

BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE

In the Matter of the
Medical License of
Thomas F. Micka, M.D.
Year of Birth: 1949
License Number: 30490

**FINDINGS OF
FACT, CONCLUSIONS,
AND FINAL ORDER**

The above-entitled matter came before Administrative Law Judge (“ALJ”) Christa L. Moseng, at the request of the Minnesota Board of Medical Practice (“Board”) Complaint Review Committee (“Committee”). The matter was initiated pursuant to the Notice and Order for Prehearing Conference and Hearing (“Notice of Hearing”) issued by the Committee on February 18, 2022. A prehearing conference was held on March 10, 2022. On May 17, 2022, the Committee brought a motion for summary disposition. On May 18, 2022, a second prehearing conference was held. Daniel S. Schueppert, Assistant Attorney General, represented the Committee. Thomas F. Micka, M.D. (“Respondent”) was represented by Michelle M. Draewell, Quinlivan & Hughes, P.A.

On June 29, 2022, the ALJ issued a Recommendation and Order on Motion for Summary Disposition (“ALJ’s Report”), recommending that the Board take disciplinary action against Respondent’s license. The ALJ stated “[t]he Committee has established that there are no issues of material fact requiring an evidentiary hearing and that it is entitled to disposition as a matter of law.” (A true and accurate copy of the ALJ’s Report is attached and incorporated as Exhibit A.)

The Board convened to consider the matter at a regularly scheduled meeting of the Board on September 10, 2022, both in person and virtually. The Board’s business address is 335 Randolph Avenue, Suite 140, St. Paul, Minnesota 55102. The following Board members were present: Chaitanya Anand, M.B., B.S.; Cheryl L. Bailey, M.D.; Stephanie A. Bumgardner, MSW,

LICSW, RPT; Pamela Gigi Chawla, M.D., M.H.A.; Tenbit Emiru, M.D., Ph.D., M.B.A.; Peter J. Henry, M.D.; Shaunequa B. James, MSW, LGSW; Kristina M. Krohn, M.D.; John M. (Jake) Manahan, J.D.; Kimberly W. Spaulding, M.D., M.P.H.; Bruce Sutor, M.D.; Averil M. Turner, M.A.; Jennifer Y. Kendall Thomas, D.O., FAOCPRM; and Karen Thullner, M.F.A. Daniel S. Schueppert, Assistant Attorney General, appeared on behalf of the Board's Complaint Review Committee. Respondent did not appear. Hans A. Anderson, Assistant Attorney General, was present as legal advisor to the Board.

The following Board members did not participate in deliberations: Cheryl L. Bailey, M.D., Peter J. Henry, M.D., Shaunequa B. James, MSW, LGSW, and Kimberly W. Spaulding, M.D., M.P.H. Board staff who assisted the Committee did not participate in the deliberations.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and accepts the June 29, 2022, ALJ's Report and adopts and incorporates by reference the findings from the Report.¹ Accordingly, the Board finds as follows:

1. The Board issued Respondent a license to practice medicine and surgery in Minnesota in 1986. Respondent is Board certified in psychiatry with a sub-certification in child psychiatry.

2. In December 2018, the Board received a complaint alleging that Respondent ranted and used racial slurs during a psychiatry appointment with a patient (Patient #1). In January 2019, the Board received a complaint alleging that Respondent upset a child patient (Patient #2) by

¹ The ALJ's Report is in memorandum format. To conform to the standard format the Board uses for findings of fact and for ease of reading, the Board has made a number of non-substantive edits to the ALJ's findings, to the extent they are specifically enumerated in this order. The ALJ's factual findings and citations to the record contained in the ALJ's Report, attached as Exhibit A, are Findings of Fact in this Order.

asking traumatic questions and making improper comments. In February 2019, the Board received a complaint alleging that Respondent called a child patient (Patient #3) a “retard,” said Patient #3 was a threat to society, and said no medication would ever help Patient #3. In May 2019, the Board received a report alleging that Respondent discriminated against a child patient’s mother based on her sexual orientation and physical appearance in a manner which affected Respondent’s care to the patient (Patient #4), and that Respondent was terminated from his employment as a result.

3. On April 21, 2017, Respondent came into the office of his employer’s clinic where Respondent practiced child and adolescent psychiatry, and Respondent spoke with a staff member claiming a patient’s mother was a “stripper” and said, “She has no breasts so she couldn’t be making very much money. I think they call them prostitutes.” Respondent also said, “I have bigger titties than her.” In April 2017, Respondent received coaching from his employer about appropriate conversations at work, and on compliance with the clinic’s harassment policy. Specifically, Respondent was advised about prohibitions on “making or using derogatory comments, epithets, slurs, or jokes,” and “graphic verbal commentaries about an individual’s body, sexually degrading words used to describe an individual, or suggestive or obscene letters, notes or invitations.”

4. On July 27, 2017, a child patient’s mother reported to Respondent’s employer that during a visit with Respondent, Respondent told her daughter “racism doesn’t exist.” At a prior appointment, Respondent told the patient’s mother “that she would end up dead” because she was traveling to Pakistan.

5. Between August 2017 and January 2018, Respondent saw Patient #4 for five appointments. At the first appointment, Respondent asked Patient #4’s mother about her family history and she disclosed that she was dating another woman. Respondent replied that women dating women is not okay. Respondent stated that her sexual orientation was a “sin.” At another

appointment, Respondent commented on Patient #4's mother's tattoos, stating that women with tattoos "are bad news" and "troublemakers." During another appointment with Patient #4 and his mother, Respondent used a children's story as a method of telling Patient #4 that his father was never coming back.

6. Respondent's employer investigated the matter, and Respondent admitted to clinic administrators that he had talked to Patient #4's mother about her girlfriend at the first appointment, had commented on her tattoos and had often told such stories as examples. However, Respondent stated Patient #4's mother's specific allegations about his conduct were "fantasy" and he attributed fault to her.

7. On January 11, 2018, clinic administrators met with Respondent due to a complaint that Respondent told a child patient that they were fat. During the meeting, clinic administrators discussed with Respondent a pattern of complaints that the clinic was receiving about his use of offensive language. Respondent rejected advice from clinic administrators to use medical terminology with patients. Instead, Respondent asserted that his patients needed to accept him calling them fat when he believes they are fat.

8. On May 30, 2018, Respondent saw Patient #3 who was born prematurely and had several medical diagnoses including autism and mental disabilities. Respondent used outdated medical terminology no longer recommended by the American Psychiatric Association to inform Patient #3's parent and teacher that Patient #3 was "retarded" and a threat to society. Patient #3's caregivers expressed to Respondent that they were upset by his comments, and Respondent defended his statements.

9. Patient #3's mother determined not to return for any future visits. In a June 2018 email, the President and CEO of Respondent's employer noted that "[we] are working at reducing

stigma around MH/CD issues and [Respondent] is increasing stigma,” and that “[i]f we let him go I believe this would constitute misconduct and interference with the provision of services.” On July 3, 2018, Respondent’s employer met with Respondent to discuss his conduct and a plan to improve his performance. Respondent admitted to some but not all of his conduct, and concluded that Patient #3’s caregivers were “triggered” by his mention of mental retardation.

10. On November 14, 2018, Respondent saw a 17-year-old female patient (Patient #1) for an appointment where Respondent uttered racial slurs and engaged in other forms of stereotyping. During Respondent’s appointment with Patient #1, Respondent disclosed personal information of an advanced practice registered nurse (APRN), who Respondent was supervising, while the APRN was present in the room with Respondent and Patient #1. Specifically, Respondent used the APRN’s personal experiences to diminish Patient #1’s own concerns of physical and sexual trauma, sexual identity, symptoms of PTSD, depression, and her self-report to Respondent that she had thoughts of committing suicide by overdosing on medication or standing in front of a truck.

11. Although Patient #1 disclosed her sexual identity to Respondent, Respondent questioned Patient #1’s self-reported sexuality by proposing different sexualities and for details about her sexual activity. Respondent’s employer conducted an investigation and reported that Respondent made a partial admission to his conduct with Patient #1.

12. On December 28, 2018, the clinic received a complaint from a mother regarding Respondent’s treatment of her child. The mother stated that during an appointment Respondent “kept badgering [the patient] about why [the patient] didn’t want to come see [Respondent] anymore.” Respondent had insisted that the autistic ten-year-old patient leave his office to sit in

the waiting room alone. According to the mother, Respondent “stated he doesn’t believe in autism and that it’s a fake/made up thing.”

13. On January 23, 2019, Respondent saw an 11-year-old male patient (Patient #2) for an appointment. Respondent stated to Patient #2 that he would not want to have Patient 2’s life, that no one would ever understand him, and suggested to Patient #2 that his grandparents did not love Patient #2 enough to adopt him. During one of Respondent’s appointments with Patient #2, Respondent told Patient #2 about a father who Respondent believed was giving his daughters methamphetamine to have sex with them. Respondent questioned Patient #2 in detail about his history of trauma and sexuality. Respondent asked questions about whether Patient #2 had been forced to have sex, whether Patient #2 had been forced to have sex with a specific family member, and if Patient #2 was going to force children with similar lives to Patient #2’s own to have sex.

14. Patient #2’s foster parent, a licensed graduate social worker, was present for the appointment, and Respondent yelled at the foster parent for trying to help Patient #2 answer Respondent’s questions. Respondent wrote a response to his employer’s investigation of this appointment, stating that aspects of his alleged conduct were a “concoction” by Patient #2’s foster parent. Patient #2 ran away from school the next day because his interaction with Respondent made him feel like was not a good person.

15. On January 25, 2019, Respondent’s employer reviewed patient complaints about Respondent’s practice and noted more concern based on the frequency of complaints and found Respondent “was becoming more inappropriate.” Following the meeting, the employer’s Psychiatrist and Medical Director, noted in an email that appears in Respondent’s personnel file that “I think [Respondent] is never going to modify his practice or his attitudes. We have met with

him multiple times about [a number of] complaints from both patients and staff. He always has a reason why the complaints are not justified and why it is the patient's or staff's fault."

16. On March 8, 2019, Respondent's employment was terminated for "apparent unwillingness to change how he communicates with patients, and not complying with [the clinic's] zero tolerance for sexism and racism."

17. On February 26, 2020, Respondent was interviewed by a Board investigator. On November 2, 2020, the Board's Complaint Review Committee served Respondent with a Notice of Conference to meet with the Committee on December 11, 2020, to discuss the allegations as part of the Board's investigation. The Notice of Conference requested a written response to the allegations and informed Respondent that his failure to participate in the conference could result in disciplinary action based on failure to comply with his affirmative duty to cooperate with an investigation by or on behalf of the Board.

18. On November 8, 2020, Respondent sent the Committee, and medical license regulators in two other states, a letter acknowledging that he received the Notice of Conference. In the letter, Respondent wrote "I shall not appear, nor participate otherwise in that investigation." Respondent indicated that he moved to Arizona and was no longer actively practicing medicine in "any of the United States."

19. Respondent's conduct demonstrated a willful or careless disregard for the welfare of multiple patients.

20. Respondent's conduct departed from or failed to conform to the minimal standards of acceptable and prevailing medical practice.

21. Respondent's conduct was sexually demeaning to a patient.

22. Respondent failed to cooperate in an investigation of the Board when he expressly refused to participate in the Board's investigation.

CONCLUSIONS

The Board has reviewed the record of this proceeding and accepts the June 29, 2022 ALJ's Report and adopts and incorporates the conclusions of law therein. Accordingly, based on the Findings of Fact, the Board makes the following Conclusions:

1. The Board and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 147.001–.381, 214.10, and 214.103 (2020).
2. The Board has complied with all relevant procedural requirements of statute and rule.
3. Respondent engaged in unethical or improper conduct, in violation of Minnesota Statutes section 147.091, subdivision 1(g).
4. Respondent engaged in conduct that departs from or fails to conform to the minimal standards of acceptable and prevailing medical practice, in violation of Minnesota Statutes section 147.091, subdivision 1(k).
5. Respondent engaged in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient, in violation of Minnesota Statutes section 147.091, subdivision 1(t).
6. Respondent failed to make reports as required by section 147.111 or to cooperate with an investigation of the board as required by section 147.131, in violation of Minnesota Statutes section 147.091, subdivision 1(u).

7. Minn. Stat. §§ 147.091 and 147.141 provide that the Minnesota Board of Medical Practice may impose discipline on a physician's license based on a violation of the Minnesota Medical Practice Act.

8. The Board has grounds to take disciplinary action against Respondent's license.

9. An order by the Board taking disciplinary action against Respondent's license is in the public interest.

ORDER

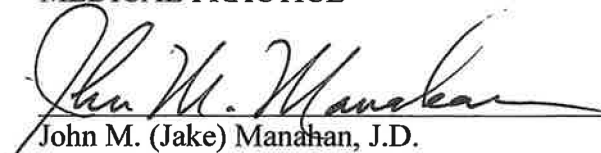
Based on the foregoing Findings of Fact and Conclusions, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that Respondent's license to practice medicine in Minnesota is **REVOKED**.

Dated: _____

9/15/2022

MINNESOTA BOARD OF
MEDICAL PRACTICE



John M. (Jake) Manahan, J.D.
Vice President
Presiding Board Member