



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

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

Dennis P. Whalen
Executive Deputy Commissioner

May 27, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Roy Nemerson, Esq.
NYS Department of Health
5 Penn Plaza - 6th Floor
New York, New York 10001

Melissa Hunt, M.D.
87 Robinhood Road
Clifton, New Jersey 07013

Michael Handwerker, Esq.
Handwerker, Honschke, Marchellos & Gaynor
350 Broadway - 10th Floor
New York, New York 10013

RE: In the Matter of Melissa Hunt, M.D.

Dear Mr. Nemerson, Dr. Hunt and Mr. Handwerker:

Enclosed please find the Determination and Order (No. BPMC-97-120) 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.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

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.

Request for review of the Committee's determination by the Administrative Review Board stays penalties **other than suspension or revocation** until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

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,

Tyrone T. Butler

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc
Enclosure

IN THE MATTER
OF
MELISSA HUNT, M.D.

DETERMINATION

AND

ORDER

BPMC-97-120

The undersigned Hearing Committee consisting of **KENNETH KOWALD**, Chairperson, **ANDREW CONTI, M.D.**, and **JACK SCHNEE, M.D.**, were duly designated and appointed by the State Board for Professional Medical Conduct. **MARY NOE, ESQ.**, served as Administrative Law Judge.

The hearing was conducted pursuant to the provisions of Sections 230(10) of the New York Public Health Law and Sections 301-307 of the New York State Administrative Procedure Act to receive evidence concerning alleged violations of provisions of Section 6530 of the New York Education Law by **MELISSA HUNT, M.D.** (hereinafter referred to as "Respondent"). A witness was sworn or affirmed and examined. A stenographic record of the hearing was made. Exhibits were received in evidence and made a part of the record.

The Committee has considered the entire record in the above captioned matter and hereby renders its decision with regard to the charges of medical misconduct.

RECORD OF PROCEEDINGS

Pre-Hearing: September 19, 1996
Hearing date: February 21, 1997
Deliberations: April 9, 1997

SUMMARY OF PROCEEDINGS

Notice of Hearing and Statement of Charges: July 26, 1996

Place of Hearing: NYS Department of Health
New York, New York

Petitioner appeared by: Roy Nemerson, Esq
Deputy Counsel
NYS Department of Health

Respondent appeared by: Michael Handwerker, Esq.
Handwerker, Marchelos & Gayner
350 Broadway - 10th Floor
New York, New York 10013

WITNESSES

For the Petitioner: Cavin P. Leeman, M.D.

SIGNIFICANT LEGAL RULINGS

The Administrative Law Judge issued instructions to the Committee with regard to the definitions of medical misconduct as alleged in this proceeding. The Administrative Law Judge instructed the Panel that negligence is the failure to use that level of care and diligence expected of a prudent physician and thus consistent with acceptable standards of medical practice in this State. Gross negligence was defined as a single act of negligence of egregious proportions or multiple acts of negligence that cumulatively amount to egregious conduct. The panel was told that the term egregious means a conspicuously bad act or severe deviation from standards.

With regard to the expert testimony herein, including Respondent's, the Committee was instructed that each witness should be evaluated for possible bias and assessed according to his or her training, experience, credentials, demeanor and credibility.

FINDINGS OF FACT

The Following findings of fact were made after a review of the entire record. Numbers in parentheses (T.) refer to transcript pages or numbers of exhibits (Ex.) in evidence. These citations represent evidence and testimony found persuasive by the Hearing Committee in arriving at a particular finding. Evidence or testimony which conflicted with any finding of this Hearing Committee was considered and rejected. Some evidence and testimony was rejected as irrelevant. The Petitioner was required to meet the burden of proof by a preponderance of the evidence. All findings of fact made by the Hearing Committee were established by at least a preponderance of the evidence. All findings and conclusions herein were unanimous unless otherwise noted.

The panel members found the testimony of prosecutor's expert witness, Dr. Leeman to be credible and persuasive. No inference was drawn by the hearing committee as to the Respondent not being present on the hearing date or the Respondent not calling any witness.

1. Melissa Hunt, M.D., Respondent, was authorized to engage in the practice of medicine in the State of New York as a child psychiatrist (Pet's. Ex. 3, 5).
2. Respondent has a psychiatric condition which impairs her ability to practice medicine, and has required psychiatric hospitalization on four occasions since 1995 (T. p. 72) (Committee's Ex. 1) (Pet's. Ex. 3, 5).
- 3.- The Respondent has been diagnosed as suffering from bipolar disorder during her two in patient psychiatric hospitalizations at St. Vincent's Hospital, and one at St. Mary's Hospital, as well as her outpatient treatment at the Clifton Facility. This diagnosis was confirmed by the independent psychiatric evaluation of her, as requested by her and Ordered by this Hearing Committee (T. p. 41) (Pet's. Ex. 3, 5) (Committee's Ex. 1).
4. This disease is a major psychiatric disorder that disturbs mood, cognition, reality testing and other aspects of a person's mental functioning, including judgment and rational thought (T. p. 23-4, 32-3).

5. The patient's prognosis is influenced, in part, to the Patient's degree of insight into the disease and compliance with treatment (T. p. 24-9).

6. The Respondent has never accepted the diagnosis.

7. This disease as a whole is characterized by exacerbations and periods of relative remission (T. p. 24-5).

8. During periods of exacerbation, a person suffering bipolar disorder is invariably impaired for the practice of medicine by impaired judgment, loose associations, illogical connections between ideas, grandiosity, hyperactivity, paranoia, helplessness, hopelessness, and/or inability to act (T. p. 29-30, 94-5). (Pet's. Ex. 3, 5).

9. Respondent experienced such exacerbation at least during her two St. Vincent's hospitalizations and demonstrated serious decompensation at the time she returned to treatment at the Clifton facility and her subsequent hospitalization at St. Mary's (T. p. 36-46) (Pet's. Ex. 3, 5) (Committee's Ex. 1).

10. During her exacerbations, Respondent was flagrantly psychotic, flagrantly manic, refusing of treatment, remarkably and almost totally bereft of insight, and desirous of being available to treat her patients despite her illness (T. p. 35-7) (Pet's. Ex. 3,5) (Committee's Ex. 1).

11. In some people, the level of functioning is quite normal during the periods of relative remission. Respondent does not fall into this category (T. p. 25) (Committee's Ex. 1).

12. Respondent demonstrates residual symptoms which impair the ability to practice. Such symptoms include distorted thinking, residual paranoia, and other impairments of reality testing (T. p. 24-7, 31) (Committee's Ex. 1).

13. While in some people the period of remission includes recognition of the fact that they suffer a serious chronic disease needing ongoing treatment, and that their thoughts, decisions, perceptions, and behavior during the exacerbations are sick, Respondent does not have such recognition and, therefore, suffers a more malignant, insidious condition, especially during her periods of relative remission (T. p. 25-6, 33-5, 48-50, 56, 95-6) (Committee's Ex. 1) (Pet's. Ex. 3,5).

14. Respondent has essentially no insight into her illness and has been resistant to and frequently noncompliant with her treatment regimen (T. p. 25-6, 33-5, 37, 38, 42-4, 45, 46, 48-50, 56, 58, 95-6) (Pet's. Ex. 3, 5) (Committee's Ex. 1).

15. Because of Respondent's lack of insight into her illness, she is at significant risk of further exacerbation (T. p. 24-9, 33-5, 37, 38, 42-4, 45, 46, 48-50, 56, 58, 95-6) (Pet's. Ex. 3, 5) (Committee's Ex. 1).

16. Because of Respondent's lack of insight into her illness, she is at significant risk of noncompliance with treatment (T. p. 25-6, 33-5, 37, 38, 42-4, 45, 46, 48-50, 56, 58, 95-6) (Pet's. Ex. 3, 5) (Committee's Ex. 1)

17. Because of Respondent's lack of insight into her illness she cannot be expected to recognize the signs of further, future exacerbation of her condition (T. p. 25-6, 33-5, 37, 38, 42-4, 45, 46, 48-50, 56, 58, 95-6) (Pet's. Ex. 3, 5) (Committee's Ex. 1).

18. Because of Respondent's lack of insight into her illness, there is an unacceptable risk that further, future exacerbation of her condition would not be detected in time to remove her from medical practice which would place her patients at unacceptable risk (T. p. 25-6, 33-5, 37, 38, 42-4, 45, 46, 48-50, 56, 58, 95-6) (Pet's. Ex. 3, 5) (Committee's Ex. 1).

DECISION

The First Specification is sustained. The uncontradicted evidence establishes that Respondent suffers from a psychiatric condition which impairs her ability to practice medicine, as alleged in the statement of charges.

The Second Specification is not sustained. Although Respondent may have been ill at the time of her employment termination (T. p. 94-5), and although she did express the desire to practice medicine at the time she was clearly impaired (Fact 9), there is no compelling evidence that she actually engaged in medical practice while impaired.

DISCUSSION

Respondent did not appear before the Committee, nor did Respondent offer any witnesses or evidence. The committee drew no inference from the lack of appearance. The committee based its decision solely on the evidence presented and the testimony given.

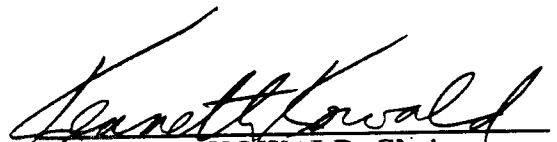
The committee accepts the fact that the Respondent suffers from this disorder. The Committee also recognizes the need to provide adequate protection to the public. However, the Respondent is a qualified board certified child psychiatrist. There has been no allegation of harm or negligence to her patients.

SANCTION

Respondent's license is suspended for six months during which time Respondent will enter into a program with the Physicians Assistance Program. After six months, a report from the Physicians Assistance Program will be provided to this committee to determine if the Respondent has complied with a treatment program and has shown an improvement as to her condition and a recommendation as to her license will be made.

DATED: Richmond Hill, New York

May 22, 1997


KENNETH KOWALD, Chairperson

**ANDREW CONTI, M.D.
JACK SCHNEE, M.D.**

IN THE MATTER
OF
MELISSA HUNT, M.D.

STATEMENT
OF
CHARGES

MELISSA HUNT, M.D., the Respondent, was authorized to practice medicine in New York State in or about 1987, by the issuance of license number 169379 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. During a period of time beginning on a date unknown to Petitioner, but no later than June 10, 1995, and continuing through the present, Respondent has suffered from mental illness which has been diagnosed as bipolar disorder, manic, with psychotic features. Respondent, who has failed to comply with the adequate ongoing evaluation and treatment of said illness, has been and is impaired thereby for the practice of medicine.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

**BEING AN HABITUAL USER OR HAVING A
PSYCHIATRIC CONDITION WHICH IMPAIRS
THE ABILITY TO PRACTICE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(8)(McKinney Supp. 1996) by being a habitual user of alcohol or being dependent on or a habitual user of narcotics, barbiturates, amphetamines,

hallucinogens or other drugs having similar effects, or having a psychiatric condition which impairs the licensee's ability to practice medicine, as alleged in the facts of the following:

1. Paragraph A.

SECOND SPECIFICATION
PRACTICING WHILE IMPAIRED

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6509(7)(McKinney Supp. 1996) by practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability as alleged in the facts of the following:

2. Paragraph A.

DATED: July 1996
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct