



New York State Board for Professional Medical Conduct

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

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

PUBLIC

Michael A. Gonzalez, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

July 28, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

John Herbert Manton, M.D.
609 Wesleyan Drive
Marblehead, OH 43440-2055

Re: License No. 100811

Dear Dr. Manton:

Enclosed please find Modification Order #BPMC 95-29 of the New York State Board for Professional Medical Conduct. This modification order and any penalty provided therein goes into effect August 4, 2004.

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 the 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

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

IN THE MATTER
OF
J. HERBERT MANTON, M.D.

MODIFICATION
ORDER
BPMC No. 95-29

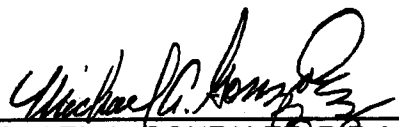
Upon the proposed Application for a Modification Order of J. HERBERT MANTON, M.D. (Respondent) for Consent Order, that is made a part of this Modification Order, it is agreed to and

ORDERED, that the attached Application, and its terms, are adopted SO ORDERED, and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board, either by mailing of a copy of this Modification Order, by either first class mail, to Respondent at the address in the attached Application or certified mail to Respondent's attorney, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 7/28


MICHAEL A. GONZALEZ, R.P.A.
Vice Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
J. HERBERT MANTON, M.D.

APPLICATION TO
MODIFY ORDER
BMPC # 95-29

J. HERBERT MANTON, M.D., (Respondent) deposes and says:

That on or about August 7, 1968, I was licensed to practice as a physician in the State of New York, having been issued License No. 100811 by the New York State Education Department.

My current address is 609 Wesleyan Drive, Marblehead, OH 43440-2055 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

I am currently subject to BPMC Order No. 95-29, dated January 31, 1995, annexed hereto, made a part hereof, and marked as Exhibit I (hereinafter "Original Order"), that was issued upon an Application For Consent Order signed by me on December 20, 1994, (hereinafter "December 20, 1994, Application"), adopted by the Original Order.

I apply, hereby, to the State Board for Professional Medical Conduct for a Modification Order (hereinafter "Modification Order"), modifying the Original Order, as follows: to delete the language in the Original Order that states:

"my license to practice medicine in New York will be revoked, with such revocation stayed pending my compliance with the terms of probation and monitoring set out in Exhibit "B"."

substituting therefore:

"I shall never activate my registration to practice medicine in New York state or seek to reapply for a license to practice medicine in New York state."

The Modification Order to be issued will not constitute a new disciplinary action against me, but will substitute the proposed language for the above described language in the Original Order.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive any right I may have to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

AFFIRMED:

DATED: July 19, 2002

J. Herbert Manton, M.D.
J. HERBERT MANTON, M.D.
Respondent

2004 mg

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

DATE: 21 July 2004

Robert Bogan
ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 23 July 2004

Dennis J. Graziano
DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct



Pend

Board for Professional Medical Conduct

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

C. Maynard Guest, M.D.
Executive Secretary

February 3, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

J. Herbert Manton, M.D.
1262 Crooked Tree Lane
Westerville, Ohio 43081

RE: License No. 100811

Dear Dr. Manton:

Enclosed please find Order #BPMC 95-29 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: Terri - Lynn B. Smiles, Esq.
Squire, Sanders & Dempsey
Huntington Center
41 S. High Street
Columbus, Ohio 43215

bcc: Chris Hyman
Peter Van Buren
Kenneth Spooner
~~Cynthia Weber Glynn~~
Anne Bohenek

Michael Hiser, Esq.

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

-----x

IN THE MATTER :
OF : ORDER
J. HERBERT MANTON, M.D. : BPMC #95-29

-----x

Upon the application of J. HERBERT MANTON, 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: 31 January 1995

Charles J. Vacanti

Charles J. Vacanti, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : APPLICATION
OF : FOR
J. HERBERT MANTON, M.D. : CONSENT
: ORDER

-----X

STATE OF OHIO)
COUNTY OF FRANKLIN) ss.:

J. HERBERT MANTON, M.D., being duly sworn, deposes and says:
That on or about August 7, 1968, I was licensed to practice
as a physician in the State of New York, having been issued
License No. 100811 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 understand that the New York State Board for Professional
Medical Conduct has charged me with Two Specifications of
professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a
part hereof, and marked as Exhibit "A".

I admit guilt to the specifications in full satisfaction of
the charges against me.

I hereby agree to the penalty that my license to practice
medicine in New York will be revoked, with such revocation stayed

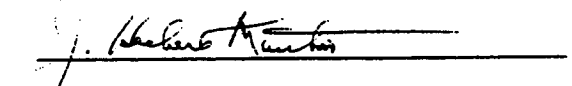
pending my compliance with the terms of probation and monitoring
set out in Exhibit "B".

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.



J. HERBERT MANTON, M.D.
RESPONDENT

Sworn to before me this 26th
day of December, 1994.



NOTARY PUBLIC
MARIE A. SCHUMPER
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES FEB. 27, 1995

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

-----X

IN THE MATTER : APPLICATION
OF : FOR
J. HERBERT MANTON, M.D. : CONSENT
: ORDER

-----X

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

DATE: 1/11/95

J. Herbert Manton, M.D.
J. HERBERT MANTON, M.D.
Respondent

DATE: 12/20/94

William M. Todd
WILLIAM M. TODD, ESQ.
Attorney for Respondent

DATE: 1/23/95

Michael A. Hiser
MICHAEL A. HISER, ESQ.
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: Jan. 26, 1995

Kathleen M. Tanner
KATHLEEN M. TANNER
DIRECTOR
Office of Professional Medical
Conduct

DATE: 31 January 1995

Charles J. Vacanti
CHARLES J. VACANTI, M.D.
CHAIRPERSON
State Board for Professional
Medical Conduct

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

-----X
IN THE MATTER : AMENDED
OF : STATEMENT
J. HERBERT MANTON, M.D. : OF
: CHARGES
-----X

J. HERBERT MANTON, M.D., the Respondent, was authorized to practice medicine in New York State on August 7, 1968, by the issuance of license number 100811 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

A. On or about July 8, 1992, the State Medical Board of Ohio ("Ohio Medical Board") notified Respondent, a psychiatrist, that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The basis for the notification was the Respondent's prescription of large amounts of antidepressants, benzodiazepines, and opiates to two patients in the years 1979 through 1991. The notification alleged that such conduct violated Ohio Revised Code §§4731.22(B)(2), 4731.22(B)(3), 4731.11(B)(6), and 4731.22(B)(20), as well as Rules 4731-11-02(C) and 4731-11-02(F) of the Ohio Administrative Code.

EXHIBIT "A"

B. On or about October 16, 1992, the Report and Recommendation of Medical Board Hearing Examiner Wanita J. Sage was issued. The Report's Conclusions found Respondent to have violated Ohio Revised Code §§4731.22(B)(2), 4731.22(B)(6), 4731.22(B)(20), and Ohio Administrative Code Rules 4731-11-02(C) and (F).

C. By Order dated December 16, 1992, the Report and Recommendation of Medical Board Hearing Examiner Sage was modified, approved, and confirmed by vote of the Ohio Medical Board. The Order did not modify the Hearing Examiner's legal conclusions. Additionally, the Order provided as a penalty, that:

1. The certificate of Respondent to practice medicine in the State of Ohio was revoked, with the revocation stayed, and Respondent's certificate was suspended for an indefinite period of time, but not less than one year;
2. In order to be reconsidered for reinstatement, Respondent was required to meet minimum requirements, including providing acceptable documentation of successful completion of a course dealing with the prescribing of controlled substances, successful completion of a course dealing with issues of addiction, and successful completion of the SPEX examination appropriate to assess Respondent's competency.

Upon reinstatement, Respondent's certificate to practice medicine

in Ohio was to be subject to probationary terms for a period of at least four years.

D. On or about March 9, 1994, Respondent's certificate to practice medicine in Ohio was reinstated by the Ohio Medical Board, subject to monitoring of his practice, and certain terms of probation related to the prescription and documentation of prescription of controlled substances.

E. The conduct upon which the finding of Respondent's improper professional practice or professional conduct was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically, New York Education Law §§6530(3) (McKinney Supp. 1994) (practicing the profession with negligence on more than one occasion); and/or 6530(4) (McKinney Supp. 1994) (practicing the profession with gross negligence on a particular occasion); and/or 6530(5) (McKinney Supp. 1994) (practicing the profession with incompetence on more than one occasion); and/or 6530(6) (McKinney Supp. 1994) (practicing the profession with gross incompetence).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF IMPROPER
PROFESSIONAL PRACTICE OR PROFESSIONAL MISCONDUCT

Respondent is charged with having been found guilty of improper professional practice or professional misconduct by a duly authorized disciplinary agency of another state, where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, within the meaning of N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1994), in that Petitioner charges:

1. The facts in Paragraphs A, B, C, D and/or E.

SECOND SPECIFICATION

HAVING OTHER DISCIPLINARY ACTION TAKEN

Respondent is charged with having his license to practice medicine revoked, suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license would, if committed in New York State, constitute professional misconduct under the laws of New York State, within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994), in that Petitioner charges:

2. The facts in Paragraphs A, B, C, D and/or E.

DATED: *Dec 7*, 1994
Albany, New York

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

EXHIBIT "B"

TERMS OF PROBATION

1. J. HERBERT MANTON, M.D., (hereafter, "Respondent") during the four (4) year period of probation, 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 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, 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, 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 presently practices medicine in Ohio and is not registered to practice medicine in New York. Should Respondent commence the practice of medicine in New York, he will, within five (5) days of commencing such a practice in New York, notify the Director of OPMC in writing of this fact. Such notice shall also identify the office address from which Respondent is practicing medicine in New York.

6. For a period of twenty four (24) months after such commencement of practice, Respondent's medical practice shall be monitored by a currently registered, New York licensed physician, who shall be board certified in psychiatry. Such monitoring physician shall be in a position to regularly observe and assess Respondent's medical practice. The monitoring physician may be selected by the Respondent, subject, however, to the approval of the Director of OPMC. Such monitoring physician shall acknowledge their willingness to comply with these terms of monitoring by executing an acknowledgement provided by the Office of Professional Medical Conduct. The monitoring physician shall assess, through conversations with Respondent, random record reviews of at least thirty (30) patient records every three (3) months, and any other reasonable means, whether Respondent is practicing medicine in accordance with accepted standards of medical practice. The monitoring physician shall submit to OPMC quarterly reports regarding the quality of Respondent's medical practice, and certifying Respondent's compliance with, or detailing his failure to comply with, accepted standards of medical practice. A total of eight (8) quarterly reports will be required, submitted once every three (3) months of the twenty-four (24) month period of monitoring. Respondent agrees that the costs of complying with all such terms of monitoring will be his responsibility.
7. During the two years that Respondent is being monitored under these terms of probation, Respondent shall be required to maintain medical malpractice insurance coverage with limits of no less than two million dollars per occurrence and six million dollars per policy year, as required by Public Health Law section 230(18)(b) (McKinney Supp. 1994).
8. The requirement of monitoring detailed in paragraph "6", above, shall be suspended until such time, if any, Respondent commences the practice of medicine in New York State. Respondent will comply with the requirements of Paragraph "2", above, beginning with the effective date of the Order issued pursuant to this Application, and continuing for four (4) years.
9. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board.
10. 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 section 171(27); State Finance Law section 18; CPLR section 5001; Executive Law section 32).

11. 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 noncompliance 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.