



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

Paula Wilson  
Executive Deputy Commissioner

March 17, 1993

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jagdish Mangla, M.D.  
10 Bay Colony Drive  
Pittsford, New York 14534

Joseph R. Amisano, Esq.  
Amisano, Cohen & Malia  
134 South Fitzhugh Street  
Rochester, New York 14608

Joseph Huberty, Esq.  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower - Room 2438  
Empire State Plaza  
Albany, New York 12237

**RE: In the Matter of Jagdish Mangla, M.D.**

Dear Dr. Mangla, Mr. Amisano and Mr. Huberty:

Enclosed please find the Determination and Order (No. BPMC-93-35) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon 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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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:

New York State Department of Health  
Office of Professional Medical Conduct  
Corning Tower - Fourth Floor (Room 438)  
Empire State Plaza  
Albany, New York 12237

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 than 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), "(t)he 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 all action 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  
Corning Tower -Room 2503  
Empire State Plaza  
Albany, New York 12237-0030

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.

Very truly yours,

*Tyrone T. Butler*, nam

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nam  
Enclosure

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

-----X  
IN THE MATTER : HEARING COMMITTEE'S  
OF : FINDINGS OF FACT,  
JAGDISH MANGLA, M.D. : CONCLUSIONS,  
: DETERMINATION  
: AND  
-----X ORDER NO. BPMC-93-36

TIMOTHY C. TRUSCOTT, Chairperson, ARTHUR H. DUBE, M.D.,  
AND S. MOUCHLY SMALL, M.D., duly designated members of the State  
Board for Professional Medical Conduct, appointed pursuant to  
Section 230(1) of the Public Health Law of the State of New  
York, served as the hearing committee in this matter pursuant to  
Section 230(10)(e) of the Public Health Law. GERALD H.  
LIEPSHUTZ, ESQ., served as administrative officer for the  
hearing committee.

After consideration of the entire record, the hearing  
committee issues its Findings of Fact, Conclusions,  
Determination and Order.

SUMMARY OF CHARGES

Respondent was charged with the following acts of  
professional misconduct as more fully set forth in a copy of the  
**STATEMENT OF CHARGES** attached hereto:

1. Having a psychiatric condition which impairs his  
ability to practice in violation of New York Education Law  
§6530(8) (**FIRST SPECIFICATION**)
2. Practicing the profession of medicine while  
impaired by mental disability in violation of New York Education  
Law §6530(7) (**SECOND SPECIFICATION**)

**RECORD OF PROCEEDINGS**

Service of NOTICE OF HEARING  
and STATEMENT OF CHARGES: November 9, 1992

Department of Health (Petitioner)  
appeared by: Joseph Huberty, Esq.  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

Respondent appeared by: Amisano, Cohen & Malia  
Attorneys at Law  
134 South Fitzhugh Street  
Rochester, New York 14608  
BY: Joseph R. Amisano, Esq.,  
of Counsel

Pre-hearing conference: Scheduled for November 25,  
1992 and cancelled due to  
unavailability of attorneys.  
Not rescheduled due to  
scheduling problems and  
representation by attorneys  
that a conference was  
unnecessary.

Hearing date: December 8, 1992

Adjournments: None

Hearing Committee absences: None

Witness for Petitioner: Michael R. Privitera, Jr., M.D.

Witness for Respondent: None

Post-hearing written submission  
received from  
Petitioner: December 30, 1992  
Respondent: January 13, 1993

Hearing Committee's  
deliberations held: January 7, 1993  
January 22, 1993

### FINDINGS OF FACT

The following findings of fact were made after a review of the entire record in this matter. Numbers in parentheses preceded by "T." refer to transcript pages, while those preceded by "Ex." refer to an exhibit in evidence. These citations represent evidence found persuasive by the hearing committee while arriving at a particular finding. Conflicting evidence was considered and rejected in favor of the cited evidence. All findings of fact were made by a unanimous vote of the hearing committee.

1. Jagdish Mangla, M.D., Respondent, was authorized to practice medicine in New York State on March 8, 1971 by the issuance of license number 108227 by the New York State Education Department. He was registered with the Education Department to practice medicine for the period January 1, 1991 through December 31, 1992 from 435 East Henrietta Road, Rochester, New York 14620 (uncontested).

#### FIRST SPECIFICATION: HAVING A PSYCHIATRIC CONDITION WHICH IMPAIRS HIS ABILITY TO PRACTICE

2. Following the direct examination of Petitioner's witness, the parties stipulated to the facts as alleged in paragraphs A., A.1., A.2. and A.3. of the Statement of Charges. It was further stipulated that these facts constituted professional misconduct as provided in §6530(8) of the New York Education Law. Respondent reserved his right to challenge that statute on appeal. Petitioner withdrew the SECOND SPECIFICATION without prejudice. The parties agreed that the hearing would

continue regarding the issue of disposition or penalty pursuant to §230-a of the Public Health Law (T. 20-26). The stipulated facts which become the findings of this committee are as follows:

(A.) Respondent was engaged in the active practice of medicine at Strong Memorial Hospital and Monroe Community Hospital, both in Rochester, New York from on or about January 1, 1985 to September 4, 1987; from on or about June 16, 1988 to November 1, 1988; and from on or about December 18, 1988 to March 1, 1989.

(1.) Since at least January 1, 1984 to September 5, 1987, and in particular from the fall of 1986 through the spring and summer of 1987, Respondent suffered a psychiatric illness and mental disability with a diagnosis of "Bipolar Disorder", mixed, moderate (296.62, DSM III-R). Respondent was clinically hypomanic from October 1986 at least through the month of August 1987. That, in consequence, Respondent was impaired (mentally disabled) for occupational functioning from October 1986 to September 5, 1987.

(2.) Respondent suffered manic-depressive illness (296.5, DSM III), a psychiatric condition constituting a mental disability, which impaired Respondent's ability to practice from September 5, 1987 to June 15, 1988; from November 5, 1988 to December 17, 1988; and from March 22, 1989 to at least until September 15, 1989.

(3.) Respondent was and has remained mentally disabled from September 15, 1989 to the date hereof.

**SECOND SPECIFICATION: PRACTICING THE PROFESSION OF MEDICINE WHILE IMPAIRED BY MENTAL DISABILITY**

2. This charge was, as outlined above, withdrawn by Petitioner without prejudice (T. 21).

**REGARDING DISPOSITION OR PENALTY**

3. Respondent is, at present, totally disabled regarding his ability to practice medicine due to his bipolar disorder (T. 19-20; Ex. 6).

4. Respondent is a danger to his patients during some states of his illness. At other times he can function well (T. 36, 60-62).

5. It cannot be predicted when Respondent will be stable or unstable (T. 61-63).

6. At the time of the hearing, Respondent was unstable (T. 64).

7. A reasonable assessment of Respondent's long-term stability is attainable through the use of appropriate criteria (T. 62-63).

**CONCLUSIONS**

The following conclusions were reached pursuant to the findings of fact herein. All conclusions resulted from a unanimous vote of the hearing committee.

**FIRST SPECIFICATION**

Pursuant to the stipulation between the parties, it is concluded that Respondent has a psychiatric condition which impairs his ability to practice medicine (Finding of Fact 2).

**SECOND SPECIFICATION**

Pursuant to the stipulation between the parties, it is concluded that this charge has been withdrawn by the Petitioner



without prejudice.

**REGARDING DISPOSITION OR PENALTY**

Petitioner argues that revocation is the appropriate disposition of this matter, while Respondent argues that a license suspension would be appropriate. There is no question that Respondent, at times, should not be allowed to practice medicine (Finding of Fact 4). At other times he can function well (Finding of Fact 4). This situation is complicated by the fact that it is not possible to predict which state of mind Respondent will be in at a given time (Finding of Fact 5). It is possible, however, to assess Respondent's long-term stability with the use of appropriate criteria (Finding of Fact 7).

There is no evidence that Respondent did any patient harm during the periods of mental disturbance.

The hearing committee concludes that revocation of Respondent's license would be an unnecessarily harsh remedy under the circumstances. Respondent's mental status regarding stability can be assessed, and §230-a(2)(c) of the Public Health Law provides for a disposition which fits this type of situation. Section 230-a(2)(c) allows the suspension of a license, wholly, until the physician successfully completes a course of therapy or treatment prescribed by the Board for Professional Medical Conduct. The suspension of Respondent's license until he is stabilized for the practice of medicine is an appropriate disposition of this matter.

### DETERMINATION AND ORDER

Pursuant to the hearing committee's findings of fact and conclusions herein, it is determined that the **FIRST SPECIFICATION** is **sustained**, and that the **SECOND SPECIFICATION** is **dismissed** without prejudice, and


#### **IT IS HEREBY ORDERED**

**THAT** Respondent's license to practice medicine in the State of New York is suspended, wholly, until he successfully completes a course of therapy or treatment prescribed by the Board for Professional Medical Conduct as provided by §230-a(2)(c) of the Public Health Law. The hearing committee suggests to the Board that, in addition to any requirements that it imposes pursuant to its powers and duties under §230-a(2)(c), the following conditions be imposed prior to terminating the suspension of Respondent's license to practice medicine:

1. That Respondent demonstrate stability for a considerable period of time of six to twelve months without having frequent changes in medications.
2. That there be a psychiatric evaluation independent of Respondent's current treating psychiatrist, Michael R. Privitera, Jr., M.D.
3. That neuro-psychological testing be undertaken as appropriate to confirm a degree of stability consistent with a return to medical practice.

4. That when Respondent returns to medical practice, he works in a supervised setting for a period of three years pursuant to §230(18)(a)(vii).

DATED: Albany, New York  
~~February~~ 3, 1993  
167221

  
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TIMOTHY C. TRUSCOTT  
Chairperson

ARTHUR H. DUBE, M.D.  
S. MOUCHLY SMALL, M.D.

APPENDIX I

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

-----X  
IN THE MATTER : STATEMENT  
OF : OF  
JAGDISH MANGLA, M.D. : CHARGES  
-----X

JAGDISH MANGLA, M.D., the Respondent, was authorized to practice medicine in New York State on March 8, 1971 by the issuance of license number 108227 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, 1991 through December 31, 1992 from 435 East Henrietta Road, Rochester, New York 14620.

FACTUAL ALLEGATIONS

A. Respondent was engaged in the active practice of medicine at Strong Memorial Hospital and Monroe Community Hospital, both in Rochester, New York from on or about January 1, 1985 to September 4, 1987; from on or about June 16, 1988 to November 1, 1988; and from on or about December 18, 1988 to March 1, 1989.

1. Since at least January 1, 1984 to September 5, 1987 and in particular from the fall of 1986

through the spring and summer of 1987 Respondent suffered a psychiatric illness and mental disability with a diagnosis of "Bipolar Disorder", mixed, moderate (296.62, DSM 111-R). Respondent was clinically hypomanic from October 1986 at least through the month of August 1987. That in consequence, Respondent was impaired (mentally disabled) for occupational functioning from October 1986 to September 5, 1987.

2. Respondent suffered manic-depressive illness (296.5, DSM III), a psychiatric condition constituting a mental disability which impaired Respondent's ability to practice from September 5, 1987 to June 15, 1988; from November 5, 1988 to December 17, 1988; and from March 22, 1989 at least until September 15, 1989.
3. On information and belief Respondent was and has remained mentally disabled from September 15, 1989 to the date hereof.

#### SPECIFICATION OF CHARGES

##### FIRST SPECIFICATION

##### HAVING A PSYCHIATRIC CONDITION WHICH IMPAIRS THE LICENSEE'S ABILITY TO PRACTICE

Respondent is charged with professional misconduct in that Respondent has a psychiatric condition which impairs his ability to practice in violation of N.Y. Educ. Law §6530(8) (McKinney Supp. 1992) in that Petitioner charges:

1. The facts in paragraphs A and A.1, A.2, and/or A.3.


SECOND SPECIFICATION

PRACTICING THE PROFESSION OF MEDICINE  
WHILE IMPAIRED BY PHYSICAL DISABILITY OR  
MENTAL DISABILITY

Respondent is charged with professional misconduct in that he practiced the profession of medicine while impaired by alcohol, drugs, physical disability or mental disability in violation of N.Y. Educ. Law §6530(7) (McKinney Supp. 1992)(formerly N.Y. Educ. Law §6509(3)) in that Petitioner charges:

2. The facts in paragraphs A and A.1, A.2, and A.3.

DATED: Albany, New York  
October 19, 1992

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