



New York State Board for Professional Medical Conduct

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

Dennis P. Whalen
Executive Deputy Commissioner of Health
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Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau of Professional Medical Conduct

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Chair
Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

November 20, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Richard Graham Day, M.D.
10383 Twin Oaks Drive
Cambridge, Ohio 43725-9270

RE: License No. 171506

Dear Dr. Day:

Enclosed please find Order #BPMC 98-278 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **November 20, 1998.**

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 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: Kathleen S. Wasson, Esq.

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

IN THE MATTER
OF
RICHARD GRAHAM DAY, M.D.

SURRENDER
OF
LICENSE

STATE OF OHIO)
COUNTY OF *Guernsey*) ss.:

RICHARD GRAHAM DAY, M.D., being duly sworn, deposes and says:

On or about July 30, 1987, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 171506 by the New York State Education Department.

My current address is 10383 Twin Oaks Drive, Cambridge, Ohio, 43725-9270, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with one (1) 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 on the grounds that I do not contest the charges against me, in full satisfaction of the Statement of Charges.

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. 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 Surrender Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED: 11/6/98

Richard G. Day M.D.
RICHARD GRAHAM DAY, M.D.
RESPONDENT

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

Date: _____

_____, Esq.
Attorney for Respondent

Date: 11/9/98

Kathleen S. Wasson
KATHLEEN S. WASSON
Senior Attorney
Bureau of Professional
Medical Conduct

Date: 11/15/98

Anne F. Saile
ANNE F. SAILE
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
RICHARD GRAHAM DAY, M.D.

SURRENDER
ORDER

Upon the proposed agreement of RICHARD GRAHAM DAY, M.D.
(Respondent) to Surrender his license as a physician in the State of New York,
which proposed agreement is made a part hereof, it is agreed to and

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

ORDERED, that the name of Respondent be stricken from the roster of
physicians in the State of New York; 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 via certified mail, whichever is
earliest.

SO ORDERED.

DATED: 11/16/98



Chairperson
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
RICHARD GRAHAM DAY, M.D.

STATEMENT
OF
CHARGES

RICHARD GRAHAM DAY, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 30, 1987, by the issuance of license number 171506 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent entered into a Consent Agreement with the State Medical Board of Ohio, effective on November 12, 1997, whereby his license to practice medicine and surgery was suspended for an indefinite period of time, not less than three (3) months, with terms and conditions including, but not limited to, abstinence from the use of alcohol and from the personal use or possession of drugs other than those prescribed by an authorized individual with full knowledge of his history of chemical dependency and random urine screening for drugs and alcohol, based upon his admission of fraud in violation of Sections 4731.22(A) and (B)(5), Ohio Revised Code, and impairment of ability to practice due to habitual or excessive use or abuse of drugs, alcohol, or other substances in violation of Section 4731.22(B)(26), Ohio Revised Code. Respondent committed fraud in that he falsely certified, on his application for renewal of his certificate to practice medicine or surgery for the 1994-1996 and 1996-1998 biennial registration periods, that he was not addicted to or dependent upon alcohol or any chemical substance and had not been treated for or diagnosed as suffering from drug or alcohol dependency or use, when in fact he had been suffering from poly-substance dependence, including alcohol, benzodiazepines

EXHIBIT "A"

and opioids, since at least 1984 and received residential treatment for alcohol and benzodiazepine dependence and withdrawal at Shepherd Hill Hospital in Newark, Ohio from January 10 to February 21, 1994.

B. Thereafter, Respondent entered into a second Consent Agreement, effective on April 9, 1998, whereby his license to practice medicine and surgery in the State of Ohio was reinstated based upon his successful completion of (1) a residential care program at the Harding Addiction Recovery Center, and (2) a partial care program and intensive outpatient treatment program at the Granville House therapeutic recovery community, and discharge to aftercare on November 12, 1997 and further based upon his abstinence from the use of alcohol and from the personal use or possession of drugs other than those prescribed by an authorized individual with full knowledge of his history of chemical dependency. Pursuant to his license reinstatement, Respondent was placed on probation for a minimum period of five (5) years with terms and conditions including, but not limited to, drug associated restrictions, sobriety requirements, drug and alcohol screening by a supervising physician and practice monitoring by a Board-approved physician.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(b)(McKinney Supp. 1997) by having been found guilty of professional misconduct by a duly authorized professional 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 (namely, N.Y. Educ. Law §6530(2), practicing the profession of medicine fraudulently, and N.Y. Educ. Law §6530(8), being an habitual abuser of alcohol, or being dependent on or an habitual user of narcotics, barbituates, amphetamines, hallucinogens, or other drugs having similar effects) as alleged in the facts of:

1. Paragraphs A and B.

DATED: October , 1998
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct