106 by the New York State Education Department.

My current registration address is R.D.3, Box 126-1, East River Road, Norwich, New York, 13815 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

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 admit the Factual Allegations and Specification in Exhibit A, in that I was convicted as set forth therein.

I hereby agree to the following penalty:

My license to practice medicine shall be suspended for a period of thirty-six months with the entire thirty-six months of the suspension being stayed subject to my compliance with the attached terms of probation annexed hereto as Exhibit B.

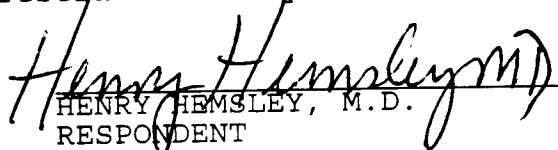
I agree that in the event that I am charged with professional misconduct in the future, this agreement and order and Exhibits A and B shall be admitted into evidence in that proceeding.

I agree that, as a condition of this Order, I will maintain current registration of my license with the New York State Education Department, Division of Professional Licensing Services, and pay all registration fees. This condition will remain in effect except during periods of actual suspension, if any, imposed by this Order. This condition shall be in effect beginning thirty days after the effective date of this Order and will continue until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I understand that any failure by me to comply with this condition shall constitute misconduct as defined by New York State Education Law §6530(29).

I understand that, in the event that the Board does not grant this application, 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 application 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 Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

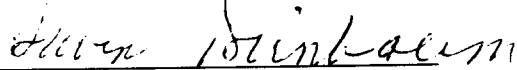
I agree that, in the event the State Board for Professional Medical Conduct grants my application, an order of the Chairperson of the Board shall be issued in accordance with same.

I make this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.


HENRY HEMSLEY, M.D.
RESPONDENT

Subscribed before me this


11 day of December, 1997.


NOTARY PUBLIC

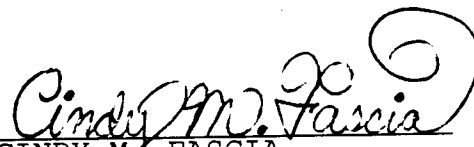
AGREED TO:

IRWIN BIRNBAUM
Notary Public, State of New York
Qualified in Madison Co. No. 4930800
Commission Expires April 18, 1998


DATE: December 11, 1997


IRWIN BIRNBAUM, ESQ.
Attorney for Respondent

DATE: December 19, 1997


CINDY M. FASCIA
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: December 19, 1997


ANNE F. SAILE
DIRECTOR
Office of Professional
Medical Conduct

ORDER

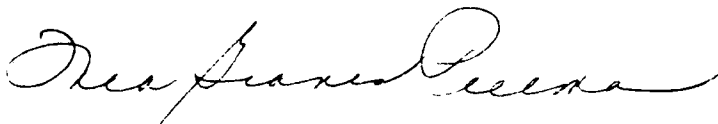
Upon the proposed agreement of HENRY HEMSLEY, M.D. (Respondent) for Consent Order, which proposed agreement is made a part hereof, it is AGREED TO and

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

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

DATED: 12-22-97

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
: AMENDED
IN THE MATTER : STATEMENT
OF : OF
HENRY HEMSLEY, M.D. : CHARGES
-----X

HENRY HEMSLEY, M.D., the Respondent, was authorized to practice medicine in New York State on October 31, 1969, by the issuance of license number 105106 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine from R.D. 3, Box 126-1, East River Road, Norwich, New York 13815.

FACTUAL ALLEGATIONS

1. Respondent, on or about July 13, 1995, in the Criminal Court of Common Pleas of Lancaster County, Pennsylvania, was convicted of simple assault in the second degree in violation of 18 Pa.C.S.A. §270.1(a)(3). Respondent was placed on probation for one year. Respondent was also ordered to pay a fine of five hundred dollars.
 - a) Respondent's acts, which constituted a crime under Pennsylvania law, would have constituted a crime under New York State law if committed within this state. Specifically, Respondent's acts would have constituted a crime under N.Y. Penal Law §120.15.

SPECIFICATION

CRIMINAL CONVICTION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(a)(iii) (McKinney Supp. 1997) by reason of having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law, in that Petitioner charges:

1. The facts in Paragraphs 1 and 1(a).

DATED: *December 9*, 1997
Albany, New York



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

EXHIBIT B

TERMS OF PROBATION

1. 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;
2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct (OPMC), New York State Department of Health, Hedley Park Place, 4th Floor, 433 River Street, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and 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, within thirty days of each action;
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's 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.
4. Respondent shall maintain current registration of his license during the period of probation. Within 90 days of the date of this New York Order, Respondent shall provide proof of current registration to the Director of OPMC at the address set forth above.
5. Respondent's professional performance may be reviewed by the Director of OPMC or her designees. Said reviews shall occur on a quarterly basis. Reviews may include, but shall not be limited to, reviews of office records and/or hospital records, interviews with and/or periodic visits with Respondent and his staff, at Respondent's office and/or OPMC's offices.
6. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. In cases of prescribing, dispensing, or administering of controlled substances, the medical record shall contain all information required by state rules and regulations regarding controlled substances.
7. Respondent's period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to cease the active

practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director of OPMC again, in writing, prior to any change in his status. Upon Respondent's resumption of the practice of medicine in New York State, the period of probation shall resume and Respondent shall satisfy and fulfill any terms of probation which were not fulfilled.

8. The Respondent will remain drug/alcohol free.
9. The Respondent is prohibited from prescribing controlled substances for himself or family members.
10. The Respondent must notify all treating physicians of his history of drug use and psychiatric treatment.
11. The Respondent must advise the Office of Professional Medical Conduct of any controlled or mood-altering substance given or prescribed by his treating physicians.
12. The Respondent will be monitored by a qualified health care professional (sobriety monitor) selected by Respondent, and approved by the Director of the Office of Professional Medical Conduct.
 - a. The sobriety monitor will not be a close personal friend or relative of the Respondent. The sobriety monitor will supervise Respondent's compliance with the terms set forth in the Order.
 - b. The sobriety monitor's responsibilities include assessment of self-help and/or group therapy attendance and 12 step progress, evaluation of compliance with the terms or conditions in the order, and ordering urines for drug/alcohol assay.
 - c. Respondent shall submit the name of a proposed successor within seven (7) days of learning that the approved monitor is no longer willing or able to serve.
 - d. Respondent will ensure that the sobriety monitor is familiar with Respondent's history of drug use, and with all terms of probation.
 - e. The Respondent will meet with the sobriety monitor on a regular basis.
 - f. The Respondent will report for a urine drug screen within four (4) hours of being contacted by the monitor.
 - g. The Respondent will submit to random, unannounced, observed screens of blood and/or urine for the presence of drugs/alcohol at the direction of the sobriety monitor who will report to the Office of Professional

Medical Conduct immediately if a test is refused by Respondent or if a test is positive for any unauthorized substance. This monitoring will be on a random, seven-day a week, twenty-four hour a day basis.

- h. The Respondent will authorize the sobriety monitor to immediately report to the Office of Professional Medical Conduct any deviation from compliance with the terms of probation.
 - i. The Respondent will authorize the sobriety monitor to submit to the Office of Professional Medical Conduct quarterly reports certifying Respondent's compliance with the terms of probation. Respondent's failure to comply with any of the terms must be immediately reported to the Office of Professional Medical Conduct. The reports will include the results of all body fluid test for drugs/alcohol performed during that quarter, with copies of any toxicology reports. All urines must be forensically valid.
13. Respondent will be supervised in his medical practice by a qualified health care professional (practice supervisor) selected by the Respondent and approved by the Director of the Office of Professional Medical Conduct.
- a. Respondent will ensure that the practice supervisor is familiar with Respondent's history and with the terms of probation.
 - b. Respondent will ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice.
 - c. The practice supervisor will direct Respondent's submission to random, unannounced, supervised tests of blood and/or urine for the presence of drugs and will immediately report to the Office of Professional Medical Conduct if a test is refused by Respondent, or a test is positive for any unauthorized substance.
 - d. The Respondent will authorize the practice supervisor to submit to the Office of Professional Medical Conduct quarterly reports regarding the quality of Respondent's medical practice, and Respondent's compliance or failure to comply with any term of probation.
 - e. The practice supervisor shall review Respondent's practice regarding the prescribing, administering, dispensing, inventorying, and wasting of controlled substances.
 - f. Respondent will authorize the practice supervisor to report to the Office of Professional Medical

Conduct any deviation from compliance with the terms of this Order.

- g. Respondent shall submit the name of a proposed successor within seven (7) days of learning that the approved practice supervisor is no longer willing or able to serve.
14. Respondent will be monitored by a qualified health care professional (therapy monitor) selected by the Respondent and approved by the Director of the Office of Professional Medical Conduct.
- a. The Respondent will authorize the therapy monitor or program to:
 - i. submit to the Office of Professional Medical Conduct quarterly reports certifying compliance with the treatment plan;
 - ii. report to the Office of Professional Medical Conduct immediately if Respondent leaves treatment against medical advise;
 - iii. report to the Office of Professional Medical Conduct any significant pattern of absences.
 - iv. report to the Office of Professional Medical Conduct any symptoms of a relapse or an actual relapse immediately.
 - b. Respondent will remain active in self help groups and/or group therapy.
 - c. Respondent shall submit the name of a proposed successor within seven (7) days of learning that the approved monitor is no longer willing or able to serve.
15. Respondent shall bear the costs, if any, of his sobriety monitoring, practice monitoring, and therapy monitoring.
16. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to this New York Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.