



***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*

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

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

**PUBLIC**

August 13, 2004

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Martin L. Hoffman, M.D.  
2132 Foothills Road  
Sante Fe, NM 87501

Re: License No. 132856

Dear Dr. Hoffman:

Enclosed please find Order #BPMC 04-176 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect August 20, 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

cc: Leonard J. Birbrower, Esq.  
Birbrower, Beldock & Tangredi, PLLC  
151 North Main Street, Suite 300  
PO Box 1010  
New City, NY 10956

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

IN THE MATTER

OF

MARTIN L. HOFFMAN, M.D.

CONSENT

ORDER

BPMC No. 04-176

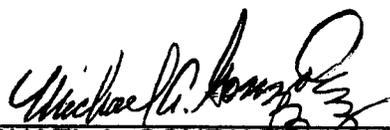
Upon the application of (Respondent) Martin L. Hoffman, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED, and it is further

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

SO ORDERED.

DATED: 8/12/04

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

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

**IN THE MATTER  
OF  
MARTIN L. HOFFMAN, M.D.**

**CONSENT  
AGREEMENT  
AND  
ORDER**

Martin L. Hoffman, M.D., representing that all of the following statements are true, states:

That on or about October 14, 1977, I was licensed to practice as a physician in the State of New York, and issued License No. 132856 by the New York State Education Department.

My current address is 2132 Foothills Road, Santa Fe, NM 87501, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with one specification of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I agree to not contest the specification of misconduct, in full satisfaction of the charges against me, and agree to the following penalty:

My license shall be suspended for an indefinite period but no less than twenty-four months. Upon compliance with all conditions of this Order, but no sooner than twenty-four months from the effective date of this order, I may petition the Board for a Modification Order staying the indefinite suspension of my license.

I understand and agree:

That any Modification Order the Board may issue, in the exercise of its reasonable discretion, may include terms of probation, and/or further conditions on my practice.

That the Board will exercise its reasonable discretion upon my petition for a Modification Order through a Committee on Professional Conduct, after a proceeding in which I have met a burden of proof and persuasion as further set forth in attached Exhibit "B".

That the Committee's exercise of discretion shall not be reviewable by the Administrative Review Board.

I further agree that the Consent Order shall impose the following conditions:

That, I shall return any and all official New York State prescriptions to the Bureau of Controlled Substances, and I shall surrender my Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within thirty

days of the effective date of this Order. Further, within thirty days of returning said prescriptions and ~~surrendering~~ said registration, I shall provide the Director of OPMC ("Director") with written evidence, satisfactory to the Director, that I have so complied with this condition.

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as

Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

If I am charged with professional misconduct in the future, I hereby stipulate and agree to the admission into evidence at such proceeding, during the Department's case-in-chief, of this Application and Order, and/or related Modification Orders at the sole discretion of the Department (Petitioner).

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to adopt this Consent Agreement executed of my own free will and not under duress, compulsion or restraint. In consideration of the value to

me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

DATE: 7/6/07

  
\_\_\_\_\_  
MARTIN L. HOFFMAN, M.D.  
RESPONDENT

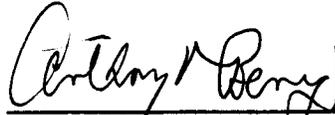
The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 7/9/04



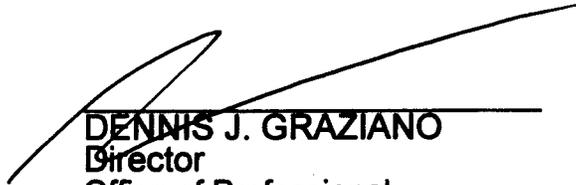
LEONARD J. BIRBROWER, ESQ.  
Attorney for Respondent

DATE: 7/22/04



ANTHONY M. BENIGNO  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: 8/11/04



DENNIS J. GRAZIANO  
Director  
Office of Professional  
Medical Conduct

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

IN THE MATTER  
OF  
MARTIN L. HOFFMAN, M.D.

STATEMENT  
OF  
CHARGES

Martin L. Hoffman, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 14, 1977, by the issuance of license number 132856 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Respondent began suffering from depression, with anxiety and phobia, beginning on or about the winter of 1995. He was hospitalized for major depression and suicidality in the summer of 1999. Respondent's phobia and anxiety occurred in the hospital and his medical office. Respondent remains in treatment for his psychiatric condition.

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**HAVING A PSYCHIATRIC CONDITION**

**WHICH IMPAIRS THE ABILITY TO PRACTICE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(8) by being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, or having a psychiatric condition which impairs the licensee's ability to practice as alleged in the facts of the following:

1. Paragraph A.

Dated: *July 22*, 2004  
Albany, New York

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

## EXHIBIT "B"

1. Respondent's indefinite license suspension shall be modified, and the active suspension of his license terminated, only upon a showing by Respondent to the satisfaction of a Committee on Professional Conduct of the State Board for Professional Medical Conduct (henceforth "Committee"), and upon the Committee's determination, that: Respondent has successfully complied with or completed a course of therapy and ongoing evaluation; Respondent is no longer incapacitated for the practice of the Profession; and Respondent is both fit and clinically competent to practice the Profession.

2. Upon Respondent's written request, a Committee shall meet to hear and evaluate Respondent's showing, as referred to in paragraph 1 above, in support of a Modification Order. The Board will make reasonable attempts to convene a Committee within 90 days after Respondent's request. That request shall not be perfected until the Director of the Office of Professional Medical Conduct receives all the documents Respondent is required to provide, as set forth in paragraph 3 below. The procedural nature of this proceeding shall be determined by the State Board for Professional Medical Conduct, within the discretion of the Director of the Office of Professional Medical Conduct upon consultation with Counsel, Bureau of Professional Medical Conduct. Proceedings before said Committee shall *not* be in the nature of a *hearing* pursuant to New York Public Health Law §230, but shall instead be informal and intended only to address any and all facts, evidence, information, circumstances, or issues that relate to the advisability of terminating the suspension of Respondent's license. The Committee shall be given access to evidence including but not limited to:

- a. Any and all evidence of Respondent's compliance with the Conditions imposed.
- b. Any evidence that the Director of the Office of Professional Medical Conduct or Counsel, Bureau of Professional Medical Conduct, deems appropriate.

3. At the time that Respondent requests that a Committee meeting be scheduled pursuant to paragraph 2, he shall provide the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299, with the following:

- a. The signed acknowledgment from the supervising physician referred to in paragraph 5e.
- b. The signed acknowledgment from the health care professional referred to in paragraph 5f.
- c. The signed acknowledgment from the monitor referred to in paragraph 5b.
- d. Certified true and complete copies of records of all evaluation and treatment relating to Respondent's impairment, whether that evaluation and treatment occurred prior to or during the time this suspension is in effect. These records shall include documentation of the results of all tests conducted to evaluate Respondent's fitness and his clinical competence to practice the Profession. Such records shall include, but not be

limited to, documentation of his participation in the program(s) of the Committee for Physicians' Health of the New York State Medical Society, or other equivalent program(s).

- e. Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records.
- f. A current in-depth chemical dependency evaluation by a health care professional in a licensed facility and an independent current psychiatric evaluation by a board certified psychiatrist.
- g. Respondent's attendance at, participation in, and cooperation with an interview conducted by personnel of OPMC, upon the request of the Director.
- h. At the direction of the Director, a report of a complete clinical competency assessment performed by a program for such assessment, such program to be proposed by Respondent and subject to the prior written approval of the Director of OPMC.

Provision of the aforesaid documents will not alone constitute a showing that Respondent is no longer incapacitated for active practice of the Profession.

4. At least fourteen days prior to the scheduled date of the proceeding referred to in paragraph 2, Respondent shall provide OPMC with the following:

- a. Certified true and complete copies of records of any and all treatment in a residential rehabilitation or day-treatment program or intensive treatment in an out-patient service and any other psychiatric, psychological, and/or mental health treatment, evaluation, and/or testing, whether in an out-patient, in-patient, office, or consultation setting.
- b. Evidence of compliance with the terms of a continuing after-care out-patient treatment plan that addresses the major problems associated with Respondent's illness.
- c. Evidence that Respondent has maintained adequate knowledge and competence to practice the Profession. Such evidence shall include documentation of continuing medical education and, if so requested by the Director of OPMC, a report of an independent evaluation of Respondent's medical knowledge and competence.

Submission of the aforesaid evidence shall not, alone, constitute a showing that Respondent is no longer incapacitated for the active practice of the Profession.

5. If the Chairperson of the Committee issues an order (Order) finding that Respondent has successfully completed the prescribed course of treatment and has regained fitness and competence to practice the Profession, therefore staying the suspension of Respondent's license, the Order shall further impose a period of probation, pursuant to New York Public Health Law § 23a, during which Respondent's practice of the Profession shall be subject to conditions imposed. Respondent's practice shall be subject to such conditions for a period of no less than five years. The minimum conditions shall include:

- a. Respondent shall be required to comply with the terms of a continuing after-care treatment plan that addresses the major problems associated with his illness.
- b. At the direction of the Director of OPMC, Respondent shall submit to periodic interviews with, and evaluations by, a board certified psychiatrist or other licensed mental health practitioner designated by the Director. Said practitioner shall report to the Director regarding Respondent's condition and his fitness or incapacity to practice the Profession.
- c. Respondent shall be supervised in Respondent's practice by a licensed physician, proposed by Respondent and approved in writing by the Director of OPMC, in accordance with the conditions contained in or annexed to the Order. Said supervising physician shall be familiar with Respondent's history of psychiatric and physical impairment and with the Order and its conditions. Said supervising physician shall supervise Respondent's compliance with the conditions of practice imposed by the Order. Said supervising physician shall be in a position regularly to observe and assess Respondent's practice. Said supervising physician shall acknowledge his/her willingness to comply with the supervision by executing the acknowledgment provided by OPMC.
  - i. Said supervising physician shall submit to OPMC quarterly reports regarding the quality of Respondent's practice, any unexplained absences from work and certifying his compliance or detailing his failure to comply with each condition imposed.
  - ii. Said supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practices or possible misconduct to OPMC.
- d. Respondent shall continue in treatment with a health care professional, proposed by him and approved, in writing, by the Director of OPMC, for as long as the health care professional determines it is necessary.
  - i. Respondent's treating health care professional or program shall submit to OPMC quarterly reports certifying that Respondent is complying with the treatment.
  - ii. Said treating health care professional shall report to OPMC immediately if Respondent is noncompliant with his treatment plan or if he demonstrates any significant pattern of absences.
  - iii. Said treating health care professional shall acknowledge his/her willingness to comply with the above-mentioned reporting by

executing the acknowledgment provided  
by OPMC.

6. The terms set out in paragraph 5 shall be the minimum probation terms, related to Respondent's fitness to practice, to be imposed on his practice upon restoration of his license, and that other terms may be added by the Committee at the time of license restoration, and that the costs of complying with all such terms will be Respondent's responsibility. Any failure by Respondent to comply with the conditions imposed upon his practice at the time of license restoration, may result in disciplinary action being brought against him charging professional misconduct as defined by the New York State Education Law, including but not limited to N.Y. Educ. Law Section 6530(29). That section defines professional misconduct to include "violating any... condition... imposed on the licensee pursuant to section two hundred thirty of the public health law."

7. Upon any denial of license restoration made by the Committee, Respondent shall not again request convening of a Committee until a minimum period of nine months has elapsed since such denial.

8. In addition to the terms set out in paragraph 5 and any other terms imposed by the Committee upon restoration of Respondent's license, he shall also be subject to the following standard terms of probation:

- a. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
- b. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
- c. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
- d. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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].

- e. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms.
- f. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and Respondent's staff at practice locations or OPMC offices.
- g. Respondent shall maintain complete, legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
- h. Respondent shall enroll in and complete a continuing education program in the area of \_\_\_\_\_ equivalent to at least \_\_\_\_\_ credit hours of Continuing Medical Education beyond the recommended minimum standards set by the Respondent's specialty accrediting body. The continuing education program shall include a minimum of \_\_\_\_\_ credit hours in the area of \_\_\_\_\_. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the probation period, unless the Order specifies otherwise.
- i. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.