



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.
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NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

Public

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

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

July 31, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Albert P. Hirdt, D.O.
23 Kaprulet Lane
Walden, NY 12586

Re: License No. 168541

Dear Dr. Hirdt:

Enclosed please find Order #BPMC 03-197 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect August 7, 2003.

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

cc: Wilfred T. Friedman, Esq.
Friedman and Mahdavian, P.C.
The Bar Building
36 West 44th Street, Suite 816
New York, NY 10036

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

IN THE MATTER
OF
ALBERT HIRDT, D.O.
CO-02-07-3404-A

CONSENT
AGREEMENT
AND ORDER

BPMC No. 03-197

ALBERT HIRDT, D.O., (Respondent) deposes and says:

That on or about November 5, 1986, I was licensed to practice as a physician in the State of New York, having been issued License No. 168541 by the New York State Education Department.

My current address is 23 Kaprulet Lane, Walden, NY 12586 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 understand that the New York State Board of Professional Medical Conduct has charged me with eight (8) specifications of professional misconduct.

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

I do not contest the eighth (8th) specification, in full satisfaction of the charges against me. I, hereby, agree to the following penalties:

Five (5) years suspension of my New York state license to practice medicine, stayed, contingent upon my compliance with a five (5) year period of conditions.

I further agree that the Consent Order for which I, hereby, apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possess his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I, hereby, stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event that I am charged with professional misconduct in the future, the agreement and order shall be admitted into evidence in that proceeding.

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

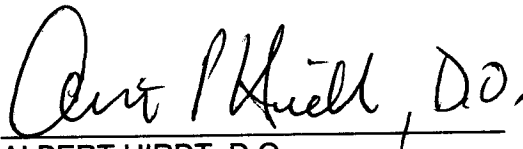
I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict 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 agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement or to my attorney or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner, in consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits. I knowingly waive any right I may have to contest the Consent Order for which I, hereby, apply, whether administratively or judicially, and ask that the Application be granted.

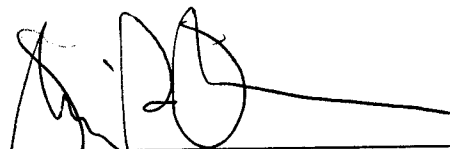
AFFIRMED:

DATED: July 19, 2003


ALBERT HIRDT, D.O.
Respondent

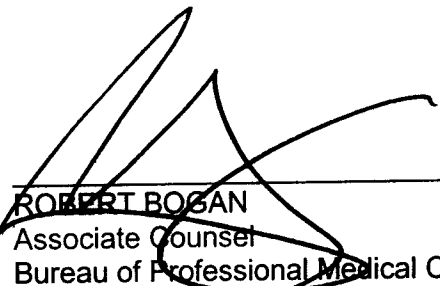
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 7/19/03



WILFRED T. FRIEDMAN, ESQ.
Attorney for Respondent

DATE: 25 July 2003



ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 29 July 2003



DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
ALBERT HIRDT, D. O.
CO-02-07-3404-A

STATEMENT
OF
CHARGES

ALBERT HIRDT, D.O., the Respondent, was authorized to practice medicine as a physician in New York state on November 5, 1986, by the issuance of license number 168541 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 28, 1999, in New Paltz Town Court, Criminal Part, Ulster County, New York, Respondent was found guilty, based on a plea of guilty, of violating New York State Vehicle and Traffic Law §1192.3, Driving While Intoxicated, a misdemeanor, and was sentenced to pay a \$500 fine and \$90.00 surcharge.

B. On or about March 26, 2001, Respondent falsely answered Question #2a on his New York State re-registration application by answering "No" to the question, "2. Since you last filed a registration application: a. Have you been convicted or charged with any crime (felony or misdemeanor) in any state or country, the disposition of which was other than acquittal or dismissal?"

C. On or about December 27, 2001, Respondent falsely answered Question #15 on his Physician Profile Form by answering "No" to the question, "Have you been convicted of a crime (felony or misdemeanor) in any state, province or country within the past ten years?"

D. On or about September 4, 2002, Respondent was found guilty, based on a plea of guilty, of violating New York State Penal Law §120.25, Reckless endangerment in the first degree, a class D felony, and on or about October 23, 2002, was sentenced to 150 hours

community service, five (5) years probation, and to pay a \$200 mandatory surcharge and a \$10.00 victim's assistance fee.

SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.
2. The facts in Paragraph D.

THIRD AND FOURTH SPECIFICATIONS

Respondent violated New York Education Law §6530(2) by practicing the profession fraudulently, in that Petitioner charges:

3. The facts in Paragraphs A and/or B.
4. The facts in Paragraphs A and/or C.

FIFTH AND SIXTH SPECIFICATIONS

Respondent violated New York State Education Law §6530(20) by conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner charges:

5. The facts in Paragraphs A and/or B.
6. The facts in Paragraphs A and/or C.

SEVENTH AND EIGHTH SPECIFICATIONS

Respondent violated New York State Education Law §6530(21) by willfully making or filing a false report required by law or by the department of health or the education department, in that Petitioner charges:

7. The facts in Paragraphs A and/or B.
8. The facts in Paragraphs A and/or C.

DATED: *Dec. 10*, 2002
Albany, New York



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

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

IN THE MATTER
OF
ALBERT HIRDT, D.O.

CONSENT
ORDER

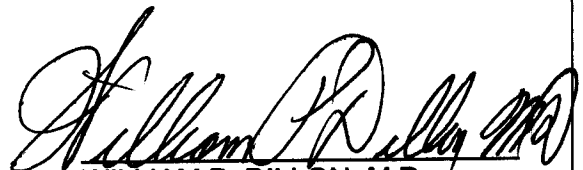
Upon the proposed agreement of **ALBERT HIRDT, D.O.** (Respondent) for Consent Order, which application is made a part hereof, it is agreed and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 7/31/03



WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

EXHIBIT B

Conditions

1. Respondent shall conduct himself in all ways in a manner befitting himself professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. 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].
5. The period of conditions shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of conditions shall resume and any terms of conditions which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his staff at practice locations or OPMC offices.
7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
8. Respondent shall enroll in and complete a continuing education program in the area of medical ethics Said continuing education program shall be subject to the prior written approval of the Director of OPMC and be completed within the period of probation or as otherwise specified in the Order.
9. Respondent shall remain drug/alcohol free.

10. Respondent shall remain active in self help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.

11. Respondent shall notify all treating physicians of his/her history of alcohol/chemical dependency. Respondent shall advise OPMC of any controlled or mood-altering substance given or prescribed by treating physicians.

12. Respondent shall practice only when monitored by qualified health care professionals ("sobriety monitor", "practice supervisor" and "therapist") proposed by Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships which would pose a conflict with monitoring responsibilities.

13. Respondent shall ensure that the monitors are familiar with Respondent's drug/alcohol dependency and with the terms of this Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitors to submit required reports on a timely basis.

14. Respondent shall submit, at the request of a monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random, seven-days a week, twenty-four hours a day basis. Respondent shall report for a drug screen within four (4) hours of being contacted by the monitor. Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by Respondent or a test is positive for any unauthorized substance.

15. Respondent shall meet with a sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying Respondent's sobriety. These reports are to include a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than six per month for the first 12 months of the period of condition, then at a frequency to be proposed by the sobriety monitor and approved by OPMC and b) an assessment of self-help group attendance (e.g., AA/NA/Caduceus, etc.), 12 step progress, etc.

16. Respondent shall avoid all substances which may cause positive urines such as poppy seeds/mouthwash/cough medication. Any positive result will be considered a violation of this Order.

17. Respondent shall practice medicine only when supervised in his/her medical practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. Respondent shall not practice medicine until a practice supervisor has been approved. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.

18. Respondent shall cause the practice supervisor to review Respondent's practice regarding the prescribing, administering, dispensing, inventorying, and disposal of controlled substances.

19. Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any term of probation.

20. Respondent shall continue in counseling or other therapy with a therapist as long as the therapist determines is necessary, or for the period of time dictated in the Order.

21. Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse.
22. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.
23. Respondent shall enroll (or continue enrollment) in the Committee for Physicians' Health (CPH) and shall engage in a contract with CPH which fully describes the terms, conditions and duration of a recovery program. Respondent shall fully comply with the contract.
24. Respondent shall provide a written authorization for CPH to provide to the Director of OPMC with any/all information or documentation requested by OPMC to determine whether Respondent is in compliance with the contract.
25. Respondent shall cause CPH to report to OPMC if Respondent refuses to comply with the contract, refuses to submit to treatment or whose impairment is not substantially alleviated by treatment. CPH shall report immediately to OPMC if Respondent is regarded at any time to be an imminent danger to the public.
26. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.