



Board for Professional Medical Conduct

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

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

C. Maynard Guest, M.D.
Executive Secretary

August 31, 1994

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mary Jane Bird Swan, M.D.
P.O. Box 38
124 N. Jefferson
Minneota, MN 56264

RE: License No. 047470
Effective Date: 9/7/94

Dear Dr. Swan:

Enclosed please find Order #BPMC 94-171 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

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

-----X

IN THE MATTER :
OF : ORDER
MARY JANE BIRD, M.D. : BPMC #94-171

-----X

Upon the application of MARY JANE BIRD, 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: 26 August 1991

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 TO
OF : SURRENDER
MARY JANE BIRD, M.D. : LICENSE

-----X

STATE OF MINNESOTA)
 ss.:
COUNTY OF LYON)

MARY JANE BIRD SWAN, M.D., being duly sworn, deposes and
says:

On or about July 13, 1948, I was licensed to practice
medicine as a physician in the State of New York having been
issued License No. 047470 by the New York State Education
Department under the name of Mary Jane Bird. I am not currently
registered with the New York State Education Department to
practice as a physician in the State of New York. I am the
Respondent in the matter captioned above.

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 am applying to the State Board for Professional Medical
Conduct for permission to surrender my license as a physician in
the State of New York.

I hereby plead no contest to the allegations and the one Specification set forth in the Statement of Charges (Exhibit A).

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

I understand that, in the event that the application is not granted by the State Board for Professional Medical Conduct, 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 State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

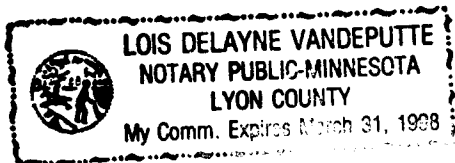
I agree that in the event the State Board for Professional Medical Conduct grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

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

Mary Jane Bird Swan, M.D.
MARY JANE BIRD SWAN, M.D.
Respondent

Sworn to before me this
17th day of August, 1994

Lois Delayne Van De Putte
NOTARY PUBLIC



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

-----X

IN THE MATTER : APPLICATION TO
TO : SURRENDER
MARY JANE BIRD, M.D. : LICENSE

-----X

The undersigned agree to the attached application of the Respondent to surrender his license.

Date: August 17, 1994

Mary Jane Bird Swan, M.D.
MARY JANE BIRD SWAN, M.D.
Respondent

Date: August 17, 1994

Timothy J. Mahar
TIMOTHY J. MAHAR
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: August 30, 1994

Kathleen M. Tanner
for KATHLEEN M. TANNER
Director, Office of
Professional Medical Conduct

Date: 26 August, 1994

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 : STATEMENT
OF : OF
MARY JANE BIRD, M.D. : CHARGES

-----X

MARY JANE BIRD, M.D., the Respondent, was authorized to practice medicine in New York State on July 13, 1948, by the issuance of license number 047470 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

1. The Minnesota Board of Medical Practice (Minnesota Board) by Stipulation and Order dated January 15, 1994, imposed, among other things, the following discipline upon Respondent:
 - a) required Respondent to maintain a daily record of the controlled substances she prescribed for each patient which record is to be reviewed on a monthly basis by a supervising physician;
 - b) required Respondent to successfully complete courses in pharmacology and chemical dependency awareness;
 - c) required Respondent to pay a \$5,000.00 fine.

2. The conduct underlying the Minnesota Board's imposition of

discipline upon Respondent consisted of, among other things, the following:

a) engaging in medical conduct which is professionally incompetent under Minnesota Statutes §147.091(1)(g), and constituting a departure from or failure to conform to, the minimal standards of acceptable and prevailing medical practice under Minnesota Statutes §147.091(1)(b), including,

prescribing Percodan to Patient #1 over a nearly 10 year period;

prescribing Bactrim DS to Patient #3, who was then pregnant, for complaints of urinary frequency, without awaiting the results of urinalysis;

prescribing controlled substances such as Darvocet and Inderal to Patient #6 without making a physical assessment of her;

prescribing controlled substances to three patients, each of whom exhibited drug seeking behavior at the time, and one of whom had undergone chemical dependency treatment;

failing to refer two patients to a cardiologist after documenting a heart murmur over a 21-month period in one instance and a 12-month period in the other;

failing to refer Patient #2 to an obstetrician until two weeks after diagnosing her pregnancy, even though the pregnancy was complicated by the patient's known heart murmur, elevated blood pressure and obesity;

failing to monitor Patient #5's Dilantin therapy over a two and a half year period following a grand mal seizure and failing to follow-up on a positive gastric blood gas study;

b) failing to supervise a physician's assistant under Minnesota Statutes §147.091(1)(h), including:

failing to review eight entries made by a physician's

assistant in Patient #6's medical records including orders for Fioricet and Inderol;

failing to review thirteen entries made by a physician's assistant in Patient #7's medical record including assessments of low back pain;

failing to countersign five entries made by a physician's assistant in Patient #9's medical record including treatment of a finger sprain and upper respiratory infection;

failing to review an entry made by a physician's assistant in Patient #10 nursing home record documenting a bad respiratory spell, diaphoresis and complaints of abdominal pain;

failing to initial an entry made by a physician's assistant in Patient #10's medical record relating to the patient's hospitalization for pneumonia and dehydration;

c) failing to properly manage medical records under Minnesota Statutes §147.091(1)(o), including,

prescribing medications to Patient #2 on thirty occasions, Patient #3 on five occasions, and Patient #12 on fifteen¹⁵ occasions, over the telephone and without physically assessing the patient;

prescribing Lanoxin .25 mg. to Patient #9 for a 17-month period without documenting the medical indication for the prescription;

failing to document a prescription for Xanax for Patient #11.

3. The conduct upon which the Minnesota Board took disciplinary action against Respondent's license would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(3) [practicing the profession with negligence on more than one occasion]; and/or §6530(5) [practicing the profession with incompetence on more than one occasion]; and/or §6530(32) [failing to maintain a

record for each patient which accurately reflects the evaluation and treatment of the patient]; and/or §6530(33) [failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee] (McKinney Supp. 1994).

SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509(9)(d) (McKinney Supp. 1994) by reason of having disciplinary action taken against her license to practice medicine by a duly authorized professional disciplinary agency of another state, where the conduct resulting in disciplinary action involving the license would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges the facts in paragraphs 1 through 3.

DATED: *July 15*, 1994
Albany, New York

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