



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

November 13, 2002

Harvey M. Rodman, M.D.
2053 Staunton Road
Cleveland Heights, OH 44118

Dear Doctor Rodman:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on November 13, 2002.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

Very truly yours,

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5146 3024
RETURN RECEIPT REQUESTED

Mailed 11-14-02

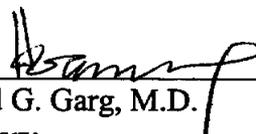
In the Matter of Harvey M. Rodman, M.D.
Page 2

Cc: Thomas W. Hess, Esq.
CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5146 3031
RETURN RECEIPT REQUESTED

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on November 13, 2002, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Harvey M. Rodman, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This Certification is made by the authority of the State Medical Board of Ohio in its behalf.



Anand G. Garg, M.D.
Secretary

(SEAL)

November 13, 2002
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

HARVEY M. RODMAN, M.D.

*

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated April, 2002, notice was given to Harvey M. Rodman, M.D., that the State Medical Board proposed to deny his reinstatement application for a certificate to practice medicine and surgery; and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, on April 11, 2002, to the address of record of Dr. Rodman, that being 2053 Staunton Road, Cleveland Heights, OH 44118.

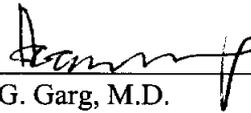
A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. A hearing request was received from Dr. Rodman; however, a Notice of Voluntary Dismissal has been filed with the Medical Board withdrawing Dr. Rodman's request to participate in an administrative hearing.

WHEREFORE, for the reasons outlined in the Notice of Opportunity for Hearing, which is attached hereto and incorporated herein, it is hereby ORDERED that Dr. Rodman's restoration application for a certificate to practice medicine and surgery in the State of Ohio be PERMANENTLY DENIED.

This Order shall become effective IMMEDIATELY.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 13th day of November 2002, and the original thereof shall be kept with said Journal.

(SEAL)



Anand G. Garg, M.D.
Secretary

November 13, 2002
Date

AFFIDAVIT

I, Debra Jones, being duly cautioned and sworn, do hereby depose and say:

- 1) That I am employed by the State Medical Board of Ohio (hereinafter, "The Board")
- 2) That I serve the Board in the position of Chief, Continuing Medical Education, Records, and Renewal;
- 3) That in such position I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code;
- 4) That I have this day carefully examined the records of the Board pertaining to Harvey M. Rodman, M.D.
- 5) That based on such examination, I have found the last known address of record of Harvey M. Rodman, M.D. to be:

2053 Staunton Road
Cleveland Heights, OH 44118

- 6) Further, Affiant Sayeth Naught.

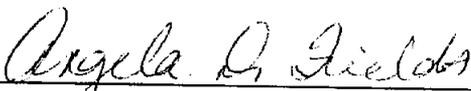


Debra L. Jones, Chief
Continuing Medical Education,
Records and Renewal

Sworn to and signed before me, Angela D. Fields, Notary
Public, this 30th day of October, 2002.



ANGELA D. FIELDS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 12/31/06



Notary Public

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 5141 7867

Postage	\$ 2.87
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.47



Recipient's Name (Please Print Clearly) (to be completed by mailer)
 Harvey M. Rodman, M.D.
 2053 Staunton Road
 Cleveland Heights, Ohio 44118

SENDER COMPLETE THIS SECTION

1. Article Addressed to:
 Harvey M. Rodman, M.D.
 2053 Staunton Road
 Cleveland Heights, Ohio 44118

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Gothe B. Date of Delivery 4-18-02
 C. Signature x Ugoche for H. Rodman
 Agent
 Addressee
 D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
 4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from service label) 7000 0600 0024 5141 7867

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

0600 0024 5141 7850

Postage	\$ 2.87
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.47



Recipient's Name (Please Print Clearly)
 Thomas W. Hess, Esq.
 Buckingham, Doolittle & Burroughs
 191 W. Nationwide Blvd.
 Suite 300
 Columbus, OH 43215

SENDER COMPLETE THIS SECTION

1. Article Addressed to:
 Thomas W. Hess, Esq.
 Buckingham, Doolittle & Burroughs
 W. Nationwide Blvd.
 Suite 300
 Columbus, OH 43215

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) Sherrri Marshall B. Date of Delivery
 C. Signature x Sherrri Marshall
 Agent
 Addressee
 D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
 4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from service label) 7000 0600 0024 5141 7850



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

April 10, 2002

Harvey M. Rodman, M.D.
2053 Staunton Road
Cleveland Heights, Ohio 44118

Dear Doctor Rodman:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about December 7, 2001, you filed an application for reinstatement of your certificate to practice medicine and surgery (hereinafter "Reinstatement Application") with the State Medical Board of Ohio. That Reinstatement Application is currently pending.
- (2) On or about March 7, 1986, you filed your first application for a certificate to practice medicine and surgery with the State Medical Board of Ohio.

On or about September 11, 1986, the Board entered an Order denying your application to practice medicine and surgery in the State of Ohio. The Board found that you had engaged in the unlicensed practice of medicine in the State of Ohio for approximately thirteen (13) years and that you had violated Sections 4731.22(B)(2), (3), (5), (8) and (16), Ohio Revised Code, as in effect at that time. Further, the Board found that based on your acts, conduct, or omissions, you lacked good moral character as required by Section 4731.08, Ohio Revised Code, for a certificate to be issued. A copy of the 1986 Entry of Order is attached hereto and incorporated herein.

- (3) On or about April 26, 1988, you filed your second application for a certificate to practice medicine and surgery with the State Medical Board of Ohio.

On or about December 7, 1988, the Board entered an Order finding that you had violated Sections 4731.22(B)(2), (3), (5), (8) and (16), Ohio Revised Code, and granting you a certificate to practice medicine in Ohio, subject to certain terms, conditions and limitations. The Order placed you on probation for ten (10) years and required that you

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continue psychiatric treatment. A copy of the 1988 Entry of Order is attached hereto and incorporated herein.

- (4) On or about December 6, 1989, the State Medical Board of Ohio entered an Order revoking your certificate to practice medicine in Ohio. The revocation was based on the Board's finding that you lied to the Board's psychiatric examiner regarding your professional and military history during a Board-ordered psychiatric evaluation conducted on October 19, 1988. The Board also found that you failed to disclose your lies at the December 1988 Board meeting, following your evaluation, and that you failed to disclose your actual military experience on either of your 1986 or 1988 applications. Further, the Board found that you violated Sections 4731.22(A) and 4731.22(B)(14). A copy of the 1989 Entry of Order is attached hereto and incorporated herein.
- (5) On or about October 19, 1993, you filed an application for restoration of your certificate to practice medicine and surgery with the State Medical Board of Ohio.

On or about April 18, 1995, the Board entered an Order denying your application for restoration of your certificate to practice medicine and surgery in the State of Ohio. The Board found that you had violated Sections 4731.22(A) and 4731.22(B)(5), Ohio Revised Code. The Board further found that you had violated Section 4731.22(B)(11), Ohio Revised Code, based upon your plea of guilty on or about January 15, 1987, in the Cuyahoga County Court of Common Pleas, to one misdemeanor count of violation of Section 4731.41, Practice of medicine or surgery without certificate. The Board further found that based on your acts, conduct, and/or omissions, you lacked good moral character as required by Section 4731.08, Ohio Revised Code, for a certificate to be issued. A copy of the 1995 Entry of Order is attached hereto and incorporated herein.

Your acts, conduct, and/or omissions underlying the Board Orders as alleged in paragraphs (2), (3), (4) and (5) above, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Section 4731.29, Ohio Revised Code, to wit: Section 4731.08, Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your plea of guilty or the judicial finding of guilt as alleged in paragraph (5) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

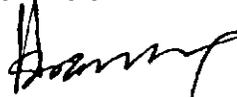
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/bjs
Enclosures

Harvey M. Rodman, M.D.

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**CERTIFIED MAIL # 7000 0600 0024 5141 7867
RETURN RECEIPT REQUESTED**

**Duplicate Mailing to: Thomas W. Hess, Esq.
Buckingham, Doolittle & Burroughs
191 W. Nationwide Blvd.
Suite 300
Columbus, OH 43215**

**CERTIFIED MAIL # 7000 0600 0024 5141 7850
RETURN RECEIPT REQUESTED**



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43260-0315 • (614) 466-3934

April 14, 1995

Harvey M. Rodman, M.D.
2053 Staunton Road
Cleveland Heights, Ohio 44118

Dear Doctor Rodman:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on April 12 and April 13, 1995, including a Motion approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Thomas E. Gretter, M.D.
Secretary

TEG:em
Enclosures

CERTIFIED MAIL RECEIPT NO. P 348 885 745
RETURN RECEIPT REQUESTED

cc: Susan L. Gragel, Esq.

CERTIFIED MAIL RECEIPT No. P 348 885 746
RETURN RECEIPT REQUESTED

Mailed 4-21-95



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on April 12 and April 13, 1995, including a Motion approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Harvey M. Rodman, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

(SEAL)

Thomas E. Gretter, M.D.
Secretary

4/18/95

Date



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-4934

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

HARVEY M. RODMAN, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 12th and 13th of April, 1995.

Upon the Report and Recommendation of R. Gregory Porter, Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on April 13, 1995, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that the application of Harvey M. Rodman, M. D., for a restoration of his license to practice medicine and surgery in Ohio by is DENIED.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board.

Thomas E. Gretter, M.D.
Secretary

(SEAL)

4/18/95

Date

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REPORT AND RECOMMENDATION
IN THE MATTER OF HARVEY M. RODMAN, M.D.

The Matter of Harvey M. Rodman, M.D., came on for hearing before me, R. Gregory Porter, Esq., Hearing Examiner for the State Medical Board of Ohio, on August 30, 1994.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated March 9, 1994, (State's Exhibit 1), the State Medical Board of Ohio notified Harvey M. Rodman, M.D., that it intended to determine whether to take disciplinary action against his application for restoration of his license to practice medicine and surgery in the State of Ohio, based upon the following allegations:
- (1) On or about October 19, 1993, Dr. Rodman applied to the Board for restoration of his license to practice medicine in the State of Ohio;
 - (2) Dr. Rodman had initially applied for a license on or about March 7, 1986;
 - (3) On or about September 11, 1986, the Board denied Dr. Rodman's initial request for licensure because Dr. Rodman had "engaged in the unlicensed practice of medicine in the State of Ohio for approximately 13 years," and because Dr. Rodman had engaged in conduct which constituted violations of Sections 4731.22(B)(2), (3), (5), (8), and (16), and Section 4731.08, Ohio Revised Code, as in effect at that time;
 - (4) On or about January 15, 1987, Dr. Rodman pled guilty to the practice of medicine without a certificate, a violation of Section 4731.41, Ohio Revised Code;
 - (5) Dr. Rodman submitted a second application for medical licensure on or about April 26, 1988;
 - (6) On or about December 7, 1988, the Board granted Dr. Rodman's application for licensure, subject to limitations and conditions, including continued psychiatric treatment; and
 - (7) On or about December 6, 1989, the Board revoked Dr. Rodman's license to practice medicine in Ohio based on the findings that Dr. Rodman had

STATE MEDICAL BOARD
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lied to the Board's psychiatric examiner, failed to disclose the lies at a subsequent Board meeting, and failed to disclose actual military experience on either his 1986 or his 1988 application for licensure.

The Board alleged that Dr. Rodman's acts, conduct, and/or omissions as alleged in paragraphs (3), (4), (6) and (7) above, individually and/or collectively, constituted a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code.

The Board further alleged that Dr. Rodman's acts, conduct, and/or omissions as alleged in paragraph (7) above, individually and/or collectively, constituted "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code, and "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Finally, the Board alleged that Dr. Rodman's acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constituted "(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

- B. By letter received by the Board on April 7, 1994, (State's Exhibit 2), Susan L. Gragel, Esq., requested a hearing on behalf of Dr. Rodman.

II. Appearances

- A. On behalf of the State of Ohio: Lee I. Fisher, Attorney General, by Ava S. Serrano, Assistant Attorney General.
- B. On behalf of Respondent: Susan L. Gragel, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
Harvey M. Rodman, M.D.

STATE MEDICAL BOARD
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B. Presented by the Respondent

The Respondent presented no testimony.

II. Exhibits Presented

In addition to State's Exhibit 2, noted above, the following exhibits were identified and admitted into evidence:

A. Presented the State

1. State's Exhibit 1: March 9, 1994, Notice of Opportunity for Hearing, with the following documents attached: the Board's December 16, 1988, Entry of Order; the Board's December 6, 1989, Entry of Order; the November 21, 1989, Report and Recommendation of the Hearing Examiner; and an excerpt of the December 6, 1989, Board meeting minutes pertaining to Dr. Rodman.
2. State's Exhibit 3: April 7, 1994, letter to Ms. Gragel from the Board, advising that a hearing had been set for April 21, 1994, but was postponed pursuant to Section 119.09, Ohio Revised Code.
3. State's Exhibit 4: April 11, 1994, letter to Ms. Gragel from the Board scheduling the hearing for August 30, 1994. (2 pp.)
4. State's Exhibit 5: Copy of Dr. Rodman's October 19, 1993, Application for Restoration - Medicine or Osteopathic Medicine. (24 pp.)
5. State's Exhibit 6: Copy of Journal Entry filed January 20, 1987, in the Court of Common Pleas, Cuyahoga County, in State of Ohio v. Harvey Rodman, Case No. CR-2212249, sentencing Dr. Rodman to imprisonment of sixty (60) days, suspended, a fine of one thousand (\$1000.00) dollars, and court costs, based upon his plea of guilty to the charge of Practice of Medicine without a Certificate, in violation of Section 4731.41, Ohio Revised Code.

B. Presented by the Respondent

1. Respondent's Exhibit A: A copy of an August 11, 1994, letter to the Board from Richard B. Corradi, M.D., providing an evaluation of Dr. Rodman's current psychiatric status.

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2. Respondent's Exhibit B: A copy of an August 22, 1994, letter to the Board from Robert W. Alcorn, M.D., providing an evaluation of Dr. Rodman's psychiatric status.
3. Respondent's Exhibit C: Respondent's Brief in Support of Application for Licensure Restoration.

C. Presented jointly by the parties

1. Joint Exhibit A: A copy of the 1986 hearing transcript.
2. Joint Exhibit B: A copy of Dr. Rodman's 1986 application for Ohio licensure.
3. Joint Exhibit C: Copies of character reference letters written on behalf of Dr. Rodman and submitted with his 1986 application for Ohio licensure.
4. Joint Exhibit D: A copy of the 1988 hearing transcript.
5. Joint Exhibit E: Copies of deposition transcripts admitted as exhibits in the 1988 hearing.
6. Joint Exhibit F: Copies of character reference letters written on behalf of Dr. Rodman and admitted as exhibits in the 1988 hearing.
7. Joint Exhibit G: Copies of selected exhibits from the 1988 hearing, including: the July 13, 1988, Notice of Opportunity for Hearing; an April 14, 1988, letter to the Board from Dr. Corradi; an April 22, 1988, letter to the Board from Dr. Rodman; Dr. Rodman's February 1988 license application (7 pp.); and the 1986 Report and Recommendation.
8. Joint Exhibit H: A copy of the 1989 hearing transcript.
9. Joint Exhibit I: Copies of selected exhibits from the 1989 hearing, including: the Notice of Opportunity for Hearing; the December 9, 1988, Entry of Order; Curriculum Vitae of Dr. Sokolov; the February 10, 1989, report of psychiatric evaluation of Dr. Rodman by Dr. Sokolov; excerpt from Dr. Rodman's 1988 application for licensure; curriculum vitae of Dr. Alcorn; Dr. Rodman's 1988 application for Ohio licensure; and an October 9, 1989, letter to Hearing Officer Sage re: Dr. Rodman's military record.

STATE MEDICAL BOARD
OF OHIO

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10. Joint Exhibit J: Copies of character reference letters written on behalf of Dr. Rodman and submitted with his 1993 application for Ohio licensure, including letters from the following persons: Neal S. Cherniack, M.D., Dean, Case Western Reserve University School of Medicine; Adel A. F. Mahmoud, M.D., Chairman and Physician-in-Chief, University Hospitals Department of Medicine; and Jonathan H. Lass, Case Western Reserve University Clarence I. Thomas Professor and Acting Chair, Department of Ophthalmology.
11. Joint Exhibit K: August 22, 1994, letter to the Assistant Attorney General from Respondent's counsel discussing exhibits.

D. Post-hearing Admissions to the Record

The following additional documents are hereby admitted to the record:

1. Board Exhibit A: The State's Post Hearing Brief in Response to Respondent's Brief in Support of Licensure Application, filed September 13, 1994.
2. Board Exhibit B: Respondent's Reply Brief, filed September 20, 1994.
3. Board Exhibit C: A copy of Section 2953.33, Ohio Revised Code.

PROCEDURAL MATTERS

- A. The hearing record was held open for three weeks in order to allow the State time to prepare and file a Brief in response to Respondent's Brief in Support of Application for Licensure Restoration, Respondent's Exhibit C, and, further, to allow Respondent time to prepare and file a Reply Brief, if necessary.
- B. Both parties waived the thirty (30) day recommendation for filing of the Hearing Examiner's Report and Recommendation after the close of the hearing record, pursuant to Rule 4731-13-15, Ohio Administrative Code.
- C. All transcripts and exhibits, whether or not specifically discussed in the Report and Recommendation, were thoroughly reviewed and considered by the Hearing Examiner prior to issuing his findings, conclusions, and recommendations in this Matter.

SUMMARY OF THE EVIDENCE

1. Harvey M. Rodman received his medical degree from Chicago Medical University in 1962. He then completed an internship, residency, and fellowship at Jewish Hospital and Medical Center in New York City in 1971. Dr. Rodman came to Ohio in 1971 as the National Institute of Health (NIH) trainee in endocrinology and metabolism at the Case Western Reserve University, University Hospitals of Cleveland. Dr. Rodman spent two years doing research in that capacity; as such, he did not require Ohio licensure at that time. (Transcripts of 1994 Hearing [1994 Tr.] at 30-32).
2. In 1973, the chairman at Case Western Reserve University, School of Medicine, offered Dr. Rodman an assistant professorship, which he accepted. At that time, Dr. Rodman started to execute the application forms for a certificate to practice medicine and surgery in Ohio. Dr. Rodman stated that he was unable to complete the application because a number of factors interfered. First, a colleague who had agreed to write a required recommendation left town and never wrote the recommendation. Then, Dr. Rodman was diagnosed as having Crohn's disease, a debilitating disease of the gastro-intestinal tract. Additionally, although Dr. Rodman had agreed to do only research in 1973, staffing problems necessitated his seeing patients. At about that time, Nobel Prize winner Frederick Robins asked Dr. Rodman to become the director of the Clinical Research Center and to prepare government grants, which he accepted. Finally, Dr. Rodman's wife disclosed to him that she was a lesbian and contemplated ending their marriage. For all of the above reasons, Dr. Rodman states he was unable to complete his application in 1973. (1994 Tr. at 32-35).
3. Dr. Rodman practiced medicine in the State of Ohio without a license from 1973 through 1986. (Joint Exhibit A, [1988 Tr.] at 22). Accordingly, Dr. Rodman held himself out to be a licensed physician for a period of approximately thirteen years. During that time, he accepted compensation for services which he knew he was not legally authorized to provide. (Joint Exhibit G, Dr. Rodman Letter). Moreover, in a curriculum vitae submitted to University Hospitals, Dr. Rodman falsely claimed that he was licensed to practice medicine in both Ohio and New York. Additionally, Dr. Rodman falsely represented to his chairman at University Hospitals that he held a D.E.A. registration number. Finally, Dr. Rodman prescribed controlled substances using a false and fictitious D.E.A. registration number. (Joint Exhibit G, 1986 R&R).
4. Dr. Rodman testified that from 1973 to 1980, administrators at University Hospitals asked Dr. Rodman if he had a valid license on two occasions. On both occasions, he said that he did; no one, during that time, asked Dr. Rodman to demonstrate proof of licensure. In 1981, however, the chairman asked

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- Dr. Rodman for proof of licensure. Dr. Rodman admitted he panicked when he realized his deception might be exposed. In his panic, Dr. Rodman took his fiancée's wallet registration card, without her knowledge, and temporarily substituted his name for hers. Dr. Rodman then presented the altered card to his chairman as proof of his Ohio licensure. (1994 Tr. at 35-36).
5. In 1980 or 1981, Dr. Rodman began treatment for depression with Richard B. Corradi, M.D. During the course of treatment, Dr. Corradi diagnosed Dr. Rodman as having a bipolar disorder, manic depression. (1994 Tr. at 48). Dr. Rodman states that the bipolar disorder influenced his failure to obtain licensure in 1973. (1994 Tr. at 48-50).
 6. Dr. Rodman's failure to obtain licensure was discovered in 1986. Dr. Rodman testified that he did not admit to his chairman at University Hospitals that he had never been licensed to practice medicine because he feared the embarrassment and humiliation likely to result from the disclosure. (1994 Tr. at 35-37).
 7. In 1986, Dr. Rodman submitted his first application for Ohio licensure to the Board. (1994 Tr. at 37). On August 28, 1996, the Board denied Dr. Rodman's application based upon its findings that Dr. Rodman had: (a) practiced medicine in Ohio without a license for approximately 13 years; (b) falsely represented to University Hospitals that he had obtained medical licensure; (c) falsely represented to University Hospitals that he was licensed in two states; (d) evidence of his Ohio licensure; and (e) utilized a fictitious DEA registration number to prescribe controlled substances for patients. (Joint Exhibit G, 1986 R&R).
 8. On January 15, 1987, the Cuyahoga County Court of Common Pleas sentenced Dr. Rodman on a plea of guilty to the misdemeanor offense of practicing medicine without a license, in violation of Section 4731.41. (State's Exhibit 6). Dr. Rodman's criminal record was later expunged. (Joint Exhibit D, 1988 Tr. at 37).
 9. Dr. Rodman submitted a second application for Ohio licensure in 1988. On July 13, 1988, the Board proposed to deny his application based upon allegations which included the unlicensed practice of medicine and various acts of fraud and/or misrepresentation. In order to determine whether to grant Dr. Rodman's application for licensure, the Board requested that Dr. Rodman undergo mental and physical examination pursuant to Section 4731.22(B)(19), Ohio Revised Code. On October 6, 1988, the Board held hearings on the allegations. (Joint Exhibit I, 1988 R&R). Shortly thereafter, on October 19, 1988, Dr. Rodman reported to Howard H. Sokolov, M.D., for the Board-ordered psychiatric evaluation. (Joint Exhibit I, Report of Dr. Sokolov).

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10. At the October 6, 1988, hearing on the Board's proposal to deny Dr. Rodman's application for Ohio licensure, the Assistant Attorney General asked Dr. Rodman whether his deceitful behavior was likely to occur in the future. Dr. Rodman answered that it would not. He stated that he now knew that the behavior was wrong. He had been severely punished for the behavior. He had been deprived of his life's work, and his family had suffered humiliation and negative media attention. Moreover, he had undergone psychotherapy in order to control the self-destructive behavior, and had studied ethics to become more sensitive to the interests of others. Finally, he was a different person since he was free of the fear of being discovered. (1988 Tr. at 38-40).
11. The Hearing Examiner issued a Report and Recommendation on October 31, 1988. The Board met on December 7, 1988, to consider the Report and Recommendation. (Joint Exhibit I, Entry of Order, December 9, 1988). This meeting occurred prior to the issuance of Dr. Sokolov's report on Dr. Rodman's psychiatric evaluation. Accordingly, the Board was unaware, at the time of the meeting, of the problems that would develop as a result of Dr. Rodman's psychiatric evaluation.
12. Dr. Rodman appeared at the December 7, 1988, meeting and addressed the Board. Although Dr. Rodman expressed remorse for his actions surrounding the practice of medicine without a license, he did not in any way reveal the substance of or refer to his statements to Dr. Sokolov. (Joint Exhibit I, 1988 R&R, at 6-7).
13. Pursuant to the Board meeting, on December 9, 1988, the Board ordered that a license to practice medicine or surgery be issued to Dr. Rodman, subject to certain probationary terms, conditions, and limitations. (Joint Exhibit I, Entry of Order, December 9, 1988). The Board's Findings of Fact and Conclusions indicated that its decision was based upon evidence which demonstrated that: (1) Dr. Rodman's original failure to apply for license, and the illegal and fraudulent acts he had committed to avoid disclosure of his unlicensed practice were likely attributable to his then undiagnosed bipolar disorder; (2) Dr. Rodman's bipolar disorder had since been diagnosed and controlled with Lithium; (3) both the treatment of Dr. Rodman's disorder and his remorse for his past acts suggested that similar moral lapses were unlikely to recur; (4) Dr. Rodman had voluntarily attended an ethics course and had maintained a high level of continuing medical education; and (5) neither Dr. Rodman's patient care nor his conduct with regard to events unrelated to his unlicensed practice had ever been called into question. (Joint Exhibit I, 1988 R&R).
14. On February 10, 1989, Dr. Sokolov submitted his report of Dr. Rodman's psychiatric evaluation to the Board. (Joint Exhibit I). The report noted that on October 19, 1988, Dr. Rodman reported to Dr. Sokolov for his psychiatric examination. (1989 Tr. at 24). In detailing his past history, Dr. Rodman indicated

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to Dr. Sokolov that his residency training had been interrupted by his induction into the Air Force in 1968. Dr. Rodman stated that he had been assigned to the Army and had served for one year in Vietnam. (1989 Tr. at 30). Dr. Rodman described his Vietnam experience in great detail, and further indicated that, after his return from Vietnam, he had been sent to Walter Reed Hospital for a one year residency training program. Dr. Rodman indicated that he had been released from the military early to finish his residency. Dr. Rodman told Dr. Sokolov that he still dreamed of his Vietnam experiences. (Joint Exhibit I, Report of Dr. Sokolov, at 13-14).

During the process of preparing his report for the Board, Dr. Sokolov discovered that the two years of military service reflected in his clinical notes were not contained in Dr. Rodman's applications for licensure. (1989 Tr. at 27-30). Dr. Sokolov confronted Dr. Rodman on January 24, 1989. Dr. Rodman admitted that he had lied to Dr. Sokolov about his military service. He further admitted that he had never served in Vietnam and that he had never trained or served at Walter Reed Hospital. When Dr. Sokolov asked Dr. Rodman why he had talked about Vietnam and his experiences there, Dr. Rodman responded, "It just came to my head." When Dr. Sokolov asked Dr. Rodman why he would fabricate such stories on this examination, Dr. Rodman responded that he had believed Dr. Sokolov had been looking for reasons to keep Dr. Rodman from going back to medical practice. He stated that Dr. Sokolov had appeared to focus on his overweight condition and he had thought that telling Dr. Sokolov about his medical discharge for phlebitis would contribute to Dr. Sokolov's seeing him as medically unfit to practice. (Tr. at 33-34).

When Dr. Sokolov checked his notes after this conversation, he discovered that no mention of Dr. Rodman's overweight had been made prior to Dr. Rodman's relating the Vietnam-Walter Reed Hospital experiences; his weight problems had been mentioned only later in the discussion in relation to Dr. Rodman's Lithium treatments. (Joint Exhibit I, Report of Dr. Sokolov, at 13-14; Tr. at 33-34).

15. In fact, Dr. Rodman had been ordered to active duty with the Air Force as of September 4, 1968, and had been sent to Fort Sam Houston, Texas, for orientation. There, he had been given a medical release due to a previous phlebitis condition. He subsequently received a medical discharge. (Joint Exhibit I, Armed Services Discharge).
16. Neither of the resumes contained in Dr. Rodman's 1986 and 1988 applications for Ohio licensure reveals the two-month, eleven-day military service. (1989 Tr. at 107-108). The resume portion of the 1986 application contains an explicit request to "ACCOUNT FOR ALL TIME, WORKING AND NON-WORKING, BY MONTH AND YEAR IN ALL COUNTRIES. Explain what you were doing FOR all non

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(Joint Exhibit B, 1986)

working time" since medical school graduation. (Joint Exhibit B, 1986 Application). The 1988 application asked an applicant to "ENTER NAME OF HOSPITAL UNIVERSITY/WHERE TRAINED OR EMPLOYED, OR OTHER WORKING OR NON-WORKING ACTIVITY." (Joint Exhibit G, 1988 Application) (underlining added). Furthermore, in connection with the 1988 application, Dr. Rodman signed and swore to an Affidavit averring the truth and accuracy of all information furnished with his application. (Joint Exhibit G, 1988 Application).

Significantly, the Board has previously determined that Dr. Rodman's failure to list the dates of his military service on either the 1986 or the 1988 application for licensure constituted "'fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board' as that term is used in Section 4731.22(A), Ohio Revised Code." (State's Exhibit 1, 1989 R&R). The Board further concluded that Dr. Rodman's conduct constituted "'commission of an act that constitutes a misdemeanor in this state [falsification] . . . if the act involves moral turpitude,' as that clause is used in Section 4731.22(B)(14), Ohio Revised Code." (State's Exhibit 1, 1989 R&R).

17. On March 3, 1989, the Board notified Dr. Rodman that it was considering taking disciplinary action against his certificate to practice medicine or surgery in Ohio based on his misrepresentations to Dr. Sokolov regarding his Vietnam and Walter Reed Hospital experiences. The Board alleged that Dr. Rodman (1) did not tell the Board at its December 6, 1988, meeting of his misrepresentations to Dr. Sokolov; (2) admitted that he had lied when confronted by Dr. Sokolov on January 12, 1989, and (3) failed to show his military service on the resume portions of his 1986 and 1988 applications for licensure. (State's Exhibit 1, 1989 R&R).
18. At the 1989 hearing, Dr. Sokolov appeared on behalf of the State. He testified that Dr. Rodman had "significant personality disturbances" which were demonstrated by his fabrications. He further testified that these problems had not been resolved, but were "alive and active." (1989 Tr. at 41).

In his report of the evaluation, Dr. Sokolov wrote that Dr. Rodman demonstrated an underlying pattern of personality disorder traits. He further testified that Dr. Rodman had problems telling the truth under pressure, and problems covering up potential deficits, which represented a continuation of major character pathology. (Joint Exhibit I, Report of Dr. Sokolov, at 16-18). Dr. Sokolov recommended that Dr. Rodman's licensure be postponed "until he is able to demonstrate, if possible, improvement in his condition. This type of improvement may be assisted by intensive psychotherapy over an extensive period of time. (Joint Exhibit I, Report of Dr. Sokolov, at 18) (emphasis added).

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Dr. Alcorn testified at the 1989 hearing on behalf of Dr. Rodman. He stated that Dr. Rodman had "some problematic character traits which did not rise to the level of a personality disorder." He further testified that Dr. Rodman's problems included chronic depression, narcissistic and self-defeating traits, and problems with low self esteem. Dr. Alcorn noted, however, that Dr. Rodman's problems were not "so pathological" as to warrant a diagnosis of personality disorder. (1989 Tr. at 79-85).

19. After the hearing, the Board adopted the Report and Recommendation of the Hearing Examiner, which found that Dr. Rodman had violated Sections 4731.22(A), and (B)(14), Ohio Revised Code. Based on the testimony of Drs. Sokolov and Alcorn, the Hearing Examiner concluded that Dr. Rodman's conduct demonstrated "manifestations of significant personality disorder traits," but that his bipolar disease had been in remission for a number of years. (State's Exhibit 1, 1989 R&R, at 11).

The Hearing Examiner further found that

Dr. Rodman's past and present acts strongly suggest that he is unwilling or unable to comply with the requirements of this Board, which is vested by the Legislature with the authority and responsibility for licensure and regulation of physicians in this State. This Board has in the past given Dr. Rodman the 'benefit of the doubt.' Despite Dr. Rodman's unlicensed practice and his fraudulent and illegal acts to avoid disclosure of such practice, this Board denied his 1986 application without prohibition against his reapplication. In 1988, when he reapplied, the Board accepted the possibility that his previous highly irregular behavior might have been caused by his since-controlled bipolar disorder, and granted him a license subject to certain conditions and limitations. However, the testimony and evidence presented in the present Matter firmly established that Dr. Rodman's fabrications to Dr. Sokolov in 1988 cannot be attributed to or excused by either his Lithium-controlled bipolar disorder or other mental disorder. Further, in view of Dr. Rodman's repeated falsification in matters relating to his medical licensure, this Board cannot be assured that similar acts would not occur in the future. Even if Dr. Rodman were to submit to intensive psychotherapy and supervision of his practice, there would seem to be no effective means to assess improvement or to monitor compliance when the problem is one of basic integrity. Regardless of Dr. Rodman's technical competence, his repeated attempts to thwart the requirements of this regulatory Board must be regarded as evidence of his unfitness for medical licensure in this State. (State's Exhibit 1, R&R, at 11).

20. The Board discussed the Hearing Examiner's Report and Recommendation at its December 6, 1989, meeting. Some members of the Board suggested that

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Dr. Rodman's problems could be viewed as symptoms of his underlying illness, thereby rendering Dr. Rodman an impaired physician. As an impaired physician, these members suggested, Dr. Rodman should be given the same opportunity to seek treatment as would be given a drug addict or an alcoholic. Other members viewed Dr. Rodman's problems as character flaws, and stressed the importance of honesty in the practice of medicine. These members noted that other physicians had come before the Board having lied only on one occasion, or having committed a single criminal act, and that those physicians had had their licenses revoked. The Board decided to revoke Dr. Rodman's license to practice medicine, after considering that this case involved not just a one time occurrence, but a history of falsehoods, including fourteen years of practicing medicine with out a license, and multiple other fabrications. (State's Exhibit 1, December 6, 1989, Board meeting minutes).

21. Since 1989, Dr. Rodman has undergone intensive bi-weekly psychotherapy with Dr. Richard Corradi. (Respondent's Exhibit C at 14). In an August 11, 1994, letter to the Board, Dr. Corradi stated:

[Dr. Rodman's] bipolar illness has been in excellent control with intermittent use of psychotropic medication and he has not suffered a major affective episode for many years

Additionally, Dr. Rodman has addressed his self-defeating personality traits in regular bi-weekly psychotherapy sessions It was those traits, initially intensified by his untreated affective disorder that manifested themselves in his initial failure to obtain medical licensure and in his subsequent loss of licensure. He has gained significant insight into these personal dynamics and the stresses that are prone to activate them. . . . These traits have never impaired his functioning as a physician nor do they constitute a global character flaw. Dr. Rodman was and would be again an extremely conscientious and caring physician.

In my judgment, Dr. Rodman's psychotherapy has addressed and helped him to manage the personal issues that resulted in his untruthfulness to the Board. I believe that he is suitable for licensure and recommend his reinstatement. (Respondent's Exhibit A).

22. Dr. Rodman was also recently evaluated by Dr. Alcorn. In an August 15, 1994, letter to the Board, Dr. Alcorn wrote that Dr. Rodman does "not have a personality disorder which is likely to cause him to act in an unethical way in regard to patient care, research, or the handling of funds." (Respondent's Exhibit B).

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23. Dr. Rodman was certified by the National Board of Internal Medicine in 1971, and by the American Board of Endocrinology in 1972. Dr. Rodman passed recertification examinations issued by both Boards in 1987. He has completed many hours of graduate and undergraduate courses at Cleveland State University. Additionally, since 1989, Dr. Rodman has completed at least 100 hours in Category I and 70 hours in Category II Continuing Medical Education. (Respondent's Exhibit C at 15) .
24. Dr. Rodman has been before the Board four times since 1986. In each of his appearances, Dr. Rodman received significant support from physicians, patients, and former students; all expressed the highest praise for Dr. Rodman's interpersonal integrity, patient care, and clinical skills.

LEGAL ISSUES

1. In its March 9, 1994, Notice of Opportunity for Hearing, the Board alleged that Dr. Rodman's conduct constituted a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code. Respondent appears to argue that unless the Board finds he committed an act of moral turpitude, the Board can not discipline his license upon the basis that he lacks good moral character because such action would result in the application of a standard which is unconstitutional due to vagueness.

In support of this argument, Respondent cites Konigsberg v. State Bar (1957), 353 U.S. 252, and concludes that "Justice Black held that 'good moral character' must be defined as 'an absence of proven conduct or acts which have been historically considered as manifestations of moral turpitude.'" This is a blatant misrepresentation of the holding in that case. Moreover, in the passage quoted by Respondent, Justice Black merely notes that California courts have defined good moral character as "the absence of proven conduct or acts which have been historically considered as manifestations of 'moral turpitude'." Id. at 263. The Court continued, however, to give examples of conduct a California court, applying their narrow definition of "good moral character," would have considered to be acts of moral turpitude. The Court mentioned one who had been "convicted of forgery and had practiced law without a license, or who had obtained money by false representations and had committed fraud upon a court or who had submitted false affidavits to the Committee along with his application for admission." Id. Therefore, even if Ohio's definition of good moral character is limited to "the absence of acts of moral turpitude", the conduct of Dr. Rodman would clearly be excluded.

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Nevertheless, contrary to Respondent's contentions, Konigsberg in no way limits the definition of good moral character to the absence of moral turpitude. The Konigsberg Court rejected California's narrow definition, and, instead, applied a broader definition of good moral character. The Court applied a definition based on whether "a reasonable man could fairly find that there was substantial doubt about [the applicant's] 'honesty, fairness and respect for the rights of others and for the laws of the state and nation.'" Id. at 264. Therefore, the Court not only upheld the good moral character standard for judging a professional's fitness for licensure, but also applied a broad definition, not limited to acts of moral turpitude.

2. Dr. Rodman also argues that the Board can not find a violation of Section 4731.22(B)(11), Ohio Revised Code, based on his conviction for practicing medicine without a certificate, because Dr. Rodman's criminal record has since been expunged. (See Respondent's Exhibit C at 32). In making his argument, Respondent cites an inappropriate section of the Revised Code. Section 2953.33, Ohio Revised Code, governs a person's rights after expungement. Section 2953.33(B) states that "[i]n any application for . . . a license, . . . a person may be questioned only with respect to convictions not sealed, . . . unless the question bears a direct and substantial relationship to the position for which the person is being considered." Clearly, a conviction of practicing medicine without a license, in violation of Section 4731.41, has a direct relationship to Dr. Rodman's ability to follow the guidelines of the Ohio Medical Practices Act. Therefore, the Board is not precluded from considering his expunged criminal record. See In re Niehaus (1989), 62 Ohio App.3d 89; Friendly Drugs v. Ohio St. Bd. of Pharmacy (1985), 27 Ohio App.3d 32.

FINDINGS OF FACT

1. Dr. Rodman practiced medicine in the State of Ohio without a license from 1973 through 1986. Accordingly, Dr. Rodman held himself out to be a licensed physician for a period of approximately thirteen (13) years. He accepted compensation for services which he knew he was not legally authorized to provide. In a curriculum vitae submitted to University Hospitals of Cleveland, Dr. Rodman falsely claimed that he was licensed to practice medicine in both Ohio and New York. Moreover, Dr. Rodman falsely represented to the University Hospitals that he held a valid D.E.A. registration number, and he prescribed controlled substances using a false and fictitious D.E.A. registration number.
2. Dr. Rodman first applied to the Board for medical licensure in 1986. The Board denied his application due to his practice of medicine without a license from 1973 through 1986.

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3. On January 15, 1987, Dr. Rodman was sentenced on a plea of guilty to the misdemeanor offense of practicing medicine without a license, in violation of Section 4731.41, Ohio Revised Code.
4. Dr. Rodman reapplied for Ohio Licensure on April 26, 1988. As part of that application process, Dr. Rodman reported to Dr. Sokolov for psychiatric evaluation. In detailing his history to Dr. Sokolov, Dr. Rodman fabricated a tour of duty in Vietnam and a year of residency training at Walter Reed Hospital. Dr. Sokolov discovered and reported to the Board that Dr. Rodman had lied to Dr. Sokolov about his military service. Dr. Rodman later admitted that he had never served in Vietnam and that he had never trained or served at Walter Reed Hospital. Prior to receiving Dr. Sokolov's report, the Board had granted Dr. Rodman's license to practice with certain probationary conditions.
5. On December 6, 1989, the Board issued an order revoking Dr. Rodman's license to practice medicine based on Dr. Rodman's: (a) lie to Dr. Sokolov about his military experiences, (b) failure to tell the Board at the December 6, 1988, Board meeting of his misrepresentations to Dr. Sokolov; and (c) failure to show his military service on the resume portions of his 1986 and 1988 applications for licensure.

CONCLUSIONS

1. The acts, conduct, and/or omissions of Dr. Rodman, as set forth in Findings of Fact #1 through #5, above, constituted "a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code."
2. The acts, conduct, and/or omissions of Dr. Rodman, as set forth in Finding of Fact #5, above, constituted "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.
3. The acts, conduct, and/or omissions of Dr. Rodman, as set forth in Finding of Fact #5, above, constituted "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.
4. Finally, the conduct of Dr. Rodman, as set forth in Finding of Fact #3, above, constituted "(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

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Dr. Rodman engaged in a pattern of fraudulent conduct over a number of years. There is no evidence that Dr. Rodman's conduct effected his patient care or directly harmed any patients. However, it is difficult to assess the full impact of Dr. Rodman's behavior, because Dr. Rodman was able to deceive not only the Board, his patients, and his employers, but also the people most likely to know him well, his wife and two psychiatrists.

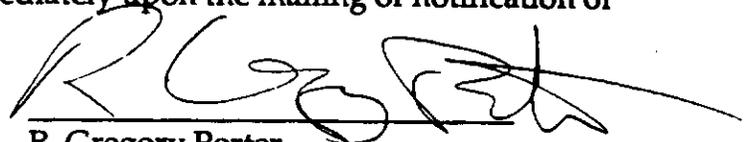
It is significant that Dr. Rodman's "self-defeating" lie to Dr. Sokolov was made less than two weeks after Dr. Rodman avowed that his deceitful behavior was not likely to occur in the future. On October 6, 1988, Dr. Rodman testified that he had learned his lesson. He had been severely punished. He had undergone years of psychotherapy to control his self-destructive behavior. He had even studied ethics, and learned to become more sensitive to the interests of others. Finally, Dr. Rodman testified that he was a different person since he was free of the fear of being discovered. Nevertheless, thirteen days later, on October 19, 1988, Dr. Rodman fabricated significant portions of his personal history during a Board-ordered psychiatric evaluation.

As reasoned by the hearing examiner in 1989, "[t]here would seem to be no effective means to assess improvement or to monitor compliance when the problem is one of basic integrity. Regardless of Dr. Rodman's technical competence, his repeated attempts to thwart the requirements of this regulatory Board must be regarded as evidence of his unfitness for medical licensure in this State." Dr. Rodman has not offered the Board sufficient reason to find otherwise at this time.

PROPOSED ORDER

It is hereby ORDERED that the application of Harvey M. Rodman, M. D., for a restoration of his license to practice medicine and surgery in Ohio by is DENIED.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board.



R. Gregory Porter
Attorney Hearing Examiner



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE DRAFT MINUTES OF APRIL 12, 1995

REPORTS AND RECOMMENDATIONS

Dr. Garg announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Garg asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Sheila A. Barnes, D.O.; Stanley E. Broadnax, M.D.; Kwok Wei Chan, M.D.; Frank DiBenedetto, D.O.; Naba Goswami, M.D.; Sam Hill, D.O.; Don R. Johnson, M.D.; William Patrick Mooney, D.O.; Harvey M. Rodman, M.D.; Kevin Smith, P.A.; And Steve Shu-Tzu Young, M.D. A roll call was taken:

Dr. Garg asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Heidt	- aye
	Dr. Steinbergh	- aye
	Dr. Garg	- aye

In accordance with the provision in Section 4731.22(C)(1), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of this matter. Carla S. O'Day, M.D., was the Secretary involved in supervision of the cases under consideration this date.

.....
REPORT AND RECOMMENDATION IN THE MATTER OF HARVEY M. RODMAN, M.D.
.....

DR. HEIDT MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF HARVEY M. RODMAN, M.D. MR. SINNOTT SECONDED THE MOTION.

.....
April 13, 1995
.....

A vote was taken on Dr. Heidt's motion to approve and confirm:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Stienecker	- nay
	Dr. Gretter	- nay
	Dr. Agresta	- nay
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Heidt	- nay
	Dr. Steinbergh	- aye
	Dr. Garg	- aye

The motion carried.



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

March 9, 1994

Harvey M. Rodman, M.D.
2053 Staunton Road
Cleveland Heights, OH 44118

Dear Doctor Rodman:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about October 19, 1993, you submitted an application for restoration of your medical license to the State Medical Board of Ohio.
- (2) On or about March 7, 1986, you applied for licensure with the State Medical Board of Ohio for the first time.
- (3) On or about September 11, 1986, the State Medical Board of Ohio entered an Order denying your application to practice medicine and surgery in the State of Ohio. The Board found that you had engaged in the unlicensed practice of medicine in the State of Ohio for approximately 13 years. The Board also found that you had violated Ohio Revised Code Sections 4731.22(B)(2), (3), (5), (8) and (16), as in effect at that time. Further, the Board also found that based on your acts, conduct, or omissions you lacked good moral character as required by Ohio Revised Code Section 4731.08, for a certificate to be issued. A copy of the Entry of Order is attached hereto and fully incorporated herein.
- (4) On or about January 15, 1987, you entered a Plea of Guilty to the Practice of Medicine Without a Certificate, Ohio Revised Code Section 4731.41, in the Cuyahoga County Court of Common Pleas.
- (5) On or about April 26, 1988, you again submitted an application for medical licensure to the State Medical Board of Ohio.

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March 9, 1994

- (6) On or about December 7, 1988, the State Medical Board of Ohio entered an Order granting your application to practice medicine in Ohio, subject to certain terms, conditions and limitations. The Order placed you on probation for 10 years and required that you continue psychiatric treatment. A copy of the Entry of Order is attached hereto and fully incorporated herein.
- (7) On or about December 6, 1989, the State Medical Board Ohio entered an Order revoking your license to practice medicine in Ohio. The Revocation was based on the finding that you lied to the Board's psychiatric examiner regarding your professional and military history during the Board ordered psychiatric evaluation conducted on October 19, 1988. The Board also found that you failed to disclose your lies at the December 1988 Board meeting, following your examination, and that you failed to disclose your actual military experience on either of your 1986 or 1988 applications. Copies of the Entry of Order and Report and Recommendation are attached hereto and fully incorporated herein.

Your acts, conduct, and/or omissions as alleged in paragraphs (3), (4), (6) and (7) above, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (7) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (7) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

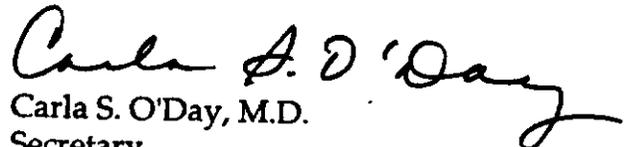
March 9, 1994

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,


Carla S. O'Day, M.D.
Secretary

CSO:jmb

Enclosures:

CERTIFIED MAIL #P 348 885 075
RETURN RECEIPT REQUESTED

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO ^{BOARD} MEDICAL BOARD OF OHIO

Harvey Rodman, M.D.,

M 3 00

91 OCT 15 PM 3:00

Appellant,

:

- vs -

: Case No. 90CVF01-45

State Medical Board for Ohio,

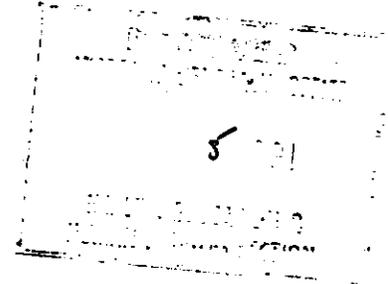
: Judge David L. Johnson

Appellee.

:

DECISION

FILED
OCT 11 11:57 AM '91
CLERK OF COURTS



Rendered this ____ day of October, 1991.

Johnson, David L., J.

This matter comes before the Court pursuant to appeal authorized by R.C. 119.12. Appellant, Harvey Rodman, M.D. has lost his license to practice medicine by order of the State of Ohio Medical Board.

The State Medical Board (the Board) by Entry of Order dated 11 December, 1989 adopted its hearing officer's report and recommendation; the Board revoked the Appellant's license to practice medicine. The report and recommendation by the hearing officer determined that the Appellant engaged in acts which constituted fraud, misrepresentation or deception in matters relating to his licensure including false statements made during the Board-ordered psychiatric examination.

The record is clear that Appellant did give fictitious statements to the examining psychiatrist, Dr Sokolov, in which he described his tour of duty in Viet Nam, elaborating upon his experience; describing weather conditions; describing his feelings

about the conflict to include specifics of combat experiences. The Appellant further elaborated falsely upon his experience at Walter Reed Medical Hospital where he had claimed he trained for one year. The Appellant did not serve in Viet Nam or Walter Reed. The Appellant served in the United States Air Force for two years and eleven days before he was honorably discharged for medical reasons.

This was not Dr. Rodman's first contact with the Board. During previous contacts it was determined that Dr. Rodman had practiced medicine in Ohio without a license for about thirteen years; he had falsely represented to certain hospitals that he had obtained medical licensure; he had falsely claimed that he was licensed in two states; he had used a forged wallet card as evidence of his licensure in Ohio and he had used a fictitious DEA registration number to prescribe controlled substances for his patients.

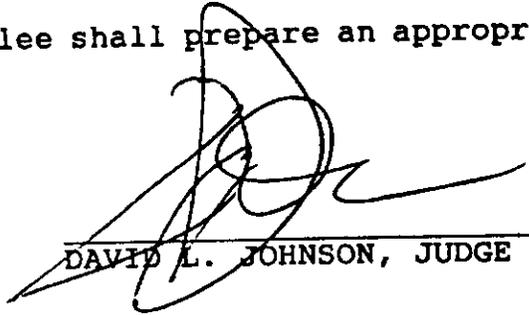
Although the penalty imposed in this case is extremely serious it is not this Court's province to weigh the penalty when there is reliable, substantial and probative evidence to support the Board's findings and sanctions. Henry's Cafe v. Board of Liquor Control (1959), 110 Ohio St. 223. Ohio State Board of Pharmacy v. Poppe (1988), 48 Ohio App. 3d 222.

The Court finds there is no merit in the Appellant's contention that the hearing officer was prejudiced against him.

In viewing this case in the totality of its circumstances

the Court concludes that the Board's Decision is supported by reliable, probative and substantial evidence and in accordance with law; it is therefore AFFIRMED.

Counsel for Appellee shall prepare an appropriate entry.



DAVID L. JOHNSON, JUDGE

Copies to:

Susan L. Gragel, Mark Foley, Attorneys for Appellant

Lisa Sostis, Assist. Atty. General, Atty. for Appellee

STATE OF OHIO
THE STATE MEDICAL BOARD
77 South High Street
17th Floor
Columbus, Ohio 43266-0315

(614)466-3934

December 8, 1989

Harvey M. Rodman, M.D.
2053 Staunton Road
Cleveland Heights, Ohio 44118

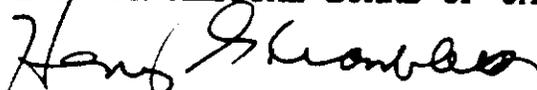
Dear Doctor Rodman:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on December 6, 1989, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO



Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 055 327 439
RETURN RECEIPT REQUESTED

CC: SUSAN L. GRAGEL, ESQ.

CERTIFIED MAIL RECEIPT NO. P 055 327 440
RETURN RECEIPT REQUESTED

Mailed December 21, 1989

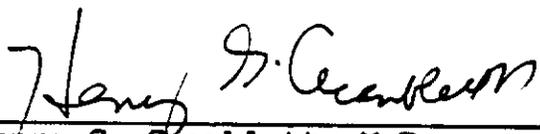
STATE OF OHIO
STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on December 6, 1989, including Motions approving and confirming the Findings of Fact and Proposed Order of the Hearing Examiner, and amending Conclusions of Law, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Harvey M. Rodman, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

(SEAL)



Henry G. Cramblett, M.D.
Secretary

12/11/89

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

★

★

HARVEY M. RODMAN, M.D.

★

ENTRY OF ORDER

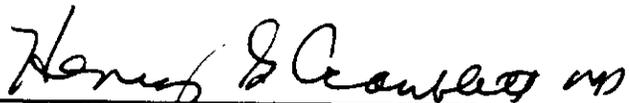
This matter came on for consideration before the State Medical Board of Ohio the 6th day of December, 1989.

Upon the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board for the above date.

It is hereby ORDERED that the certificate of Harvey M. Rodman, M.D., to practice medicine and surgery in the State of Ohio shall be and is hereby REVOKED.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

(SEAL)


Henry G. Cramblett, M.D.
Secretary

12/11/89
Date

REPORT AND RECOMMENDATION
IN THE MATTER OF HARVEY M. RODMAN, M.D.

The Matter of Harvey M. Rodman, M.D., came on for hearing before me, Wanita J. Sage, Esq., Hearing Examiner for the State Medical Board of Ohio, on August 31, 1989.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

A. By letter dated March 8, 1989 (State's Exhibit #5), the State Medical Board notified Harvey M. Rodman, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board alleged that, during the course of a Board-ordered psychiatric examination by Dr. Howard H. Sokolov on or about October 19, 1988, Dr. Rodman related that he had been inducted into the United States Air Force, had spent a year in Vietnam, had completed his tour of duty in an internal medicine residency at Walter Reed Hospital, and occasionally still dreamed about his Vietnam experience. Although Dr. Rodman addressed the State Medical Board on December 7, 1988, prior to its decision to grant him a license, he did not disclose or refer to his statements to Dr. Sokolov. However, upon confrontation by Dr. Sokolov on or about January 24, 1989, Dr. Rodman admitted that he had never served in Vietnam, had never trained or served at Walter Reed Hospital, and had lied about those experiences. He indicated that he had instead been inducted into the U.S. Army in 1969, had been sent to Ft. Sam Houston, Texas, for orientation, had been medically discharged due to a previous phlebitis condition, and had believed that revealing such discharge to Dr. Sokolov would contribute to his being seen as medically unfit to practice. The Board further alleged that Dr. Rodman had failed to indicate on the resume portions of his 1986 and 1988 applications for licensure that he had spent time in the military service since medical school graduation. Dr. Rodman's acts and/or omissions were alleged to constitute:

1. "Fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board", as that term is used in Section 4731.22(A), Ohio Revised Code; and/or
2. "Commission of an act that constitutes a misdemeanor in this state...if the act involves moral turpitude", as that clause is used in Section 4731.22(B)(14), Ohio Revised Code, to wit: Section 2921.13, Ohio Revised Code, Falsification.

STATE MEDICAL BOARD

Wanita J. Sage, Esq.

STATE MEDICAL BOARD

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It was further alleged that the information, impressions, and diagnoses formulated pursuant to the examination ordered by the State Medical Board, suggested that Dr. Rodman was unable "to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills", as that clause is used in Section 4731.22(8)(19), Ohio Revised Code.

Dr. Rodman was advised of his right to request a hearing in this Matter.

- B. By letter dated April 3, 1989 (State's Exhibit #4), Susan L. Gragel, Esq., requested a hearing on behalf of Dr. Rodman.

II. Appearances

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by Rachel L. Belenker, Assistant Attorney General
- B. On behalf of the Respondent: Susan L. Gragel, Esq.

III. Testimony Heard

- A. Presented by the State
1. Howard H. Sokolov, M.D.
- B. Presented by the Respondent
1. Robert L. Alcorn, M.D.
 2. Harvey M. Rodman, M.D.

IV. Exhibits Examined

In addition to those listed above, the following exhibits were identified and admitted into evidence in this Matter:

- A. Presented by the State
1. State's Exhibit #1: August 15, 1989, letter to Susan L. Gragel, Esq., from the State Medical Board rescheduling the hearing for August 31, 1989.
 2. State's Exhibit #2: June 20, 1989, letter to Attorney Gragel from the State Medical Board scheduling the hearing for August 24, 1989.

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REPORT AND RECOMMENDATION

3. State's Exhibit #3: April 5, 1989, letter to Attorney Gragel from the State Medical Board advising that a hearing initially set for April 18, 1989, was postponed pursuant to Section 119.09, Ohio Revised Code.
 4. State's Exhibit #6: Respondent's August 15, 1989, Motion to Recuse Hearing Officer with supporting Affidavit.
 5. State's Exhibit #7: August 16, 1989, Entry of this Hearing Examiner denying Respondent's Motion to Recuse Hearing Officer.
 6. State's Exhibit #8: Documents pertaining to the Board's 1988 Order with regard to Dr. Rodman, consisting of: December 9, 1988, letter to Dr. Rodman advising of the Board's action and of Dr. Rodman's right to appeal; December 16, 1988, Certification; December 16, 1988, Entry of Order; October 31, 1988, Report and Recommendation; and excerpt from the minutes of the December 7, 1988, Board meeting.
 7. State's Exhibit #9: Curriculum vitae of Howard H. Sokolov, M.D.
 8. State's Exhibit #10: Report of Dr. Howard H. Sokolov's psychiatric evaluation of Dr. Rodman.
 9. State's Exhibit #11: Resume portion of Dr. Rodman's 1988 Licensure application.
 10. State's Exhibit #12: Resume portion of Dr. Rodman's 1986 Licensure application.
 11. State's Exhibit #13: Transcript of State Medical Board hearings held on June 17 and June 18, 1986, in the Matter of Harvey M. Rodman, M.D.
- B. Presented by the Respondent
1. Respondent's Exhibit A: Curriculum vitae of Robert W. Alcorn, M.D.
 2. Respondent's Exhibit B: Documents pertaining to Dr. Rodman's 1988 application for medical licensure, including: Request for Application Forms; Additional Information form; Certificate of Post-Graduate Training at Jewish Hospital of Brooklyn from July 1, 1966 to June 30, 1971; Affidavit and Release signed and sworn to by Dr. Rodman on April 22, 1988; numerous letters of reference in support of Dr. Rodman's application; and letter of explanation from Dr. Rodman.

3. Respondent's Exhibit C: Dr. Rodman's 1986 application for medical licensure with supporting documents.
4. Respondent's Exhibit D: Excerpts from Dr. Rodman's 1988 application for medical licensure, including completed Resume and Affidavit and Release of Applicant forms.

C. Presented as Joint Exhibits

1. Joint Exhibit 1: Transcript of the State Medical Board hearing held on October 6, 1988, in the Matter of Harvey M. Rodman, M.D.
2. Joint Exhibit 1A: Transcript of the testimony of James A. Carter, M.D., taken by deposition on September 27, 1988, in the Matter of Harvey M. Rodman, M.D.
3. Joint Exhibit 1B: Transcript of the testimony of Michael M. Lederman, M.D., taken by deposition on September 27, 1988, in the Matter of Harvey M. Rodman, M.D.
4. Joint Exhibit 1C: Transcript of the testimony of Joseph M. Foley, M.D., taken by deposition on September 27, 1988, in the Matter of Harvey M. Rodman, M.D.

V. Post-Hearing Additions to the Record

- A. Respondent's Hearing Brief, to which Respondent's counsel referred during an oral motion for dismissal (see Tr. at 6), is hereby admitted to the record in this Matter.
- B. At the close of hearing, the record in this Matter was held open until September 14, 1989, for submission of Dr. Rodman's military discharge papers (see Tr. at 114-115, 129). Subsequently, requests for extensions of time were granted, with the record being finally closed as of October 26, 1989. The following related items of correspondence are hereby admitted to the record:
 1. September 6, 1989, letter from Attorney Gragel requesting additional time for obtaining Dr. Rodman's military discharge papers, and enclosing: Dr. Rodman's January 30, 1967, Air Force Reserve Orders; February 2, 1967, letter advising Dr. Rodman that his active duty with the Air Force would be deferred until 1968; and document showing Dr. Rodman's appointment as First Lieutenant in the Reserve (Medical Corps), U.S. Air Force, as of January 11, 1967. (Note: Original documents were submitted; however, copies have been substituted for the record and the originals have been returned to Respondent's counsel.)
 2. September 19, 1989, Entry of this Hearing Examiner granting a time extension to October 2, 1989.

STATEMENT OF

HEARING EXAMINER

STATE MEDICAL BOARD

OFFICE OF THE HEARING EXAMINER

3. September 28, 1989, letter from Attorney Gragel requesting additional time for submission of Dr. Rodman's discharge papers.
4. October 23, 1989, Entry of this Hearing Examiner granting a time extension to October 31, 1989.
5. October 9, 1989, letter from Attorney Gragel enclosing a copy of Dr. Rodman's military discharge paper with transmittal letters from the National Personnel Records Center and the office of Congressman Feighan.
6. October 10, 1989, letter from Assistant Attorney General Belenker with regard to Attorney Gragel's October 9 correspondence regarding Dr. Rodman's military discharge papers.
7. October 26, 1989, letter from Attorney Gragel asking about the materials she forwarded on October 9, 1989.
8. November 1, 1989, letter from this Hearing Examiner explaining a delay in the delivery of those materials and closing the hearing record as of October 26, 1989.

FINDINGS OF FACT

1. On or about July 13, 1988, the State Medical Board of Ohio proposed to deny the pending application for medical licensure of Harvey M. Rodman, M.D., or to take other appropriate action, based upon allegations which included the unlicensed practice of medicine and various acts of fraud and/or misrepresentation. Apparently, around that same time, the State Medical Board notified Dr. Rodman that he would be required to undergo mental and physical examination pursuant to Section 4731.22(B)(19), Ohio Revised Code.

These facts are established by State's Exhibit #8, Joint Exhibit 1 (pg. 9 and throughout), and the testimony of Dr. Rodman (Tr. at 96).

2. Dr. Rodman testified that he had called the State Medical Board several times, trying to get his mental examination scheduled prior to hearing on the Board's July 13, 1988, allegations. Nevertheless, the hearing on those allegations was held on October 6, 1988. On approximately October 17, 1988, Dr. Rodman received notice that he was to report for his Board-ordered examination on October 19, 1988.

These facts are established by the testimony of Dr. Rodman (Tr. at 96-97).

3. On October 19, 1988, Dr. Rodman reported to Howard H. Sokolov, M.D., a psychiatrist who was requested by the Board to perform a psychiatric examination and evaluation of Dr. Rodman pursuant to Section 4731.22(B)(19), Ohio Revised Code. Dr. Rodman was fully aware that Dr. Sokolov's examination and evaluation was being done at the request of the State Medical Board, and that the results might affect his medical licensure.

These facts are established by the testimony of Dr. Rodman (Tr. at 113), the testimony of Dr. Sokolov (Tr. at 22-26), and State's Exhibit #10.

4. In detailing his past history during this two and one-half hour clinical examination, Dr. Rodman indicated to Dr. Sokolov that the residency training he had undertaken after graduation from medical school had been interrupted by his induction into the Air Force in 1968. Dr. Rodman stated that he had been assigned to the Army and had served for one year in Vietnam. Dr. Rodman elaborated upon his Vietnam experience, talking about weather conditions in Vietnam, his feelings about the war and medical issues there, his going out on "field forays", and his viewing a jeep blowing up. Dr. Rodman stated that he occasionally still dreamed about his Vietnam experience. Dr. Rodman further indicated to Dr. Sokolov that, after his return from overseas, he had been sent to Walter Reed Hospital for one year. Dr. Rodman talked about Walter Reed Hospital, the high level of training he had received there, and some of the medical issues at that facility. Dr. Rodman indicated that he had been released from the military early to finish his residency.

At the end of his clinical examination, Dr. Sokolov referred Dr. Rodman to Kristen E. Haskins, Psy. D., for psychological testing, consisting of the Rorschach and the Minnesota Multiphasic Personality Inventory. Dr. Sokolov received and reviewed Dr. Haskins' interpretations of test results prior to compiling his report of evaluation.

These facts are established by the testimony of Dr. Sokolov (Tr. at 24-31, 51) and by State's Exhibit #10.

5. Prior to the issuance of Dr. Sokolov's report of evaluation, the State Medical Board at its December 7, 1988, meeting ordered that a license to practice medicine or surgery be issued to Dr. Rodman, subject to certain terms, conditions, and limitations, pursuant to the October 6, 1988, administrative hearing. Dr. Rodman appeared at that meeting and addressed the Board prior to its decision. Although Dr. Rodman expressed remorse for his previous actions, he did not in any way reveal the substance of or refer to his statements to Dr. Sokolov.

These facts are established by State's Exhibit #8 and by the testimony of Dr. Rodman (Tr. at 117-119).

STATE'S EXHIBIT #10

6. Thereafter, on January 24, 1989, Dr. Rodman telephoned Dr. Sokolov at Dr. Sokolov's request, relayed through Dr. Rodman's attorney. Dr. Sokolov had contacted Dr. Rodman's attorney when, during the process of preparing his report of evaluation for the State Medical Board, Dr. Sokolov had discovered that the two years of military service reflected in his clinical notes with regard to Dr. Rodman, were not reflected on the resumes contained in certain applications of Dr. Rodman which had been included in pre-evaluation materials provided by the State Medical Board.

Upon confrontation by Dr. Sokolov on January 24, 1989, Dr. Rodman admitted that he had lied to Dr. Sokolov about his military service. Dr. Rodman admitted that he had never served in Vietnam and that he had never trained or served at Walter Reed Hospital. He stated that he had instead been inducted into the military in 1969 on the "Berry Plan" and had been sent to Ft. Sam Houston, Texas, for orientation. There, he had been given a physical examination and had been told that he would be eligible for a medical release due to a previous phlebitis condition. He had subsequently received a medical discharge.

When Dr. Sokolov asked Dr. Rodman why he had talked about Vietnam and his experiences there, Dr. Rodman responded, "It just came to my head." When Dr. Sokolov asked Dr. Rodman why he would fabricate such stories on this examination, Dr. Rodman stated that he had believed that Dr. Sokolov had been looking for reasons to keep Dr. Rodman from going back to medical practice. He indicated that he still had some difficulty with his leg. He stated that Dr. Sokolov had appeared to focus on his overweight condition, and he had thought that telling Dr. Sokolov about his medical discharge for phlebitis would contribute to Dr. Sokolov's seeing him as medically unfit to practice. Dr. Rodman claimed that there had been no other inaccuracies in the history he had related.

When Dr. Sokolov checked his notes after his conversation with Dr. Rodman, he discovered that no mention of Dr. Rodman's overweight had been made prior to Dr. Rodman's relating the Vietnam-Walter Reed experiences as part of his chronological history; his overweight had been mentioned later in relation to a discussion of Dr. Rodman's Lithium treatments.

These facts are established by the testimony of Dr. Sokolov (Tr. at 27-35), State's Exhibit #10, and the at-hearing admissions of Dr. Rodman.

7. In fact, Dr. Rodman was ordered to active duty with the Air Force as of September 4, 1968, and received an honorable discharge for physical disability as of November 14, 1968. Neither the resume contained in Dr. Rodman's 1986 application for Ohio licensure nor the resume contained in his 1988 application for Ohio licensure reveals this two-month, eleven-day military service. The Resume portions each of these applications contains an explicit request to account for all

activities since medical school graduation. The 1988 application instructs: "List ALL activities in chronological order from the date of medical school graduation to the present time using MONTH and YEAR. For any non-working time you must state on the resume exactly what your activities were, such as "vacation" or "looking for residency program", as well as your permanent address for this period...." Furthermore, in connection with both the 1986 and the 1988 applications, Dr. Rodman signed and swore to an Affidavit averring the truth and accuracy of all information furnished with respect to his application. His April 22, 1988, Affidavit states, in part: "I, Harvey M. Rodman, hereby certify under oath that...all documents, forms, or copies thereof furnished or to be furnished with respect to my application are strictly true in every respect."

These facts are established by Dr. Rodman's military discharge paper included in the post-hearing exhibits, State's Exhibits #11 and #12, and Respondent's Exhibits B through D.

8. In the opinion of Dr. Howard H. Sokolov, Dr. Rodman suffers from significant personality disturbances which are not resolved despite the remission of his bipolar disorder through Lithium treatments, and which are likely to recur. Dr. Sokolov felt that Dr. Rodman's fabrications of data during a highly significant examination relating to his medical licensure reflected a repeat of the type of behavior which had prompted the State Medical Board to refer Dr. Rodman for evaluation. These current fabrications were consistent with the series of behaviors relating to Dr. Rodman's medical licensure which had occurred over a period of several years, including Dr. Rodman's unlicensed practice of medicine, his falsification of a wallet card, his use of a fictitious DEA registration number, and his falsely representing that he was licensed in two states. Dr. Sokolov stated that past behavior is the best objective predictor of future behavior. In Dr. Rodman's case, falsification issues had occurred repeatedly over a long period of time; thus, such issues were likely to arise again, though the exact context could not be predicted. Dr. Sokolov indicated that Dr. Rodman's apparent personality disorder traits might improve with intensive psychotherapy over an extended period of time.

Dr. Sokolov stated that neither his psychiatric examination nor the psychological testing which Dr. Rodman had undergone gave any indication that Dr. Rodman suffered from serious mental illness, other than the bipolar disorder which was substantially in remission. However, Dr. Rodman manifested symptoms of narcissistic personality disorder traits. Although there was no evidence that Dr. Rodman's patient care had ever been affected, either directly or indirectly, Dr. Sokolov felt that the specific manifestations of significant personality disturbances implicated Dr. Rodman's ability to practice medicine appropriately. Dr. Sokolov's written report of his evaluation of Dr. Rodman states, in pertinent part: "I was surprised to discover that during the course of the interview he fabricated parts of his history. In my phone conversation with him, he attempted to explain this fabrication away, based on his anxiety about medical licensure, his feeling that I was

STATE BAR OF CALIFORNIA
OFFICE OF THE CLERK

trying to disqualify him from practice, and his anger at the Medical Board. This fabrication of his history and his subsequent explanation of his reasoning must be taken as evidence that his problem with telling the truth under pressure and covering up potential deficits represents a continuation of major character pathology. The psychological testing reports that under stress he overpersonalizes interpretations. Thus, there would be a high risk of continuing overpersonalized distortion, lying, and cover-up during the course of medical practice." At hearing, Dr. Sokolov indicated that there was a distinct possibility of fabrications occurring within the context of Dr. Rodman's relationships to colleagues, authority figures, or superiors, or in any situation where Dr. Rodman was being questioned about patient data by an individual, agency, insurance company, or other entity. However, Dr. Sokolov indicated that he was not sure he totally understood what caused Dr. Rodman to choose to create an elaborate distortion about material from 20 years ago. He stated that it would be highly unusual for an individual to handle stress by resorting to such distortion.

These facts are established by the testimony of Dr. Sokolov (Tr. at 35-71) and by State's Exhibits #9 and #10.

9. Dr. Robert L. Alcorn (see curriculum vitae, Respondent's Exhibit A) testified at hearing with regard to his three and three-fourth hour psychiatric examination of Dr. Rodman on August 28, 1989. Dr. Alcorn indicated that, although he agreed with Dr. Sokolov's findings, he disagreed with his conclusions. In Dr. Alcorn's opinion, Dr. Rodman's "problematic character traits," which did not rise to the level of a personality disorder, were not of the type which would have direct negative impact on Dr. Rodman's patient care; rather, they would likely have the reverse effect and contribute to Dr. Rodman's being overly-conscientious as a physician. Dr. Alcorn felt that the testimony of Dr. Rodman's colleagues and patients during previous State Medical Board hearings supported this contention.

Dr. Alcorn believed that Dr. Rodman's fabrications to Dr. Sokolov had been elicited by the specific situation and were not indicative of any pervasive character defect. In his opinion, Dr. Rodman had panicked because of the stressful event and his perception that Dr. Sokolov was hostile to him. In an effort to psychologically defend himself against anxiety, Dr. Rodman had assumed an arrogant pose and had manufactured a grandiose story. Such behavior, in Dr. Alcorn's opinion, represented a problem dealing with authority figures which merited further work in psychotherapy; however, it did not indicate a pervasive pathological need to lie. Dr. Alcorn stated that, although it was possible that Dr. Rodman might lie to authority figures under similar circumstances, the likelihood had been greatly reduced by the fact that the issue had now become openly addressed in his psychotherapy.

In Dr. Alcorn's opinion, Dr. Rodman is capable of practicing medicine safely. However, Dr. Alcorn felt that a temporary probationary arrangement, allowing Dr. Rodman to practice under supervision with established rules as to how his ethical behavior and relationships with authority figures would be judged, would be prudent and would remove pressure and prevent panic on the part of Dr. Rodman.

These facts are established by the testimony of Dr. Alcorn (Tr. at 73-95) and Respondent's Exhibit A.

10. At hearing, Dr. Rodman characterized his fabrications to Dr. Sokolov as a "gratuitous lie which in no way helped me or hindered my case." Dr. Rodman acknowledged that his behavior had been wrong and was unjustifiable. He indicated that he was currently working with Dr. Corradi, his treating psychiatrist, to determine why he engaged in such "self-defeating behavior." He indicated that there had been many factors contributing to his feelings of stress and anger at the time of his meeting with Dr. Sokolov. Dr. Rodman denied that the "stories" he had told Dr. Sokolov had been premeditated. He claimed that he had panicked when he and Dr. Sokolov hadn't "hit it off" and that the stories "just came out."

Dr. Rodman stated that he had not thought about the stories he had told Dr. Sokolov at any time prior to Dr. Sokolov's confronting him in January, 1989. When he had appeared and addressed the Board Members at the December, 1988, Board meeting, he had simply apologized for his past actions. Nothing had come up with regard to Dr. Sokolov, and he had simply not thought of the stories he had told him in October, 1988.

With regard to his failure to list the dates of his military service on the resume portions of his licensure applications, Dr. Rodman stated that he had felt it to be unnecessary since he had been given credit for the full year of residency he listed for that time period. He also stated that he had thought that the Medical Board wanted those activities which were pertinent to his medical practice and to his life; he had considered his short term of military service to have been no more pertinent than vacations. However, as he pointed out, the curriculum vitae which he included with his 1986 licensure application (Respondent's Exhibit C) notes that he served as a Captain in the U.S. Air Force, though no dates of service are given.

These facts are established by the testimony of Dr. Rodman (Tr. at 96-121), State's Exhibits #11 and #12, and Respondent's Exhibits B through D.

11. Dr. Rodman has an extensive history with the State Medical Board. In 1986, the State Medical Board denied Dr. Rodman's application for medical licensure based upon its findings that he had: practiced medicine in Ohio without a license for approximately 13 years; falsely represented to University Hospitals of Cleveland that he had obtained medical licensure; falsely represented to University Hospitals of Cleveland that he was licensed in two states; presented a photocopy of a falsified wallet card

STATE MEDICAL BOARD

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to University Hospitals as evidence of his Ohio licensure; and utilized a fictitious DEA registration number to prescribe controlled substances for patients. In 1988, Dr. Rodman reapplied for Ohio licensure. Although the Board proposed to deny Dr. Rodman's 1988 application, after an administrative hearing, the Board granted Dr. Rodman Ohio licensure as indicated in Finding of Fact #5, above. The Board's Findings and Conclusions pursuant to that hearing indicate that its decision was based upon testimony and evidence indicating, among other things, that: Dr. Rodman's original failure to apply for licensure, and the illegal and fraudulent acts he had committed to avoid disclosure of his unlicensed practice, were likely attributable to his then undiagnosed bipolar disorder; Dr. Rodman's bipolar disorder had since been diagnosed and controlled with Lithium; both the treatment of Dr. Rodman's disorder and his remorse for his past acts suggested that similar moral lapses were unlikely to recur; Dr. Rodman had voluntarily attended an ethics course and had maintained a high level of continuing medical education; and neither Dr. Rodman's patient care nor his conduct with regard to events unrelated to his unlicensed practice had ever been called into question. At the time Dr. Rodman was granted licensure, the State Medical Board was unaware both of Dr. Rodman's misrepresentations to Dr. Sokolov and of his omissions of the dates of his military service on his licensure applications.

These facts are established by State's Exhibits #8 and #13, Joint Exhibits 1 through 1C, and the hearing record throughout.

CONCLUSIONS

1. The testimony and evidence presented in this Matter are insufficient to support a conclusion that Dr. Rodman is unable "to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness...", as that clause is used in Section 4731.22(B)(19), Ohio Revised Code. Dr. Rodman was examined by two psychiatrists, Dr. Howard Sokolov and Dr. Robert Alcorn, both of whom testified at hearing. Both psychiatrists found Dr. Rodman's admitted past acts of falsification (see State's Exhibit #8 and Finding of Fact #11, above), and his fabrications during his October, 1988, Board-ordered psychiatric examination, to constitute manifestations of significant personality disorder traits. However, both psychiatrists stated that those traits did not rise to the level of a diagnosable personality disorder. Further, both agreed that Dr. Rodman suffered from no diagnosable mental illness other than his previously diagnosed bipolar disorder, which has been in substantial remission with Lithium treatments for approximately the past four years (see State's Exhibits #8 and #10 and the testimony of Dr. Corradi, Joint Exhibit 1, pp. 44-73). Significantly, the psychiatric testimony indicated that, while it is not uncommon to find the types of personality disorder traits identified in Dr. Rodman in other individuals, Dr. Rodman's specific manifestations of these traits were highly unusual. There is no evidence that Dr. Rodman's "personality disorder traits" have been manifested in the context of his patient care; however, they have been repeatedly manifested as falsifications in the context of issues regarding his medical licensure.

2. Dr. Rodman's acts, conduct, and/or omissions, as set forth in Findings of Fact #1 through #10, above, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board" as that term is used in Section 4731.22(A), Ohio Revised Code. This Section specifically provides grounds for revocation or refusal to grant a certificate to a person found in violation.

On the Resume portions of both his 1986 and 1988 applications for medical licensure, Dr. Rodman failed to list the dates of his military service. Instead, he indicated that he had spent the entire year of 1968 in a residency training program in New York when, in fact, he was in the military service in Texas for two months and eleven days during that period. Such misrepresentations of fact gave a less than accurate picture of the nature of Dr. Rodman's training. Further, such inaccurate information is contrary not only to the specific instructions on the applications, but also to Dr. Rodman's sworn Affidavits stating that all information provided on those applications was "strictly true." Such misrepresentations violate Section 4731.22(A) and are not justified by the fact that Dr. Rodman was given credit for the full year of residency. Further, Dr. Rodman's testimony, which suggested that the providing of accurate or complete information was subject to his individual interpretation of what was pertinent, is not well taken in view of the explicit application instructions.

In addition, during the course of his Board-ordered psychiatric examination, Dr. Rodman presented and elaborated upon a fictitious one-year Vietnam experience, as well as a fictitious one-year training at Walter Reed Hospital. Dr. Rodman was fully aware at the time that the results of his psychiatric examination could influence the Board's position with regard to his medical licensure. Although Dr. Rodman characterized his fabrications as "gratuitous lies", it is noted that his fictitious "Vietnam story" included information suggesting possible trauma; he related having viewed a jeep blowing up, and having gone out on field forays, and indicated that he had residual dreams about his experiences. Nevertheless, it is unnecessary to determine either Dr. Rodman's motives in relating such false information or its potential effect on examination results. It is clearly established that Dr. Rodman made statements which he knew to be untrue during the course of a psychiatric examination done for the purpose of determining his fitness for medical licensure. Such fraudulent conduct violates Section 4731.22(A), Ohio Revised Code. Dr. Rodman's present remorse cannot mitigate his previous knowing misrepresentations. It would appear that his "remorse" occurred only after his fabrications were discovered and resulted in his being cited by the State Medical Board. Dr. Rodman stated that he simply hadn't thought of his false statements to Dr. Sokolov when he addressed the Board prior to its decision on his licensure application in December, 1988. However, there is no indication that he made any

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effort to disclose his highly inappropriate behavior to the Board even after it was brought to his attention by Dr. Sokolov's confrontation in January, 1989. As indicated in Conclusion #1, above, Dr. Rodman's conduct cannot be excused or explained by reason of mental illness. Rather, it would appear to be a serious manifestation of Dr. Rodman's "problematic character traits" and consistent with his past inappropriate behaviors with regard to his medical licensure.

3. As set forth in Findings of Fact #7, above, Dr. Rodman knowingly made inaccurate statements, which he swore by affidavit to be strictly true, on his 1986 and 1988 applications for medical licensure. Such acts would constitute "falsification", a first degree misdemeanor pursuant to Sections 2921.13(A)(3), (A)(6), and/or (A)(7), Ohio Revised Code. Consequently, such acts constitute "commission of an act that constitutes a misdemeanor in this state...if the act involves moral turpitude", as that clause is used in Section 4731.22(B)(14), Ohio Revised Code.
4. As set forth in Findings of Fact #3 through #7, above, Dr. Rodman knowingly made false statements to Dr. Sokolov, who was acting as a temporary employee or agent of the State Medical Board in performing a psychiatric examination and preparing a report of evaluation pursuant to Section 4731.22(B)(19), Ohio Revised Code. Such false statements would constitute "falsification", a first degree misdemeanor pursuant to Sections 2921.13(A)(3) and/or (A)(7), Ohio Revised Code. Consequently, such acts constitute "commission of an act that constitutes a misdemeanor in this state...if the act involves moral turpitude", as that clause is used in Section 4731.22(B)(14), Ohio Revised Code.

STATE MEDICAL BOARD

RECEIVED

* * * * *

Dr. Rodman's past and present acts strongly suggest that he is unwilling or unable to comply with the requirements of this Board, which is vested by the Legislature with the authority and responsibility for licensure and regulation of physicians in this State. This Board has in the past given Dr. Rodman the "benefit of the doubt." Despite Dr. Rodman's unlicensed practice and his fraudulent and illegal acts to avoid disclosure of such practice, this Board denied his 1986 licensure application without prohibition against his reapplication. In 1988, when he reapplied, the Board accepted the possibility that his previous highly irregular behavior might have been caused by his since-controlled bipolar disorder, and granted him a license subject to certain conditions and limitations. However, the testimony and evidence presented in the present Matter firmly establishes that Dr. Rodman's fabrications to Dr. Sokolov in 1988 cannot be attributed to or excused by either his Lithium-controlled bipolar disorder or other mental disorder.

Further, in view of Dr. Rodman's repeated falsifications in matters relating to his medical licensure, this Board cannot be assured that similar acts would not occur in the future. Even if Dr. Rodman were to submit to intensive psychotherapy and supervision of his practice, there would seem to be no effective means to assess improvement or to monitor compliance when the problem is one of basic integrity. Regardless of Dr. Rodman's apparent technical competence, his repeated attempts to thwart the requirements of this regulatory Board must be regarded as evidence of his unfitness for medical licensure in this State.

PROPOSED ORDER

It is hereby ORDERED that the certificate of Harvey M. Rodman, M.D., to practice medicine and surgery in the State of Ohio shall be and is hereby REVOKED.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.


Wanita J. Sage
Attorney Hearing Examiner

STATE MEDICAL BOARD

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EXCERPT FROM THE MINUTES OF DECEMBER 6, 1989

REPORTS AND RECOMMENDATIONS

Dr. O'Day advised that the Findings and Orders appearing on this day's agenda are those in the matters of Muhammed S. Mustafa, M.D.; Francis A. Kilonsky, D.O.; Harvey M. Rodman, M.D.; and Rogel R. Belmonte, M.D.

Dr. O'Day asked if each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Muhammed S. Mustafa, M.D.; Francis A. Kilonsky, D.O.; Harvey M. Rodman, M.D.; and Rogel R. Belmonte, M.D.

ROLL CALL:

Dr. Cramblett	- aye
Dr. Gretter	- aye
Dr. Daniels	- aye
Dr. Stephens	- aye
Mr. Jost	- aye
Dr. Ross	- abstain
Dr. Rauch	- aye
Mr. Albert	- aye
Dr. Kaplansky	- aye
Ms. Rolfes	- aye
Dr. Agresta	- aye
Dr. O'Day	- aye

.....

Mr. Dowling, Ms. Belenker, Ms. Thompson, Mr. Dilling, Mr. Compton, and Mr. Huston left the meeting at this time.

.....

REPORT AND RECOMMENDATION IN THE MATTER OF HARVEY M. RODMAN, M.D.

Dr. O'Day stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and order in the above matter. No objections were voiced by Board Members present.

MR. ALBERT MOVED TO APPROVE AND CONFIRM MS. SAGE'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF HARVEY M. RODMAN, M.D. DR. KAPLANSKY SECONDED THE MOTION.

Dr. O'Day asked if there were any questions concerning the proposed findings of fact, conclusions, and order in the above matter.

MR. JOST MOVED TO AMEND THE CONCLUSIONS BY DELETING CONCLUSIONS OF LAW NUMBER 3 AND NUMBER 4.

Mr. Jost stated that he feels Dr. Rodman's attorney has raised a substantial question as to whether Dr. Rodman's statements to the State's psychiatrist constituted falsification as identified in Section 2921.13 (A)(3) and/or (A)(7), Ohio Revised Code. Mr. Jost stated that he believes the Order is supported by the Findings and Conclusions, independent of proposed Conclusions 3 and 4.

Ms. Rolfes asked if Mr. Jost was referring to the hearing examiner's reference to Dr. Sokolov as being an officer of the State. Mr. Jost stated that he was.

MS. ROLFES SECONDED MR. JOST'S MOTION.

Dr. Kaplansky spoke in support of the main motion, noting that Dr. Sokolov's psychiatric report indicates that Dr. Rodman suffers from significant personality disturbances which are not resolved despite the remission of his bipolar disorder through Lithium treatments, and which are likely to recur. Dr. Kaplansky stated that he believes that the record supports that finding, and he feels that the Board has given Dr. Rodman enough chances.

A roll call vote was taken on Mr. Jost's motion:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Gretter	- aye
	Dr. Daniels	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Dr. Ross	- abstain
	Dr. Rauch	- abstain
	Mr. Albert	- aye
	Dr. Kaplansky	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

The motion carried.

Mr. Jost stated that he is aware of a couple of cases recently where there has been a finding that the respondent has violated a criminal statute. He realizes that violation of a criminal statute is a violation of the Medical Practice Act, regardless of whether there has been a conviction, but whenever the Board deals with statutes other than the Medical Practice Act it is in unfamiliar territory. If issues are raised under such statutes, it would be helpful if the Attorney General would brief those issues to help the Board understand.

DR. GRETTER MOVED THAT THE CONCLUSIONS IN THE MATTER OF HARVEY M. RODMAN, M.D., BE AMENDED BY DELETING THE FINAL PARAGRAPH, WHICH BEGINS AT THE BOTTOM OF PAGE 13 AND CONTINUES ON PAGE 14, AND SUBSTITUTING THE FOLLOWING:

Dr. Rodman's past and present acts strongly suggest that he is unwilling or unable to comply with the requirements of this Board, which is vested by the Legislature with the authority and responsibility for licensure and regulation of physicians in this State. This Board has in the past given Dr. Rodman the "benefit of the doubt." Despite Dr. Rodman's unlicensed practice and his fraudulent and illegal acts to avoid disclosure of such practice, this Board denied his 1986 licensure application without prohibition against his reapplication. In 1988, when he reapplied, the Board accepted the possibility that his previous highly irregular behavior might have been caused by his since-controlled bipolar disorder, and granted him a license subject to certain conditions and limitations. Although the testimony and evidence presented in the present Matter fail to establish that Dr. Rodman's fabrications to Dr. Sokolov in 1988 could be attributed to either his lithium-controlled bipolar disorder or other mental disorder, it does indicate that his personality disorder traits might respond to intensive psychotherapy. In addition, there has been no evidence offered to suggest that Dr. Rodman's personality problems have affected his patient care. Nevertheless, in view of Dr. Rodman's repeated falsifications in matters relating to his medical licensure, this Board must be assured that similar acts will not occur in the future.

HE FURTHER MOVED THAT THE PROPOSED ORDER IN THE MATTER OF HARVEY M. RODMAN, M.D., BE AMENDED TO READ AS FOLLOWS:

It is hereby ORDERED:

1. That the certificate of Harvey M. Rodman, M.D., to practice medicine and surgery in the State of Ohio be suspended for an indefinite period of time, but not less than ninety (90) days.
2. The Board shall not consider reinstatement of Dr. Rodman's certificate to practice unless and until the following minimum requirements are met:
 - A. At Dr. Rodman's request and expense, he shall undergo evaluation by a psychiatrist selected by the Board who shall propose a treatment and monitoring plan for Board approval. Such plan shall address the prior diagnoses and prognoses rendered with respect to Dr. Rodman, as well as his readiness and ability to practice. Dr. Rodman shall ensure that such plan is provided to the Board no less than 30 days following completion of the evaluation.
 - B. Dr. Rodman shall submit to the Board, and receive its prior approval for, a plan of practice limited to a supervised structured environment in which his activities will be overseen and supervised by another physician approved by the Board.

- C. Dr. Rodman shall submit an application for reinstatement accompanied by all appropriate fees.
 - D. In the event that Dr. Rodman has not been engaged in the active practice of medicine for more than two years prior to his request for reinstatement, the Board may exercise its discretion under Section 4731.222, O.R.C., to require additional evidence of his fitness to resume practice.
3. Upon reinstatement, Dr. Rodman's certificate shall be subject to the following probationary terms, conditions and limitations for a minimum of five (5) years:
- A. Dr. Rodman shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
 - B. Dr. Rodman shall submit quarterly declarations under penalty of perjury stating whether or not there has been compliance with all the conditions of probation.
 - C. Dr. Rodman shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.
 - D. Dr. Rodman shall maintain compliance with the treatment and monitoring plan approved by the Board in accordance with provision 2A, above, until otherwise determined by the Board. To make this determination, the Board shall require quarterly reports from Dr. Rodman's treating psychiatrist. Dr. Rodman shall ensure that these reports are forwarded to the Board on a quarterly basis, or as otherwise directed by the Board.
 - E. Dr. Rodman shall practice only in a supervised structured environment in accordance with a plan of practice authorized by the Board pursuant to provision 2B, above. Dr. Rodman shall not engage in the solo practice of medicine without the prior written approval of the Board.
 - F. In the event that Dr. Rodman should leave Ohio for (3) continuous months, or reside or practice outside the State, Dr. Rodman must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.
4. Upon successful completion of probation, as evidenced by a written release by the Board, Dr. Rodman's certificate will be fully restored.

This Order shall become effective immediately upon approval by the State Medical

Board of Ohio.

DR. AGRESTA SECONDED THE MOTION.

Dr. Gretter stated that, in reviewing Dr. Rodman's case, he noted that the Board gave Dr. Rodman a license in December, 1988, pending psychiatric examination. The Board then found out that Dr. Rodman had, in his interview with the State's psychiatrist, fabricated information in terms of military experience which he did not, in fact, have. Dr. Gretter expressed concern that Dr. Rodman's false statements may be a symptom of his underlying psychiatric problem or character disorder. The false statements may be a symptom of his illness, and Dr. Rodman should be considered an impaired physician; thus, the basis for his amended order.

Dr. Gretter continued that the Board has not seen any evidence that Dr. Rodman's difficulties affected patient care. The only concern of the Board is the misrepresentations on the application and to the State's psychiatrist. Dr. Gretter stated that he has proposed the amendment in an attempt to look at Dr. Rodman as an impaired physician and to offer him the opportunity to have his disability treated, with the Board to oversee the treatment.

Mr. Jost stated that reasonable minds can differ on Dr. Rodman. He personally views it as a character flaw, and believes that Dr. Rodman finds it difficult to tell the truth when the truth is inconvenient. Mr. Jost stated that honesty is an important qualification for practicing medicine. He admitted that there is no evidence that Dr. Rodman lied about patients or his research, but he still has little confidence that Dr. Rodman would do so, if put in a position where it would be convenient to falsify patient records, research materials, or hospital charts. Mr. Jost added that the Board was previously lenient with Dr. Rodman, and Dr. Rodman again lied. Mr. Jost stated that he is not willing to give Dr. Rodman the benefit of the doubt this time.

Ms. Rolfes stated that when Dr. Rodman previously appeared before the Board, she went along with the Board's motion to approve him for licensure, because Dr. Rodman was involved in research on adolescent diabetes. However, she did not know that he had proceeded to again give false statements. Ms. Rolfes stated that the Board members must not confuse what Dr. Rodman has done with who he is. She stated that there are traits in his character which may prevent him from being a good physician at some time.

Dr. Kaplansky referred to Finding of Fact, #9, which indicates Dr. Sokolov's evaluation that Dr. Rodman is prone to fabrications occurring within the context of Dr. Rodman's relationships to colleagues, authority figures, or superiors, or in situations where he was being questioned about patient data by an individual, agency, insurance company, or other entity. Dr. Kaplansky stated that he feels Dr. Rodman's falsehoods are a character trait, and the Board must do something about this physician.

Dr. Stephens asked if the Board could say that this supposed character flaw is not a

part of a mental disorder. He stated that he personally can't answer that question, and does have some misgivings about it. If this is a mental condition which is treatable by psychotherapy, the proposed Order could prevent the physician from getting treatment for his condition and being rehabilitated. Dr. Stephens continued that he can't say in his own mind that Dr. Rodman's lying and untruthfulness is not a part of his disease, but rather is a character flaw.

Dr. Kaplansky stated that if someone else came before the Board for falsification on an application on a one-time basis, or for something constituting a criminal act, the Board would take away his license. The Board has a history of falsehoods from Dr. Rodman and, whether it is a result of mental illness or not, the problem has existed for years.

Dr. Agresta stated that the Board has given the benefit of the doubt to physicians who are alcoholic or drug dependent. He added that those physicians have more of a potential to harm patients than Dr. Rodman does. Dr. Agresta added that he is not a psychiatrist, but anyone with any training in psychiatry might recognize that the lying is a manifestation of the disease of mental illness. If Dr. Rodman is mentally ill, the Board should afford him the same opportunities it affords alcoholics and drug dependents. The Board does not have any proof of harm to patients.

Ms. Rolfes stated that if an impaired physician came before the Board with a history of practicing medicine without a license for 14 years and came back again in a very short period of time with other fabrications, the Board couldn't just excuse it as part of his impairment. There comes a time when the Board must deal with the physician.

Dr. Stephens stated that it is unclear whether or not Dr. Rodman has had the opportunity to correct his problems.

Ms. Rolfes stated that Dr. Rodman was seeing a psychiatrist once per week in the past.

Dr. O'Day commented that Dr. Rodman has had extensive psychiatric treatment in the past.

DR. STEPHENS MOVED TO AMEND PARAGRAPH 1 OF DR. GREYER'S AMENDMENT TO CHANGE THE PERIOD OF SUSPENSION FROM 90 DAYS TO SIX MONTHS. The motion died for lack of a second.

Dr. Kaplansky stated that at the November Board meeting, the Board revoked the license of an impaired physician who had violated the terms of his Consent Agreement by falsifying his urine screens. He asked how that could be seen as more severe than this case. In that other case, the physician explained his acts by stating that he was afraid the inmates in the facility in which he worked would see the urine screens and he would be embarrassed. Dr. Kaplansky asked how the Board could take that physician's license away, yet not consider revoking the license of a

physician for lying to the Board for 16 years.

A roll call vote was taken on Dr. Gretter's motion to amend:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Gretter	- aye
	Dr. Daniels	- aye
	Dr. Stephens	- nay
	Mr. Jost	- nay
	Dr. Ross	- abstain
	Dr. Rauch	- abstain
	Mr. Albert	- nay
	Dr. Kaplansky	- nay
	Ms. Rolfes	- nay
	Dr. Agresta	- nay

The motion failed.

Dr. Agresta stated that he had forgotten about the case Dr. Kaplansky mentioned. He added that 14 years is a long time for someone to have practiced medicine without a license and, with everything else that has gone on with Dr. Rodman, he would have to agree with the original Order.

A roll call vote was taken on Mr. Albert's motion, as amended:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Gretter	- nay
	Dr. Daniels	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Dr. Ross	- abstain
	Dr. Rauch	- abstain
	Mr. Albert	- aye
	Dr. Kaplansky	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

The motion carried.

STATE OF OHIO
THE STATE MEDICAL BOARD
77 SOUTH HIGH STREET
17TH FLOOR
COLUMBUS OH 43215

March 8, 1989

Harvey M. Rodman, M.D.
2053 Staunton Road
Cleveland Heights, OH 44118

Dear Doctor Rodman:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation for one or more of the following reasons:

- (1)(a). On or about July 13, 1988 the State Medical Board of Ohio notified you that you might be in violation of Section 4731.22(8)(19), Ohio Revised Code, and ordered that you undergo mental and physical examination.
- (b). In addition, on or about July 13, 1988, the State Medical Board of Ohio proposed to deny your pending application for medical licensure, or take other appropriate action, based upon allegations which included the unlicensed practice of medicine and various acts of fraud and/or misrepresentation.
- (c). On or about October 19, 1988, you reported to Howard H. Sokolov, M.D. for purposes of psychiatric examination.
- (d). During the course of this evaluation you informed Dr. Sokolov that you were inducted into the United States Air Force and subsequently spent a year in Vietnam. You indicated that you occasionally dreamed about your Vietnam experience. You further indicated to Dr. Sokolov that after your return from overseas you completed your tour of duty while in an internal medicine residency at Walter Reed Hospital.
- (e). On or about December 7, 1988, the State Medical Board ordered that a license to practice medicine or surgery be issued to you subject to terms, conditions, and limitations pursuant to prior administrative hearing on October 6, 1988. Although you did, in addressing the Board prior to its decision, express remorse for previous actions, you did not, in any way, reveal the substance of, or refer to, your statements to Dr. Sokolov.

March 8, 1989

- (f). In fact, upon confrontation by Dr. Sokolov on or about January 24, 1989, you admitted to him that you had never served in Vietnam, that you had never trained or served at Walter Reed Hospital, and that you had lied about these experiences. You instead indicated that you had actually been inducted into the U.S. Army in 1969 and had been sent to Ft. Sam Houston, Texas for orientation. You further stated that you were medically discharged due to a previous phlebitis condition and that you believed that revealing that discharge to Dr. Sokolov would contribute to his seeing you as medically unfit to practice.
- (g). In fact, neither the resume' contained in your March 1986 application for Ohio licensure nor the resume' contained in your May 1988 application for Ohio licensure reveal induction into the U.S. Army or time spent at Ft. Sam Houston, Texas despite an explicit request in each to account for all activities since medical school graduation.

Your acts and/or omissions as alleged in paragraph (1) above constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board" as that term is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts and/or omissions as alleged in paragraph (1) above constitute "commission of an act that constitutes a misdemeanor in this state...if the act involves moral turpitude" as that clause is used in Section 4731.22(B)(14), Ohio Revised Code, to wit: Section 2921.13, Ohio Revised Code, Falsification.

- (2) You are unable to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills. Evidence suggesting your inability to practice includes information, impressions and diagnoses formulated pursuant to examination ordered by the State Medical Board of Ohio.

The allegations in paragraph (2) above constitute violation of Section 4731.22(B)(19), Ohio Revised Code.

Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, that request must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

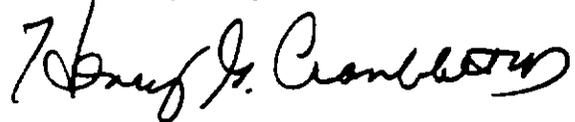
Harvey M. Rodman, M.D.
Page Three

March 8, 1989

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Henry G. Cramblett, M.D.
Secretary

HGC:jmb
Encls.

CERTIFIED MAIL #P 746 510 054
RETURN RECEIPT REQUESTED

STATE OF OHIO
THE STATE MEDICAL BOARD OF OHIO
77 SOUTH HIGH STREET
17TH FLOOR
COLUMBUS, OHIO 43215

December 9, 1988

Harvey M. Rodman, M.D.
2053 Stanton Road
Cleveland Heights, Ohio 44118

Dear Doctor Rodman:

Please find enclosed copies of the Entry of Order; the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on December 7, 1988, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO


Henry G. Cramblett, M.D.
Secretary

HGC:em
Enclosures

CERTIFIED MAIL NO. P 746 514 637
RETURN RECEIPT REQUESTED

cc: Susan L. Gragel, Esq.

CERTIFIED MAIL NO. P 746 514 638
RETURN RECEIPT REQUESTED

Mailed 12/19/88
12/19/88

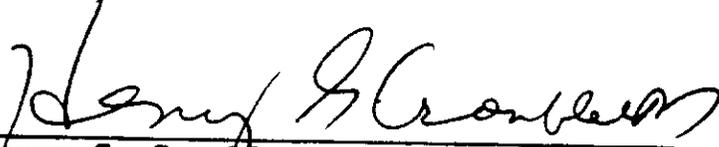
STATE OF OHIO
STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on December 7, 1988, including Motions approving and confirming said Report and Recommendation as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Harvey M. Rodman, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

(SEAL)


Henry G. Cramblett, M.D.
Secretary

December 16, 1988
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF ★

★

HARVEY M. RODMAN, M.D. ★

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 7th day of December, 1988.

Upon the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which is attached hereto and incorporated herein, and upon approval and confirmation by vote of the Board on December 7, 1988, the following Order is hereby entered on the Journal of the State Medical Board for the 7th day of December, 1988.

It is hereby ORDERED that the application of Harvey M. Rodman, M.D., to practice medicine and surgery in Ohio shall be and is hereby GRANTED, subject to the following terms, conditions, and limitations:

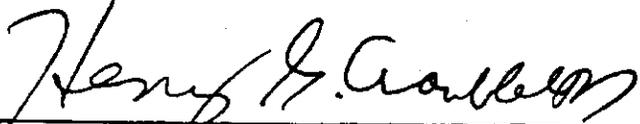
1. Dr. Rodman shall continue psychiatric treatment with Richard B. Corradi, M.D., or with another psychiatrist approved by the Board, at such intervals as are deemed appropriate by the treating psychiatrist but not less than once per month, until such time as the Board deems that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from Dr. Corradi or the approved treating psychiatrist. Dr. Rodman shall ensure that these reports are forwarded to the Board on a quarterly basis, or as otherwise directed by the Board.
2. Further, Dr. Rodman's certificate shall be subject to the following probationary terms, conditions, and limitations for a period of ten (10) years:
 - a. Dr. Rodman shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
 - b. Dr. Rodman shall submit quarterly declarations under penalty of perjury stating whether or not there has been compliance with all conditions of probation.

Harvey M. Rodman, M.D.

- c. Dr. Rodman shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals or as otherwise requested by the Board.
 - d. In the event that Dr. Rodman should leave Ohio for three (3) continuous months, or reside or practice outside the State, he must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.
3. In the event that Dr. Rodman violates this Order in any respect, the Board, after giving Dr. Rodman notice and the opportunity to be heard, may impose any disciplinary action it deems appropriate, up to and including revocation of his certificate to practice medicine and surgery in Ohio.
 4. Upon successful completion of probation, Dr. Rodman's certificate will be fully restored, except for that limitation set forth in paragraph 1, above.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

(SEAL)


Henry G. Cramblett, M.D.
Secretary

December 16, 1988

Date

REPORT AND RECOMMENDATION
IN THE MATTER OF HARVEY M. RODMAN, M.D.

OCT 1 1988

The Matter of Harvey M. Rodman, M.D., came on for hearing before me, Wanita J. Sage, Esq., Hearing Examiner for the State Medical Board of Ohio on October 6, 1988.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Mode of Conduct

During the course of this hearing, rules of evidence were relaxed to allow both the State and the Respondent latitude in introducing evidence and examining witnesses.

II. Basis for Hearing

- A. By letter of July 13, 1988 (State's Exhibit #5), the State Medical Board notified Harvey M. Rodman, M.D., that it proposed either to deny or to take disciplinary action against his certificate to practice medicine and surgery in Ohio. Based upon his unlicensed practice of medicine from 1973 to 1986 and various acts and misrepresentations he had committed in the course of that practice, the Board alleged that Dr. Rodman lacked the good moral character required by Section 4731.08, Ohio Revised Code, for a certificate to be issued. The Board further alleged that Dr. Rodman's acts constituted:
- a. "The obtaining of or attempting to obtain, money or anything of value by fraudulent misrepresentation in the course of practice", as that clause is used in Section 4731.22(B)(8), Ohio Revised Code;
 - b. "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provisions of this chapter or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(16), Ohio Revised Code, to wit, Section 4731.41, Practice of Medicine or Surgery Without a Certificate.
 - c. "Failure to use reasonable care discrimination in the administration of drugs", as that clause is used in Section 4731.22(B)(2), Ohio Revised Code;
 - d. "Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

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In addition, the Board alleged that Dr. Rodman would be subject to the provisions of Section 4731.222, Ohio Revised Code, because he had not been engaged in the active practice of medicine or surgery, in an approved postgraduate training program, or a student in an approved medical school, for over two years. Dr. Rodman was advised of his right to request a hearing in this Matter.

- B. By letter received by the State Medical Board on July 15, 1988 (State's Exhibit #4), Susan L. Gragel, Esq., requested a hearing on behalf of Dr. Rodman.

III. Appearances

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by Rachel L. Belenker, Assistant Attorney General
- B. On behalf of the Applicant: Susan L. Gragel, Esq.

IV. Testimony Heard

- A. Presented by the State
1. Harvey M. Rodman, M.D., as on cross-examination
- B. Presented by the Applicant
1. Richard B. Corradi, M.D.
 2. Harvey M. Rodman, M.D.
 3. Michael M. Lederman, M.D., by deposition taken on September 27, 1988, a transcript of which was admitted as Exhibit I herein
 4. James A. Carter, M.D., by deposition taken on September 27, 1988, a transcript of which was admitted as Exhibit J herein
 5. Joseph M. Foley, M.D., by deposition taken on September 27, 1988, a transcript of which was admitted as Exhibit K herein

V. Exhibits Examined

In addition to those noted above, the following exhibits were identified and admitted into evidence in this Matter:

- A. Presented Jointly
1. Joint Exhibit #1: Stipulations of the State and the Applicant.

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B. Presented by the State

1. State's Exhibit #1: September 19, 1988, letter to Susan L. Gragel, Esq., from the State Medical Board advising of the location for the October 6, 1988, hearing.
2. State's Exhibit #2: July 21, 1988, letter to Attorney Gragel from the State Medical Board scheduling the hearing for October 6, 1988.
3. State's Exhibit #3: July 18, 1988, letter to Attorney Gragel from the State Medical Board advising that a hearing initially set for July 28, 1988, was postponed pursuant to Section 119.09, Ohio Revised Code.
4. State's Exhibit #6: April 14, 1988, letter to the State Medical Board from Richard B. Corradi, M.D., with regard to Dr. Rodman's psychiatric treatment.
5. State's Exhibit #7: April 22, 1988, letter to the State Medical Board from Dr. Rodman in support of his current application for licensure.
6. State's Exhibit #8: Dr. Rodman's February 8, 1988, request for an application for licensure and his April 26, 1988, Application for Medical Licensure.
7. State's Exhibit #9: Transcript and exhibits of Dr. Rodman's June 17 and June 18, 1986, hearings.
8. State's Exhibit #10: August 28, 1986, Report and Recommendation of Attorney Hearing Examiner Lubow with regard to Dr. Rodman's June, 1986, hearing.

C. Presented by the Applicant

1. Exhibit A: April 12, 1988, letter to the State Medical Board from Roland W. Moskowitz, M.D., in support of Dr. Rodman's application for licensure.
2. Exhibit B: April 12, 1988, letter to the State Medical Board from Herman K. Hellerstein, M.D., in support of Dr. Rodman's application for licensure.
3. Exhibit C: April 1, 1988, letter to the State Medical Board from John P. Conomy, M.D., in support of Dr. Rodman's application for licensure.
4. Exhibit D: April 4, 1988, letter to the State Medical Board from Charles C.J. Carpenter, M.D., in support of Dr. Rodman's application for licensure.

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5. Exhibit E: April 5, 1988, letter to the State Medical Board from Adel A.F. Mahmoud, M.D., in support of Dr. Rodman's application for licensure.
6. Exhibit F: March 7, 1988, Judgment and Journal Entry of the Cuyahoga County Common Pleas Court, expunging and sealing the records of Dr. Rodman's conviction.
7. Exhibit G: Certificate showing Dr. Rodman's completion of a course entitled "Comprehensive Review of Internal Medicine" at Harvard Medical School from June 13 through June 26, 1988, for 80 credit hours in Category I of the Physician's Recognition Award of the American Medical Association.
8. Exhibit H: May 16, 1987, certificate from the American Board of Internal Medicine recognizing Dr. Rodman for Advanced Achievement in Internal Medicine.
9. Exhibit I: Transcript of the September 27, 1988, deposition of Michael M. Lederman, M.D., including Deposition Exhibits #1 through #3, Dr. Lederman's written recommendations of Dr. Rodman.
10. Exhibit J: Transcript of the September 27, 1988, deposition of James A. Carter, M.D., including Deposition Exhibit #4, Dr. Carter's written recommendation of Dr. Rodman.
11. Exhibit K: Transcript of the September 27, 1988, deposition of Joseph M. Foley, M.D., including Deposition Exhibit #5, Dr. Foley's written recommendation of Dr. Rodman.

FINDINGS OF FACT

1. In applying for appointment to the staff of University Hospitals of Cleveland beginning July 1, 1972, Dr. Rodman represented that he had obtained an Ohio medical license in June, 1972. In fact, Dr. Rodman has never been licensed in Ohio.

These facts are established by Joint Exhibit #1, Stipulations 4 and 5.

2. From July, 1973, to February, 1986, Dr. Rodman served as a member of the medical staff of University Hospitals of Cleveland. During this period, Dr. Rodman engaged in the unlicensed practice of medicine in all respects, including announcing himself as a practitioner of medicine and surgery and examining, diagnosing, prescribing for, advising, and otherwise treating patients. Further, Dr. Rodman received remuneration for such acts.

These facts are established by Joint Exhibit #1, State's Exhibit #7, and the testimony of Dr. Rodman.

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3. In approximately 1980, Dr. Rodman submitted to University Hospitals of Cleveland his curriculum vitae which stated that he was licensed to practice medicine in both Ohio and New York. In fact, Dr. Rodman has never been licensed to practice medicine or surgery in any state.

These facts are established by Joint Exhibit #1, State's Exhibit #8, and the testimony of Dr. Rodman.

4. In applying for reappointment to the medical staff of University Hospitals of Cleveland for the 1982-84 biennium, Dr. Rodman altered the wallet card of his fiancée (now wife), Dr. Barbara Gothe, and presented a photocopy of the falsified card to University Hospitals as "verification" of his licensure in Ohio.

These facts are established by Joint Exhibit #1, State's Exhibit #7, and the testimony of Dr. Rodman.

5. Further, Dr. Rodman represented to University Hospitals that he held DEA registration #AR2886862, a false and fictitious registration number. During the course of his unlicensed practice, Dr. Rodman utilized this false and fictitious DEA registration number in prescribing controlled substances for patients.

These facts are established by Joint Exhibit #1, State's Exhibit #7, and the testimony of Dr. Rodman.

6. Dr. Rodman first applied for Ohio licensure on March 7, 1986, after his lack of licensure had been discovered by University Hospitals. On September 11, 1986 (after a hearing in June, 1986), the State Medical Board of Ohio denied Dr. Rodman's application for licensure. Dr. Rodman reapplied for Ohio licensure on or about April 26, 1988.

These facts are established by Joint Exhibit #1, State's Exhibits #7 through #10, and Dr. Rodman's testimony.

7. Dr. Rodman has not practiced medicine since February 14, 1986. Since that time, he has attended courses in ethics, biochemistry, and genetics at Cleveland State University and has studied for and passed the examination given by the American Board of Internal Medicine for advanced achievement in internal medicine. In addition, from June 13 through June 26, 1988, Dr. Rodman attended a course entitled "Comprehensive Review of Internal Medicine" at Harvard Medical School, earning 80 credit hours in Category I of the Physician's Recognition Award of the American Medical Association.

These facts are established by State's Exhibits #7 and #8, Applicant's Exhibits G and H, and the testimony of Dr. Rodman.

8. Dr. Rodman became a Diplomate of the National Board of Medical Examiners in 1967. Dr. Rodman is Board certified both in Internal Medicine (1971) and in Endocrinology and Metabolism (1972).

These facts are established by State's Exhibit #8 and #9 and by the testimony of Dr. Rodman.

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9. Richard D. Corradi, M.D., Dr. Rodman's treating psychiatrist since May, 1981, diagnosed him as having a bipolar affective disorder. In Dr. Corradi's opinion, this affective disorder has been well controlled over the past three years with Lithium, and Dr. Rodman has maintained his normal affective baseline during this period.

Although Dr. Corradi was unable to state with certainty what role Dr. Rodman's illness may have played in his initial failure to apply for licensure in 1973, he stated that it very likely did play a role. Dr. Rodman's history indicated depressive episodes associated with stressful life events, superimposed upon a chronic depressive condition. Dr. Corradi believed that Dr. Rodman's being diagnosed in 1973 as having Crohn's disease, and his concern that the illness would take a fulminating course, created a persistent depressed mood which exacerbated a depression associated with his undiagnosed bipolar disorder. Such significant depression would characteristically result in loss of energy, lack of concern about oneself, and low self esteem, which could lead to acts of commission or omission contrary to one's own interests, as in the case of Dr. Rodman's neglect with regard to his licensure application. In Dr. Corradi's opinion, Dr. Rodman has a normal sense of right and wrong, but has suffered self-defeating consequences of his low self esteem and depression. However, despite such self-defeating behavior, in Dr. Corradi's opinion--based upon his interactions with Dr. Rodman and with patients and colleagues of Dr. Rodman--Dr. Rodman's depression had not interfered with his professional performance in patient care and teaching. Although Dr. Rodman did not disclose his conduct with regard to licensure matters to Dr. Corradi until it became public knowledge in 1986, Dr. Corradi testified that Dr. Rodman had expressed considerable remorse for what had happened.

Dr. Corradi's treatment plans for the next 18-month to two-year period include seeing Dr. Rodman approximately twice a month to monitor his mood and Lithium levels and, after a year or so, attempting to remove the Lithium. In Dr. Corradi's opinion, Dr. Rodman's ability to practice medicine and surgery is not presently affected by the Lithium treatments, and should not be affected even by prolonged treatment with Lithium.

These facts are established by the testimony of Dr. Corradi (Tr. at 44-73) and by State's Exhibit #6.

10. Dr. Rodman testified that, after he had commenced practicing without having completed and submitted an application for licensure, he realized he would be unable to account for his activities on an application without disclosing his unlicensed practice since 1973. He admittedly committed illegal acts to avoid such disclosure and its probable consequences.

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At hearing, Dr. Rodman expressed awareness of and regret for the adverse effects of his acts upon his patients, his profession, and the State. Dr. Rodman further stated that his public humiliation and his inability to pursue his profession for the past 32 months had served as severe punishment. Dr. Rodman contended that his past misdeeds had been primarily self-destructive and that, now that he was free of the reactive depression caused by fear of exposure, he would never do anything that might cause him to experience it again. Dr. Rodman felt that his psychiatric treatment had brought his bipolar disorder under control and had enhanced his ability to deal with life stresses. He stated that he would require psychiatric treatment for the rest of his life, although the frequency of visits would vary with his life stresses.

These facts are established by the testimony of Dr. Rodman (Tr. at 22-42, 74-86) and by State's Exhibit #7.

11. Dr. Michael Lederman, Dr. James Carter, and Dr. Joseph Foley testified on Dr. Rodman's behalf both at the June, 1986, hearings and at the present hearing. Each of these colleagues stated that Dr. Rodman was a highly qualified and dedicated physician who, despite his acts relating to his unlicensed practice, possessed the good moral and ethical character required of a physician. Each considered Dr. Rodman's illegal acts to be totally aberrant from his normal highly ethical and professional behavior. Dr. Foley stated that he believed Dr. Rodman would not have committed such acts if he had realized that they would harm anyone other than himself. According to Dr. Lederman, Dr. Rodman's integrity as a scientific medical researcher was always above reproach. All of these witnesses agreed that Dr. Rodman was held in high regard by his colleagues, patients, and students.

These facts are established by Applicant's Exhibits I through K and Deposition Exhibits #1 through #5.

CONCLUSIONS

1. The acts, conduct, and/or omissions of Harvey M. Rodman, M.D., as set forth in Findings of Fact #1 through #5, above, constitute:
 - a. "The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice", as that clause is used in Section 4731.22(B)(8), Ohio Revised Code;
 - b. "Violating..., directly or indirectly,...any provisions of this chapter or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(16), Ohio Revised Code, to wit: Section 4731.41, Ohio Revised Code, Practice of Medicine or Surgery Without a Certificate;

OCT 31 1988

- c. "Failure to use reasonable care discrimination in the administration of drugs", as that clause is used in Section 4731.22(B)(2), Ohio Revised Code, in that they involved the prescribing of controlled substances without legal authority to do so; and
 - d. "Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code, in that they involved the prescribing of controlled substances without legal authority to do so.
2. Dr. Rodman admitted that he had committed the acts set forth in Findings of Fact #1 through #5, above. These acts are acts of moral turpitude which, viewed in isolation, are sufficient to support a conclusion that Dr. Rodman lacks the good moral character required by Section 4731.08, Ohio Revised Code. However, viewed within the context of Dr. Rodman's past personal and professional circumstances and the remedial measures he has taken during the past two years, the testimony and evidence is insufficient to support such a conclusion with regard to his present moral character. The testimony of Dr. Rodman's colleagues, as well as that of his treating psychiatrist, indicates that Dr. Rodman's illegal acts, which were apparently confined to events stemming from his failure to obtain Ohio licensure, represented an extreme deviation from his normal course of exemplary conduct. This suggestion is supported not only by Dr. Rodman's obvious contrition, but also by his constructive behavior during the two-year period since the denial of his 1986 application. From Dr. Corradi's testimony, it would appear that Dr. Rodman's originally undiagnosed affective disorder, which likely contributed to his omissions and commissions of illegal acts, is now well-controlled by Lithium treatments. The further testimony of both Dr. Corradi and Dr. Rodman would suggest that Dr. Rodman's moral lapses are unlikely to recur. While it is not concluded that Dr. Rodman currently lacks the good moral character which is a prerequisite for licensure under Section 4731.08, neither is it concluded that he possess good moral character. If licensed, Dr. Rodman would be subject to the Board's continued scrutiny.
3. For a period of over two years, Dr. Rodman has not been engaged in the active practice of medicine or surgery, in an approved postgraduate training program, or a student in good standing at an approved medical school. Therefore, he would be subject to the provisions of Section 4731.222, Ohio Revised Code. Under this Section, before issuing Dr. Rodman a certificate, the Board may impose appropriate terms and conditions, including requiring him to pass an examination to determine his present fitness to practice; requiring him to obtain additional training and to pass an examination upon completion; and/or restricting or limiting the extent, scope, or type of his practice.

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PROPOSED ORDER

It is hereby ORDERED that the application of Harvey M. Rodman, M.D., to practice medicine and surgery in Ohio shall be and is hereby granted, subject to the following terms, conditions, and limitations:

1. Dr. Rodman shall continue psychiatric treatment with Richard B. Corradi, M.D., or with another psychiatrist approved by the Board, at such intervals as are deemed appropriate by the treating psychiatrist but not less than once per month, until such time as the Board deems that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from Dr. Corradi or the approved treating psychiatrist. Dr. Rodman shall ensure that these reports are forwarded to the Board on a quarterly basis, or as otherwise directed by the Board.
2. Further, Dr. Rodman's certificate shall be subject to the following probationary terms, conditions, and limitations for a period of ten (10) years:
 - a. Dr. Rodman shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
 - b. Dr. Rodman shall submit quarterly declarations under penalty of perjury stating whether or not there has been compliance with all the conditions of probation.
 - c. Dr. Rodman shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals or as otherwise requested by the Board.
 - d. In the event that Dr. Rodman should leave Ohio for three (3) continuous months, or reside or practice outside the State, he must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.
3. In the event that Dr. Rodman violates this Order in any respect, the Board, after giving Dr. Rodman notice and the opportunity to be heard, may impose any disciplinary action it deems appropriate, up to and including revocation of his certificate to practice medicine and surgery in Ohio.
4. Upon successful completion of probation, Dr. Rodman's certificate will be fully restored, except for that limitation set forth in paragraph 1, above.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

Wanita J. Sage
Wanita J. Sage

STATE OF OHIO
THE STATE MEDICAL BOARD
65 South Front Street
Suite 510
Columbus, Ohio 43266-0315

July 13, 1988

Harvey M. Rodman, M.D.
2053 Staunton Road
Cleveland Heights, Ohio 44118

Dear Doctor Rodman:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation for one or more of the following reasons:

- (1) In applying for appointment as a fellow to the staff of the Department of Medicine of University Hospitals of Cleveland, Ohio, for a fellowship beginning July 1, 1972, you did represent to University Hospitals of Cleveland that you obtained an Ohio medical license in June, 1972. You have not, in fact obtained a certificate to practice medicine or surgery in Ohio at any time.
- (2) You did serve as a member of the Medical Staff of University Hospitals of Cleveland beginning on or about July 1, 1973 and continuing until on or about February 14, 1986. During the entirety of this time period you did announce yourself as a practitioner of medicine and surgery. During the entirety of this time period you did examine, diagnose, prescribe, advise, recommend, administer or dispense drugs or medicines, appliances, molds, casts, applications, operations or treatments for the cure or relief of wounds, fractures, bodily injuries, infirmities or diseases, and did receive compensation in remuneration for such acts.
- (3) In your curriculum vitae which you submitted to University Hospitals of Cleveland in approximately 1980, you did represent that you were licensed to practice medicine in Ohio and New York. In fact, you were not licensed to practice medicine in any state.

July 13, 1988

- (4) In applying for biennial reappointment to the medical staff of University Hospitals of Cleveland for the biennium beginning January 1, 1982 and ending January 30, 1984, you did submit to University Hospitals a purported State of Ohio State Medical Board registration card which identified you as holder of certificate to practice medicine or surgery number 035945. Said card was in fact a false and forged document, having been originally issued in the name of Barbara Gothe, M.D., who at that time was your wife.

You did further represent to University Hospitals of Cleveland that you hold DEA registration number AR2886862, a false and fictitious registration number.

- (5) On or about the dates listed below you did prescribe Controlled substances, in the strengths and amounts indicated, to the patients who are identified in the attached patient key (Key to be withheld from public disclosure). You did write or cause to be written on each said prescription a purported DEA registration number, which number was false and fictitious:

<u>Patient Number</u>	<u>Date</u>	<u>Controlled Substance</u>	<u>Amount</u>	<u>Refills</u>
1	10-28-85	Valium 2 mg.	30	1
1	01-20-86	Valium 2 mg.	30	2
2	10-28-85	Terpenhydrate with Codeine	250 cc.	-
3	09-16-85	Demerol 50 mg.	50	-
4	10-22-84	Codeine 30 mg.	8	-
5	07-08-85	Valium 2 mg.	30	1
6	05-13-85	Valium 5 mg.	30	-
7	07-08-85	Valium 5 mg.	30	2
7	09-23-85	Valium 5 mg.	60	2
8	07-29-85	Fiorinal	120	4

Such acts as alleged in the above paragraphs (1), (2), (3), (4), and (5), individually and/or collectively, indicate that you lack the good moral character required by Section 4731.08, Ohio Revised Code, for a certificate to be issued.

Further, such acts as alleged in the above paragraphs (1), (2), (3), (4), and (5), individually and/or collectively, constitute "the obtaining of or attempting to obtain, money or anything of value by fraudulent misrepresentation in the course of practice", as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

July 13, 1988

Further, such acts as alleged in the above paragraphs (1), (2), (3), (4), and (5), individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provisions of (Chapter 4731., Ohio Revised Code) or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(16), Ohio Revised Code, to wit, Section 4731.41, Ohio Revised Code, Practice of Medicine or Surgery Without Certificate.

Further, such acts as alleged in the above paragraph (5), individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs", as that clause is used in Section 4731.22(B)(2), Ohio Revised Code, in that they involved the prescribing of Controlled Substances without legal authority to do so.

Further, such acts as alleged in the above paragraph (5), individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

- (6) In addition to the above grounds, because you have not been engaged in the active practice of medicine or surgery, in a postgraduate training program approved by the State Medical Board, or as a student in good standing at a medical school or college approved by the Board, for more than two years, the State Medical Board may, pursuant to Section 4731.222, Ohio Revised Code, require you to pass an oral or written examination, or both, to determine your present fitness to resume practice; require you to obtain additional training and to pass an examination upon completion of such training; and/or restrict or limit the extent, scope, or type of your practice.

Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, that request must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

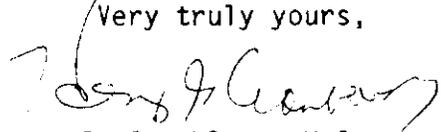
Harvey W. Rodman, M.D.
Page Four

July 13, 1988

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Henry G. Cramblett, M.D.
Secretary

HGC:jmd
Encls.

CERTIFIED MAIL NO. P 746 510 453

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43215

September 12, 1986

Harvey Rodman, M.D.
2053 Staunton Road
Cleveland Heights, Ohio 44118

Dear Doctor Rodman:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Lauren Lubow, Esq., Hearing Examiner, Medical Board; a certified copy of the Motions by the State Medical Board, meeting in regular session on September 11, 1986, approving and confirming said Report and Recommendation as the Findings and Order of the State Medical Board.

You are hereby notified that you may appeal this Order to the Court of Common Pleas of the County in which your place of business is located, or the county in which you reside. If you are not a resident and have no place of business in this state, you may appeal to the Court of Common Pleas of Franklin County, Ohio.

To appeal as stated above, you must file a notice of appeal with the Board setting forth the Order appealed from, and the grounds of the appeal. You must also file a copy of such notice with the Court. Such notices of appeal shall be filed within fifteen (15) days after the date of mailing of this letter and in accordance with Section 119.12, Revised Code.

THE STATE MEDICAL BOARD OF OHIO


Henry G. Crabbett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL NO. P 569 361 870
RETURN RECEIPT REQUESTED

cc: Thomas W. Hess, Esq.

CERTIFIED MAIL NO. P 569 361 871
RETURN RECEIPT REQUESTED

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43215 43266-0315

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Lauren Lubow, Esq., Hearing Examiner, State Medical Board of Ohio; and the attached copy of the Motions by the State Medical Board, meeting in regular session on September 11, 1986, approving and confirming said Report and Recommendation as the Findings and Order of the State Medical Board, constitutes a true and complete copy of the Findings and Order of the State Medical Board in the matter of Harvey Rodman, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board and in its behalf.

(SEAL)


Henry G. Cramblett, M.D.
Secretary

9/12/86
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

HARVEY M. RODMAN, M.D. *

ENTRY OF ORDER

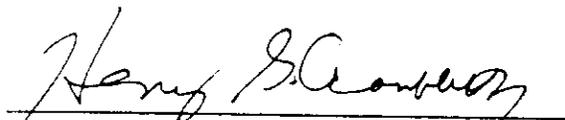
This matter came on for consideration before the State Medical Board of Ohio the 11th day of September, 1986.

Upon the Report and Recommendation of Lauren Lubow, Esq., Hearing Examiner, in this matter designated pursuant to R.C. 119.09, a true copy of which is attached hereto and incorporated herein, which Report and Recommendation was approved and confirmed by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board for the 11th day of September, 1986.

It is hereby ORDERED:

That the application of Harvey M. Rodman, M.D., to practice medicine and surgery in the State of Ohio be DENIED.

(SEAL)



Henry G. Cramblett, M.D.
Secretary

9/12/86

Date

STATE OF OHIO
THE STATE MEDICAL BOARD

REPORT AND RECOMMENDATION
IN THE MATTER OF HARVEY M. RODMAN, M.D.

The matter of the application for medical licensure of Harvey M. Rodman, M.D., came before me, Lauren Lubow, Esq., Hearing Examiner for the State Medical Board of Ohio, on June 17 & 18, 1986.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. MODE OF CONDUCT

During the course of the hearing, rules of evidence were relaxed and both the State and the Applicant were given great latitude in demonstrating the relevancy and materiality of testimony and exhibits offered, as well as in attempting to discredit testimony and evidence presented by the opposing party.

II. BASIS FOR HEARING

A. By letter dated April 10, 1986, the State Medical Board of Ohio notified Dr. Harvey M. Rodman that it proposed to deny his application for medical licensure on the basis of the following allegations:

1. That in applying for a fellowship beginning July 1, 1972, on the staff of the Department of Medicine at University Hospitals, Cleveland, Ohio, Dr. Rodman had represented that he had obtained an Ohio medical license in June, 1972, although Dr. Rodman had not in fact obtained an Ohio license at any time.

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2. That Dr. Rodman served as a member of the medical staff of University Hospitals of Cleveland from July 1, 1972, until February 14, 1986, and held himself out as a practitioner of medicine or surgery during that time.
 3. That in applying for reappointment to the medical staff of University Hospitals of Cleveland for the biennium beginning July 1, 1984 and ending June 30, 1986, Dr. Rodman had submitted as evidence of his medical licensure in the State of Ohio a forged registration card which had originally been issued in the name of his wife, Dr. Barbara Gothe.
 4. That Dr. Rodman had represented to University Hospitals of Cleveland that he held a D.E.A. registration number to prescribe, administer and dispense controlled substances, when, in fact, the number he used was false and fictitious.
 5. That Dr. Rodman had prescribed controlled substances to his patients at University Hospitals of Cleveland when he did not hold a D.E.A. certificate authorizing him to do so.
 6. That in completing an application for Ohio medical licensure, Dr. Rodman had responded in the negative to the question, "Have you ever been denied or dismissed from hospital staff privileges?" when, in fact, Dr. Rodman had been dismissed from privileges at University Hospitals of Cleveland on or about February 4, 1986.
- B. Dr. Rodman requested a hearing on the Board's proposed action by letter dated April 15, 1986.

III. APPEARANCE OF COUNSEL

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Attorney General, by Christopher M. Culley, Assistant Attorney General.
- B. On behalf of the Applicant: Thomas W. Hess, Esq.

IV. TESTIMONY HEARD

A. Presented by the State:

1. Harvey M. Rodman, M.D., as on cross-examination
2. Kay Lynn Rieve, Chief of CME, Records, and Renewal; State Medical Board of Ohio
3. David W. Clark, Senior Vice-President; University Hospitals of Cleveland

B. Presented by the Applicant:

1. Joseph Foley, M.D., Professor Emeritus, Department of Neurology, Case Western Reserve University School of Medicine
2. Joseph Ilan, Ph.D., Professor, Case Western Reserve University School of Medicine, Department of Developmental Genetics and Anatomy
3. Matthew Figgie, patient
4. Nancy Figgie, mother of patient Matthew Figgie
5. Rita Riggle, patient
6. Robert Botti, M.D., Professor of Medicine, Case Western Reserve University School of Medicine; Director, Division of Cardiology, University Hospitals of Cleveland
7. Harvey M. Rodman, M.D.
8. James Carter, Jr., M.D., Professor of Medicine, Case Western Reserve University School of Medicine; Director, Department of Medicine, Cleveland Metropolitan General Hospital
9. George Goldsmith, Jr., M.D., Associate Professor of Medicine, Case Western Reserve University School of Medicine; Associate Director, Hemophilia Treatment Center, University Hospitals of Cleveland

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10. Peter Eckel, medical student, Case Western Reserve University School of Medicine
11. Charles C. J. Carpenter, M.D., formerly Professor and Chairman, Department of Medicine, Case Western Reserve University School of Medicine; currently Professor of Medicine, Brown University

V. EXHIBITS EXAMINED

A. Presented by the State

1. State's Exhibit #1 - April 10, 1986 letter to Dr. Rodman from the State Medical Board proposing to deny his application for licensure and notifying him of his opportunity for a hearing.
2. State's Exhibit #2 - April 15, 1986 letter from Thomas W. Hess, Esq., requesting a hearing on behalf of Dr. Rodman.
3. State's Exhibit #3 - April 17, 1986 letter to Mr. Hess from the State Medical Board scheduling a hearing in this matter and postponing same pursuant to Section 119.09, Ohio Revised Code.
4. State's Exhibit #4 - Motion Regarding Location of Administrative Hearing and Memorandum in Support filed on behalf of Dr. Rodman.
5. State's Exhibit #5 - April 30, 1986 letter to Mr. Hess scheduling Dr. Rodman's hearing for June 16 & 17, 1986.
6. State's Exhibit #6 - June 5, 1986 letter to Mr. Hess rescheduling Dr. Rodman's hearing for June 17 & 18, 1986.
7. State's Exhibit #7 - Application for appointment to the Staff of University Hospitals of Cleveland, effective July 1, 1972, bearing Dr. Rodman's signature.
8. State's Exhibit #8 - Notice of Appointment to the Medical Staff of University Hospitals of Cleveland of Harvey M. Rodman, M.D., dated June 25, 1984.
9. State's Exhibit #9 - Photocopy of wallet card submitted by Dr. Rodman to University Hospitals of Cleveland in 1981 as proof of Ohio medical licensure.

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10. State's Exhibit #10 - Photocopy of wallet card issued to Dr. Barbara Gothe.
11. State's Exhibit #11 - Photocopies of prescriptions written by Dr. Rodman bearing a false D.E.A. number.
12. State's Exhibit #12 - Application for medical licensure submitted by Harvey M. Rodman in March, 1986.
13. State's Exhibit #13 - University Hospitals of Cleveland personnel file for Harvey M. Rodman, M.D.

B. Presented by the Applicant

1. Respondent's Exhibit A - Curriculum Vitae of Joseph Michael Foley, M.D.
2. Respondent's Exhibit B - Letter from Dr. Foley to Dr. C. J. Carpenter, formerly Chairman of the Department of Medicine, Case Western Reserve University School of Medicine, concerning Dr. Harvey Rodman. (SEALED TO PREVENT PUBLIC DISCLOSURE OF PATIENT NAME)
3. Respondent's Exhibit C - Curriculum Vitae of Joseph Ilan, Ph.D.
4. Respondent's Exhibit D - Curriculum Vitae of Robert Ernest Botti, M.D.
5. Respondent's Exhibit E - National Board of Medical Examiners Diplomate Certificate indicating Dr. Rodman's successful completion of the examination.
6. Respondent's Exhibit F - February 14, 1986 letter from Richard Behrman, M.D., Dean of the Case Western Reserve University School of Medicine, notifying Dr. Rodman that he was being placed on a leave of absence at full salary pending the outcome of an investigation of charges made against him.
7. Respondent's Exhibit G - Curriculum Vitae of James R. Carter, Jr., M.D.
8. Respondent's Exhibit H - Curriculum Vitae of George H. Goldsmith, Jr., M.D.
9. Respondent's Exhibit I - Curriculum Vitae of Charles C. J. Carpenter, M.D.

FINDINGS OF FACT

1. Harvey M. Rodman, M.D., first submitted an application for medical licensure in the State of Ohio on March 7, 1986.

This fact is established by State's Exhibit #12.

2. Harvey M. Rodman, M.D., has engaged in the unlicensed practice of medicine in the State of Ohio since at least July, 1973.

This fact is established by Dr. Rodman's admission, Transcript I at 22.

3. Harvey M. Rodman, M.D., has never been licensed to practice medicine in any state.

This fact is established by Dr. Rodman's testimony, Transcript I at 22.

4. In applying for appointment to the medical staff of University Hospitals of Cleveland, effective July 1, 1972, Harvey M. Rodman, M.D., did represent that he had been licensed to practice medicine in the State of Ohio in June, 1972.

This fact is established by State's Exhibit #7, as well as by Dr. Rodman's testimony, Transcript I at 22-23. Although Dr. Rodman denies misrepresenting his licensure status on the application for appointment to the University Hospitals medical staff, he has identified the signature as his own, and is therefore responsible for the contents of the document.

5. In a curriculum vitae submitted to University Hospitals of Cleveland in approximately 1980, Harvey M. Rodman, M.D., did represent that he was licensed to practice medicine in both the State of Ohio and the State of New York, although he was not in fact licensed by either state.

This fact is established by Dr. Rodman's testimony, Transcript I at 171.

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6. In approximately 1981, Harvey M. Rodman, M.D., did alter the wallet card of his wife, Dr. Barbara Gothe, and did present a photocopy of the falsified card to University Hospitals of Cleveland as verification of his licensure in Ohio.

This fact is established by Dr. Rodman's admission, Transcript I at 175.

7. Harvey M. Rodman, M.D., did represent to University Hospitals of Cleveland that he held a D.E.A. registration number, when in fact he did not hold such registration.

This fact is established by Dr. Rodman's admission, Transcript I at 25.

8. Harvey M. Rodman, M.D., did prescribe controlled substances using a false and fictitious D.E.A. registration number.

This fact is established by Dr. Rodman's admission, Transcript I at 175-176.

CONCLUSIONS

At first blush, Harvey Rodman's application for Ohio medical licensure is relatively straightforward. The applicant is, by repeated accounts, a highly skilled physician who has earned the respect and praise of his colleagues and the fierce loyalty of his patients. What is unique about Harvey Rodman is that all of these accolades were earned during his 13 years of unlicensed-- and thus, unlawful--practice of medicine in the State of Ohio.

That a physician with Dr. Rodman's credentials would neglect to pursue licensure for 13 years is disturbing. That this physician would go to such extremes as to clandestinely forge his wife's registration card and invent a D.E.A. number to avoid detection is bizarre.

Dr. Rodman claims that he misrepresented his licensure status on only one occasion, and then purely out of panic. In fact, Dr. Rodman falsely held himself out as being a licensed physician

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from the moment he signed his name to an application for appointment to University Hospitals' medical staff 13 years ago. Since that time, Dr. Rodman has intentionally neglected to correct the misconceptions of his colleagues and his patients. He has accepted compensation for services which he knew he was not legally authorized to provide. He has even lied gratuitously to his employer by claiming to be licensed in both Ohio and New York, although he had never so much as submitted applications to either state.

Dr. Rodman's motivation in devising and perpetuating such a colossal lie is unfathomable. The doctor himself cannot--or will not--explain it. What is evident, though, is that whatever was "wrong" with Harvey Rodman that led to such extreme behavior is still "wrong", and undoubtably would have continued unchecked if he had not been caught.

Harvey Rodman has done his colleagues, his patients, and the people of this state a grave disservice. The citizens of Ohio must be confident that their physicians are duly qualified and licensed. This Board must not establish a precedent of condoning a breach of that confidence by authorizing Dr. Rodman to continue practicing medicine in Ohio.

Accordingly I find:

Violation 1

Dr. Harvey Rodman's acts, conduct, or omissions as set forth in Findings of Fact #2, #4, #5, #6, #7 and #8, above, evidence that Dr. Rodman lacks the good moral character required by Section 4731.08, Ohio Revised Code, for a certificate to be issued.

Violation 2

Dr. Harvey Rodman's acts, conduct, or omissions as set forth in Findings of Fact #4, #5, #6, #7 and #8, above, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

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Violation 3

Dr. Harvey Rodman's acts, conduct, or omissions as set forth in Findings of Fact #2, #4, #5, #6, #7 and #8, above, constitute "the obtaining of or attempting to obtain, money or anything of value by fraudulent misrepresentation in the course of practice", as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

Violation 4

Dr. Harvey Rodman's acts, conduct, or omissions as set forth in Findings of Fact #2, #4, #5, #6, #7 and #8 above, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provisions of (Chapter 4731., Ohio Revised Code) or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(16), Ohio Revised Code, to wit, Section 4731.41, Ohio Revised Code, Practice of Medicine or Surgery Without Certificate.

Violation 5

Dr. Harvey Rodman's acts, conduct or omissions as set forth in Finding of Fact #8 , above, constitute "failure to use reasonable care discrimination in the administration of drugs", as that clause is used in Section 4731.22(B)(2), Ohio Revised Code, in that they involved the prescribing of Controlled Substances without legal authority to do so.

Violation 6

Dr. Harvey Rodman's acts, conduct or omissions as set forth in Finding of Fact #8, above, constitute "selling, prescribing, giving away, or administering drugs for other than legal and therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

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PROPOSED ORDER

It is hereby ORDERED that the application of Harvey M. Rodman, M.D., to practice medicine and surgery in the State of Ohio be denied.



Lauren Lubow, Esq.
Hearing Examiner

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OHIO STATE
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EXCERPT FROM THE MINUTES OF SEPTEMBER 11, 1986

REPORT AND RECOMMENDATION IN THE MATTER OF HARVEY RODMAN, M.D.

Dr. Rauch asked if each member of the Board had received, read, and considered the hearing record, the proposed findings and order, and any objections filed to the proposed findings and order in the matter of Harvey Rodman, M.D. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Buchan	- aye
	Ms. Rolfes	- aye
	Dr. Rothman	- aye
	Dr. O'Day	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- aye
	Dr. Rauch	- aye

.....

DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. LUBOW'S FINDINGS OF FACT AND CONCLUSIONS IN THE MATTER OF HARVEY RODMAN, M.D. DR. BARNES SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Buchan	- aye
	Ms. Rolfes	- aye
	Dr. Rothman	- aye
	Dr. O'Day	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- abstain

The motion carried.

DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. LUBOW'S PROPOSED ORDER IN THE MATTER OF HARVEY RODMAN, M.D. DR. LANCIONE SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye

Dr. Barnes	- aye
Dr. Buchan	- aye
Ms. Rolfe	- aye
Dr. Rothman	- aye
Dr. O'Day	- aye
Dr. Stephens	- aye
Mr. Johnston	- abstain

The motion carried.

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43266-0315

April 10, 1986

Harvey M. Rodman, M.D.
2053 Staunton Road
Cleveland Heights, Ohio 44118

Dear Doctor Rodman:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio proposes to deny your application for a certificate to practice medicine or surgery for one or more of the following reasons:

1. In applying for appointment as a fellow to the staff of the Department of Medicine of University Hospital of Cleveland, Ohio, for a fellowship beginning July 1, 1972, you did represent to University Hospitals of Cleveland that you obtained an Ohio medical license in June, 1972. You have not, in fact obtained a certificate to practice medicine or surgery in Ohio at any time. You first applied for a certificate to practice medicine or surgery in Ohio by application on March 7, 1986, which was received by the State Medical Board on March 10, 1986.
2. You did serve as a member of the Medical Staff of University Hospitals of Cleveland beginning on or about July 1, 1973 and continuing until on or about February 14, 1986. During the entirety of this time period you did announce yourself as a practitioner of medicine or surgery. During the entirety of this time period you did examine, diagnose, prescribe, advise, recommend, administer or dispense drugs or medicines, appliances, molds, casts, applications, operations or treatments for the cure or relief of wounds, fractures, bodily injuries, infirmities or diseases, and did receive compensation in remuneration for such acts.
3. In applying for biannual reappointment to the medical staff of University Hospitals of Cleveland for the biennium beginning July 1, 1984 and ending June 30, 1986, you did submit to University Hospitals a purported State of Ohio State Medical Board registration card which identified you as holder of certificate to practice medicine or surgery number 035945. Said card was, in fact a false and forged document, having been originally issued in the name of Barbara Gothe, M.D., who at that time was your wife.

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THE STATE MEDICAL BOARD

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Harvey M. Rodman, M.D.

April 10, 1986

You did further represent to University Hospitals of Cleveland that you hold DEA registration number AR2886862, a false and fictitious registration number.

4. On or about the dates listed below you did prescribe Controlled substances, in the strengths and amounts indicated, to the patients who are identified in the attached patient key (Key to be withheld from public disclosure). You did write or cause to be written on each said prescription a purported DEA registration number, which number was false and fictitious:

<u>Patient Number</u>	<u>Date</u>	<u>Controlled Substance</u>	<u>Amount</u>	<u>Refills</u>
1	10-28-85	Valium 2 mg.	30	1
1	1-20-86	Valium 2 mg.	30	2
2	10-28-85	Terpenhydrate with Codeine	250 cc.	-
3	9-16-85	Demerol 50 mg.	50	-
4	10-22-84	Codeine 30 mg.	8	-
5	7-8-85	Valium 2 mg.	30	1
6	5-13-85	Valium 5 mg.	30	-
7.	7-8-85	Valium 5 mg.	30	2
7	9-23-85	Valium 5 mg.	60	2
8	7-29-85	Fiorinal	120	4

5. In applying for a certificate to practice medicine or surgery in Ohio, you did respond in the negative to the question, "Have you ever been denied or dismissed from hospital staff privileges?" You had, in fact, been dismissed from privileges at University Hospitals of Cleveland on or about February 4, 1986.

Such acts in the above paragraphs (1), (2), (3), (4), and (5), individually and/or collectively, indicate that you lack the good moral required by Section 4731.08, Ohio Revised Code, for a certificate to be issued.

Further, such acts in the above Paragraphs (1), (3), and (4), individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, such acts in the above Paragraphs (1), (2), (3), (4), and (5), individually and/or collectively, constitute "the obtaining of or attempting to obtain, money or anything of value by fraudulent misrepresentation in the course of practice", as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

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April 10, 1986

Further, such acts in the above Paragraphs (1), (2), (3), (4), and (5), individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provisions of (Chapter 4731., Ohio Revised Code) or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(16), Ohio Revised Code, Practice of Medicine or Surgery Without Certificate.

Further, such acts in the above Paragraph (4), individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs", as that clause is used in Section 4731.22(B)(2), Ohio Revised Code, in that they involved the prescribing of Controlled Substances without legal authority to do so.

Further, such acts in the above Paragraph (4), individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

You are hereby advised that you have the right to a hearing in this matter. If you wish to request such a hearing, that request must be made within thirty (30) days of the time of mailing of this notice. Final action may be taken on the proposed denial if a timely request for hearing is not made.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

Very truly yours,



Henry G. Cramblett, M.D.
Secretary

HGC:caa

CERTIFIED MAIL NO. P 569 364 759
RETURN RECEIPT REQUESTED