



Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

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

C. Maynard Guest, M.D.
Executive Secretary

April 11, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Herbert Henken, M.D.
169-18 Cocheran Avenue
Flushing, New York 11358

RE: License No. 147107

Effective Date: 04/18/95

Dear Dr. Henken:

Enclosed please find Order #BPMC 95-82 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
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Jerome B. Fleischman, Esq.
20 West Park Avenue, Suite 301
Long Beach, New York 11561

David Smith, Esq.

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

IN THE MATTER
OF
HERBERT HENKEN, M.D.

CONSENT
ORDER

BPMC #95-82

Upon the application of HERBERT HENKEN, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, 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.

SO ORDERED.

DATED: 7 April 1995

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

I hereby agree to the following penalty:

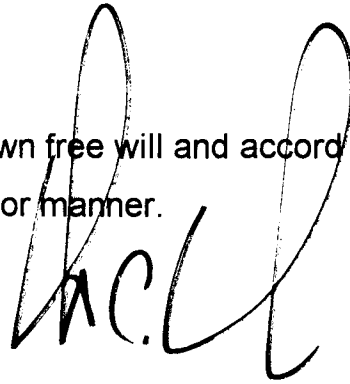
- a. My license to practice medicine in the State of New York shall be suspended for a period of two (2) years and such suspension shall be stayed.
- b. I shall be placed on probation for a period of two (2) years subject to the Terms of Probation attached hereto as Exhibit "B".

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, 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 Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

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



HERBERT HENKEN, M.D.
RESPONDENT

Sworn to before me this
28th day of MAR. , 1995


NOTARY PUBLIC

JEROME B. FLEISCHMAN
Notary Public, State of New York
No. 30-4600908
Qualified in Nassau County
Commission Expires 11/30/96

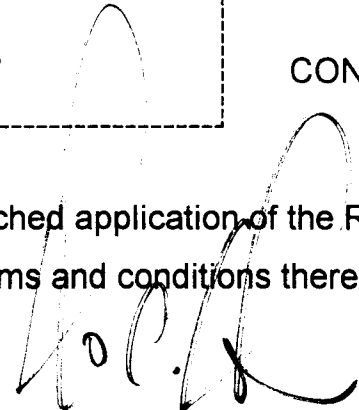
NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
HERBERT HENKEN, M.D.

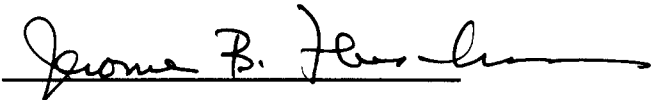
APPLICATION
FOR
CONSENT ORDER

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 3/28/95


HERBERT HENKEN, M.D.
Respondent

DATE: 3/28/95


JEROME B. FLEISCHMAN, ESQ.
Attorney for Respondent

DATE: David W. Smith 3/30/95

DAVID W. SMITH
Associate counsel
Bureau of Professional
Medical Conduct

DATE: _____

KATHLEEN M. TANNER
Director
Office of Professional Medical
Conduct

DATE: 7 April 1995

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

Exhibit "A"

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

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IN THE MATTER : STATEMENT
OF : OF
HERBERT HENKEN, M.D. : CHARGES

-----X

HERBERT HENKEN, M.D., the Respondent, was authorized to practice medicine in New York State on July 24, 1981, by the issuance of license number 147107 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1995, through May 31, 1996.

SPECIFICATION

Respondent is charged with professional misconduct within the meaning of New York Education Law, Section 6530(9)(e) (McKinney Supp. 1995) by having been found guilty by the Commissioner of Health of a violation of Article 33 of the New York Public Health law, in that:

By Stipulation and Order dated March 28, 1990, the Commissioner of Health found that Respondent had issued 426 prescriptions within a 5 year period not in the good faith practice of medicine, to patients, many of whom were habitual users of controlled substances, failed to report patients who were habitual users, and

failed to keep patient records which justified the prescribing of controlled substances. Respondent was fined \$25,000.00 of which \$15,000.00 was suspended contingent on Respondent's good behavior for three years. He was prohibited from using official New York State prescription forms, also for three years.

DATED: *January 24*, 1995
New York, New York



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"
TERMS OF PROBATION

1. HERBERT HENKEN, M.D, during the period of probation, shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his/her 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, New York State Department of Health, Corning Tower Building, 4th Floor, Empire State Plaza, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, and of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid no later than the first three months of the period of probation;
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board;
6. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non renewal of permits or licenses (Tax Law §171(27); State Finance Law §18; CPLR §5001; Executive Law §32);

7. Respondent will maintain complete and accurate records of the dispensing and/or prescribing of controlled substances, the purchases thereof, official New York State triplicate prescription books and any other records which may now or hereafter be required by the N.Y. Public Health Law. Respondent will make these available to the Director upon request.
8. Respondent will maintain legible and complete medical records which accurately reflect evaluation and treatment of patients. Records will contain a comprehensive history, physical examination, findings, chief complaint, present illness, diagnosis and treatment. In cases of prescribing, dispensing or administering of controlled substances, the medical record will contain all information required by state rules and regulations regarding controlled substances. In addition to the monitor as set forth below, these records shall also be made available to the Director upon request.
9. During the period of probation, Respondent's practice shall be monitored by a licensed physician who shall review Respondent's professional performance and practice and who:
 - a. Shall be selected by the Respondent, subject to the approval of the Director;
 - b. Shall be familiar with the terms of probation contained herein;
 - c. Shall meet monthly with the Respondent to discuss his private practice and review randomly selected office patient records and evaluate whether Respondent's care and treatment conform with generally accepted standards of medical care;
 - d. Shall not be a personal friend or relative of Respondent;
 - e. Shall submit to OPMC quarterly reports of the results of such monitoring; and
 - f. Shall acknowledge in advance his/her willingness to comply with the above mentioned reporting by executing the acknowledgement provided by OPMC.
10. Respondent shall assume and bear all costs related to compliance with the Terms of Probation.
11. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board.
12. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of non-compliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.