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	:	No. 87-A-020
<b>In The Matter Of</b>	:	
	:	
<b>MICHAEL J. HIRSCH, M.D.</b>	:	
(Certificate No. 7249),	:	
	:	
<i>Respondent.</i>	:	<b>FINAL</b>
	:	<b>DECISION</b>
	:	
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An administrative evidentiary hearing was convened before the Louisiana State Board of Medical Examiners (Board) on January 22, 1988, to adjudicate an administrative complaint against Michael Jacob Hirsch, M.D.,<sup>1</sup> charging the respondent physician with "[i]nability to practice medicine . . . with reasonable skill and safety to patients because of mental illness or deficiency . . . ." La. Rev. Stat. § 37:1285(A)(25). A quorum of the Board was present.<sup>2</sup> Dr. Hirsch was present throughout the hearing, appearing on his own behalf.

At Respondent's request, made at the outset of the evidentiary hearing, the Board directed that the record herein be held open two weeks following the hearing to permit Dr. Hirsch an opportunity to offer additional evidence in written form, primarily contemplating psychiatric reports or evaluations to be secured by the physician. Acting on a subsequent request submitted by Respondent,<sup>3</sup> the Board ordered the record held open for an

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<sup>1</sup>Administrative Complaint, *In the Matter of Michael Jacob Hirsch, M.D.*, No. 87-A-020 (filed Nov. 14, 1987).

<sup>2</sup>Drs. Nunnally, Muslow, Laborde, Bordelon and Kaplan. Drs. LaNasa and Hackett took no part in the hearing, consideration or decision in this case.

<sup>3</sup>The Board was advised by Dr. Hirsch that, following the January 22 hearing, he had been unable to schedule a psychiatric evaluation until February 10, 1988, some five days beyond the date on which the Board had directed that the record be concluded.

additional two weeks (to February 19, 1988), at which time the record herein was closed.<sup>4</sup>

Accordingly, upon consideration of the testimonial and documentary evidence adduced and admitted herein, the Board renders the following findings of fact, conclusions of law, and decision.

### Findings of Fact

1. Dr. Hirsch, respondent herein, is a 56-year-old physician initially licensed to practice medicine in Louisiana in 1954. Until the summary suspension of his license by this Board in November 1987,<sup>5</sup> the physician had maintained his medical license continuously since its issuance and had most recently engaged in general practice in various locations in Louisiana, principally in the New Orleans area, in individual practice, with physician groups and for short terms at hospitals.

2. Respondent has a lengthy history of psychiatric difficulties and sporadic terms of psychiatric treatment. Following his completion of medical school in New Orleans, Dr. Hirsch took an internship at Charity Hospital, New Orleans, and had additional training in Denver, Colorado and in New York City. His residency in internal medicine in New York was interrupted in 1959 by a psychiatric hospitalization at a Veterans Administration hospital there, which Dr. Hirsch apparently submitted to at the insistence of the Chief of Medicine at the teaching hospital where he was taking his residency. It appears from the record that the physician may have received additional hospitalization or other psychiatric treatment at another institution before leaving New York and returning to New Orleans.

3. Since returning to Louisiana to establish practice in general medicine, Dr. Hirsch has had what has been described as "episodic but erratic psychiatric treatment." Some 18-19 years ago, he was hospitalized at DePaul Hospital, New Orleans, for several days. Since then he has seen several psychiatrists for various periods of time, and has had both inpatient treatment and outpatient psychiatric counselling at the Veterans Administration Medical Center, New Orleans. At various times his physicians have prescribed and he has taken antidepressant medications, though without—according to Dr. Hirsch—perceptible behavioral changes. In the few years preceding the hearing, Dr. Hirsch had seen a psychiatrist in private practice and two different psychiatrists at the V. A. Medical Center. Yet he has on several occasions refused hospitalization or other treatment prescribed or

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<sup>4</sup>See Order, *In the Matter of Michael Jacob Hirsch, M.D.*, No. 87-A-020 (entered Feb. 16, 1988). Dr. Hirsch ultimately did not submit any additional psychiatric reports or evaluations to the Board for its consideration.

<sup>5</sup>By order issued November 2, 1987, the Board, acting under authority of La. Rev. Stat. § 49:961C and § 37:1285, having determined, on the basis of apparently reliable information and medical opinion, that Dr. Hirsch's capacity to practice medicine with reasonable skill and safety to patients had been severely compromised by chronic, serious psychiatric disorders and that emergency action was imperative to safeguard the public health, safety and welfare, suspended the physician's medical license pending administrative hearing herein. Order of Summary Suspension of License, *In the Matter of Michael J. Hirsch, M.D.*, No. 87-I-005 (Nov. 2, 1987).

recommended by his treating physicians. And at the time of the hearing, and for some time before then, Dr. Hirsch was involved in no ongoing structured psychiatric treatment.

4. Respondent's professional career has been marked by a similar instability and inconsistency. As he himself reported to a psychiatrist appointed by the Board to evaluate his current condition, Dr. Hirsch has over time worked in a variety of places for a variety of groups of physicians, as well as on his own. He has regularly experienced difficulties in his professional relationships with other physicians, and on more than one occasion has been asked to leave medical groups with which he was affiliated. On several occasions he has been denied medical staff and hospital privileges.<sup>6</sup> By the end of 1987, Dr. Hirsch had generally withdrawn from the active practice of medicine.<sup>7</sup>

5. Dr. Hirsch's medical, professional and personal history is consistent with, and symptomatic of, severe cognitive and perceptual disabilities characterized by difficulty in focusing his thoughts and a scattered, rambling, disorganized thought process. Though there is no direct evidence of hallucinatory episodes, he has at times exhibited bizarre ideation.<sup>8</sup> And he has manifested a host of difficulties in simple personal functioning.

6. In the opinion of a physician who conducted a psychiatric evaluation of Respondent at the behest of the Board<sup>9</sup>—an opinion the Board accepts and adopts as a finding of medical fact—Dr. Hirsch currently suffers from a Schizo-Affective Disorder, chronic in nature, longstanding and probably lifelong in duration, and severe in degree. In Dr. Hirsch's case, the diagnosed condition<sup>10</sup> is manifested by wild mood swings, poor social relationships, deteriorating functioning, extreme difficulties in communicating with

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<sup>6</sup>Dr. Hirsch has acknowledged clinical difficulties as well, including errors in diagnosis and treatment, failure to adequately attend to hospitalized patients, neglect of patients scheduled for appointment at his private office, and misprescription of medications.

<sup>7</sup>Dr. Hirsch's testimony does not precisely indicate when he may have chosen to discontinue active practice, whether his withdrawal from practice was complete, or whether it was motivated by his self-recognition of disability or, more simply, by his difficulty in sustaining a private practice.

<sup>8</sup>In describing his mental state at the time of his 1969 hospitalization at DePaul Hospital, Dr. Hirsch reported that he had attempted to prevent his wife from leaving their home on Halloween, because "death was in the air." At another time shortly prior to hospitalization, he had become convinced that his wife wanted their infant daughter to perform a sexual act with him.

<sup>9</sup>Dr. Hirsch was evaluated in September 1987 by Charles K. Billings, M.D., who testified at the hearing. Dr. Billings, a diplomate of (*i.e.*, certified by) the American Board of Psychiatry since 1978, is Associate Chairman of the Department of Psychiatry, Ochsner Clinic, New Orleans, Associate Clinical Professor of Psychiatry, Louisiana State University School of Medicine, and Assistant Clinical Professor of Psychology, Tulane University School of Medicine.

<sup>10</sup>See Kolb & Brodie, MODERN CLINICAL PSYCHOLOGY 460 (10th ed. 1982). The record suggests that psychiatrists previously consulted by Dr. Hirsch had diagnosed his condition as paranoid schizophrenia (James H. Brown, M.D., New Orleans) or as an obsessive-compulsive disorder (Margaret Russell, M.D., W. Thompson, M.D., New Orleans). Dr. Billings does not challenge the legitimacy of such diagnoses as descriptive of primary aspects of traits exhibited by Dr. Hirsch, both of which are generally subsumed in his diagnosis of schizo-affective disorder, which he describes as a "hybrid diagnosis," involving elements of schizophrenia and manic depressive illness. The several diagnoses are, thus, not inconsistent.

people, and impaired judgment in both professional and personal matters. Such mental and personality deficits—particularly those relating to judgment, perception, communication and interpersonal relationships—directly and substantially impair Dr. Hirsch's capacity to practice medicine.

7. Respondent's condition, though "lifelong" and progressive, requires, and may possibly be susceptible to control through, appropriate psychiatric therapy. At present, however, Dr. Hirsch is receiving no form of psychiatric treatment for his condition.

8. We are compelled to find, then, as a matter of clear and convincing factual and medical evidence and opinion, consistently with Respondent's medical, professional and personal history and our observations of his conduct and demeanor during the hearing herein, that Dr. Hirsch currently suffers from a chronic, severe psychiatric condition which renders him incapable of practicing medicine with reasonable skill and safety to patients.

### Conclusions of Law

Based on the foregoing findings of fact, the Board concludes, as a matter of law, that:

1. Respondent is a physician licensed by this Board to practice medicine in the state of Louisiana pursuant to the Louisiana Medical Practice Act. La. Rev. Stat. §§ 37:1261-1292. By virtue of such licensure and of service of the Administrative Complaint herein on Dr. Hirsch, the Board has administrative jurisdiction in these premises. La. Rev. Stat. § 37:1270(A)(1), 1285.

2. It is the cardinal responsibility of this Board to ensure that the public health, safety and welfare is properly protected against the "unprofessional, improper, unauthorized and unqualified practice of medicine." La. Rev. Stat. § 37:1261. It is our duty, thus, to take appropriate action in instances where a licensed physician is or becomes incapable of practicing medicine with reasonable skill and safety to patients because of mental or physical illness or condition. La. Rev. Stat. § 37:1285(A)(25).<sup>11</sup> When we do so, our purpose is not, and should not be taken to be, punitive, but motivated by a primary responsibility to protect the physician's patients and a secondary solicitude for the health of the subject physician.

3. In the present case, based on our factual findings, by virtue of Dr. Hirsch's condition, the Board concludes that the Respondent is incapable of practicing medicine with reasonable skill and safety to patients because of mental illness or deficiency. Accordingly, legal cause exists for the suspension or revocation of Respondent's license to practice medicine in the state of Louisiana. La. Rev. Stat. § 37:1285(A)(25).

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<sup>11</sup>See also LA. REV. STAT. ANN. § 37:1270(B)(5) (West Supp. 1988).

**Decision**

In consideration of the foregoing, and pursuant to the authority vested in the Board by La. Rev. Stat. § 37:1285;

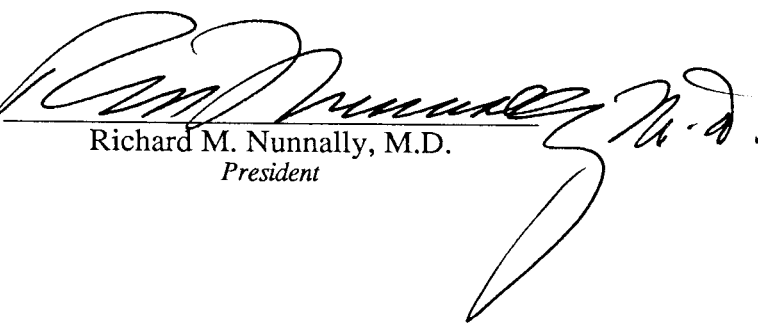
**IT IS ORDERED** that the license of Michael J. Hirsch, M.D. to engage in the practice of medicine in the state of Louisiana, as evidenced by certificate no. 7249, be, and the same is hereby, **SUSPENDED**; and

**IT IS FURTHER ORDERED** that the foregoing order of suspension shall remain in effect until and unless such order is modified or rescinded by further order of the Board, which order shall not be considered or issue until and unless: (a) Dr. Hirsch shall have submitted to and received such inpatient or outpatient psychiatric therapy appropriate to his condition as may be prescribed or recommended by a psychiatrist acceptable to and approved in writing by the Board prior to the initiation of such treatment; (b) Dr. Hirsch's approved treating psychiatrist, and at least one other physician psychiatrist acceptable to the Board, shall have rendered written opinions to the Board, on the basis of competent medical evidence, that Dr. Hirsch is then capable of practicing medicine with reasonable skill and safety to patients; and (c) Dr. Hirsch shall have thereafter made a personal, informal appearance before the Board.

New Orleans, Louisiana, this 24<sup>th</sup> day of March, 1988.

**LOUISIANA STATE BOARD OF  
MEDICAL EXAMINERS**

By

  
Richard M. Nunnally, M.D.  
President