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ADMINISTRATIVE AGENCIES SECTION

STATE OF OHIO)
) SS
MAHONING COUNTY)

IN THE COURT OF COMMON PLEAS

CASE NO. 85 CV 616

August 5, 1985

JAMES V. BLACKANN, D.O.,)
)
Appellant)
)
vs.)
)
THE STATE OF OHIO,)
STATE MEDICAL BOARD,)
)
Appellee)

JUDGMENT ENTRY

This case came on for final hearing on July 12, 1985 on the appeal of Appellant, James V. Blackann, D.O., from the decision of Appellee, State Medical Board of Ohio, indefinitely suspending his Certificate to Practice Medicine and Surgery in the State of Ohio, and that Appellee will not consider the reinstatement of said license unless certain minimum requirements are met.

This appeal is under O.R.C. 119.12, and unless otherwise provided by law, the Court is confined to the record as certified to it. It is not a trial de novo.

The Court is sustaining Appellant's motion to allow the additional evidence of Dr. Gary Price Todd of Waynesboro, North Carolina, at this final hearing before the Court on the grounds the Court is satisfied such additional evidence is newly discovered, and could not with reasonable diligence have been ascertained prior to the hearing before the State Medical Board of Ohio.

This Court has read the record certified to it several times, has reviewed the pleadings filed, the additional evidence presented, and the opening and closing statements of counsel.

Dr. Joseph P. Yut was the Hearing member of Appellee who listened to the evidence presented and made a very detailed summary of the evidence with findings of facts along with conclusions and a proposed order. The State Medical Board of Ohio reviewed and amended the report and recommendation of Dr. Joseph P. Yut, and approved a final order at their meeting on March 14, 1985. This final order was appealed and is now before this Court.

At the final hearing before this Court, Appellant's witness, Dr. Gary Price Todd, presented and explained various charts (Appellant Ex. 1) covering his treatments and findings using Nutritional treatment on patients with cataracts. Dr. Todd also testified he did not recommend or sell Calcinar to his patients enumerated in Appellant Exhibit 1, and further admitted on cross examination that a glass of milk contains more calcium than the Calcinar that Appellant, Dr. James Blackann, recommended and sold to his patients.

Upon a full consideration of the entire record and the additional evidence the Court allowed, it is the finding of this Court the order of the Appellee, State Medical Board of Ohio, is supported by reliable, probative and substantial evidence and is in accordance with the law.

The order of the State Medical Board of Ohio is affirmed. Costs assessed to Appellant.

William G. Houser, Judge

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MEDICAL BOARD

STATE OF OHIO
MAHONING COUNTY, } SS:

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James V. Blackann D.O.
PLAINTIFF – appellant
VS.
The State of Ohio, State Medical Board
DEFENDANT – appellee

IN THE COURT OF COMMON PLEAS

CASE NO. 85 CV 616

DATE May 20 1985

JUDGEMENT ENTRY

This Court has reviewed appellants motion for immediate stay of the Ohio State Medical Board suspension of appellants license to practice medicine and the appellees brief in opposition. The Court finds the order of the Medical Board is not defective on its face at this stage of the appeal. The Court further finds the health, safety and welfare of the public far outweigh the possible undue hardship to appellant not being able to pursue his livelihood during the period of this appeal. The motion of appellant to suspend the order of the State Medical Board pending final determination of his appeal is overruled.

APPROVED:

Attorney for Plaintiff

Attorney for Defendant

William G. Houser
JUDGE

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

March 20, 1985

James V. Blackann, D.O.
5675 Mahoning Avenue
Youngstown, OH. 44515

Dear Doctor Blackann:

Please find enclosed a certified copy of the Entry of Order, the Report and Recommendation of Joseph P. Yut, M.D., Member, State Medical Board of Ohio; a certified copy of the Motions by the State Medical Board, meeting in regular session on March 14, 1985, amending 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. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL NO. P. 569 457 870
RETURN RECEIPT REQUESTED

cc: Warren "Bo" Pritchard, Esq.
5825 Mahoning Avenue
Youngstown, OH. 44515

CERTIFIED MAIL NO. P. 569 457 871
RETURN RECEIPT REQUESTED

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 14th day of March, 1985.

Upon the Report and Recommendation, a true copy of which is attached hereto and incorporated herein, of Joseph P. Yut, M.D., Hearing Member in this matter designated pursuant to R.C. 4731.23, which Report and Recommendation was amended 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 14th day of March, 1985.

It is hereby ORDERED:

1. That Dr. James V. Blackann's certificate to practice medicine and surgery in the State of Ohio be and is hereby indefinitely suspended, such suspension to begin thirty (30)days from the effective date of this Order;
2. Further, that the State Medical Board of Ohio shall not consider reinstatement of Dr. Blackann's license unless the following minimum requirements are met;
   A. Dr. Blackann shall complete and submit a written application for restoration to the State Medical Board of Ohio;
   B. Dr. Blackann shall sit for and pass the Ohio examination for licensure, in its entirety, in conformance with all statutory, regulatory, and policy requirements in effect at the time of sitting.

This ORDER shall become effective April 1, 1985.

(SEAL)

Henry G. Cramblett

Henry G. Cramblett, M.D.
Secretary

3-20-85

Date

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

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 Joseph P. Yut, M.D., Member, State Medical Board of Ohio; and the attached copy of the Motions approved by the State Medical Board, meeting in regular session on March 14, 1985, amending 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 James V. Blackann, D.O., as it appears in the Journal of the State Medical Board of Ohio.

(SEAL)

Henry G. Cramblett, M.D.
Secretary

3-20-85
Date

STATE OF OHIO
THE STATE MEDICAL BOARD

REPORT AND RECOMMENDATION
IN THE MATTER OF JAMES V. BLACKANN, D.O.

On June 20, 1984, the hearing regarding the Board's citation against Dr. James V. Blackann was held before me, Joseph P. Yut, M.D., Member of the State Medical Board of Ohio.

INTRODUCTION AND SUMMARY OF EVIDENCE

1. On June 20, 1984, the hearing requested by Dr. Blackann commenced before me, Joseph P. Yut, M.D., as hearing officer.

2. James V. Blackann, D.O., was present and was represented by Warren "Bo" Pritchard, Esquire.

3. The State's case was presented by Mary Joseph Maxwell, Assistant Attorney General.

4. Dr. Blackann's medical practices are alleged to violate Sections 4731.22(B)(2), (3), (6), (7), and (9) of the Ohio Revised Code, as in effect prior to August 31, 1982. The State's allegations are outlined in its citation letter of December 8, 1982. Specifically, it is the State's contention that Dr. Blackann's use of the substance Calcinar, a compound which consists largely of lactose, is a violation of the Medical Practice Act, in that it is not an effective treatment for cataracts.

5. After opening statements by both parties, the State called Dr. Blackann as its first witness. Dr. Blackann was duly sworn and proceeded to testify as if on cross-examination, as follows (Transcript at page 11):

   A. That he is not a specialist in ophthalmology, although he has worked as an optician. He learned how to perform visual examinations and make glasses when he was fourteen years old. Following graduation from the Kansas City College of Osteopathy and Surgery in 1950, he began a residency in general surgery at Bayview Osteopathic Hospital. After a year, he left the program for financial reasons. He returned to the optical business in order to build capital and, in 1954, he opened a general practice in Youngstown.

   B. That he has staff privileges at Youngstown Osteopathic Hospital. His practice has decreased somewhat over the past year due to an extended period of illness. At the present time, he sees twenty-five to thirty patients per day.

   C. That he gives each of the patients who come to his office a complete history and physical, including an opthalmological examination. The latter consists of an examination of

the retina using the slit lens of an ophthalmoscope, in conjunction with a test of visual acuity by chart.

D. That he dispenses a medication referred to as Calcinar as a treatment to retard the advancement of cataracts. He charges a fee of $10 for each bottle of 360 tablets. Calcinar, which is not available on prescription, may be purchased in health food stores.

E. That calcerea fluorica, the generic term for Calcinar, is one of twelve cell salts and is essential to the proper growth and development of every part of the body. He does not believe that calcerea fluorica is the same thing as calcium fluoride.

F. That he does not use any of the other cell salts in the course of his practice. He does not use calcerea fluorica for anything other than the treatment of cataracts, although he believes that it helps conditions such as arteriosclerosis, bone degeneration, arthritis, muscle fatigue, myositis, bursitis and tendonitis.

G. That it is his understanding that one of the causes of cataracts is a deficiency of calcerea fluorica in the body. He also attributes formation of cataracts to the aging process and to certain drugs.

H. That the patient identified in the citation letter had come to him complaining of cataracts. She advised him that her vision, which had been hazy for two to three years, was becoming progressively worse. His examination verified the patient's complaint.

I. That in his estimation, he sees an average of five or six cataract patients each week. He assumes that these patients are referred by other patients who he has treated with Calcinar.

J. That Calcinar tablets are made up primarily of lactose because lactose serves as a base for the calcerea fluorica.

6. Ms. Maxwell proceeded with the direct examination of the State's expert witness, Abraham Joseph Tobia, Ph.D. After testifying about his qualifications in toxicology, Dr. Tobia discussed the procedures he used to chemically analyze the tablets identified as State's Exhibit #7. Dr. Tobia's analysis revealed:

A. That an atomic absorption spectroscopy indicated the presence of calcium in the tablet at 8 micrograms per 100 milligrams of tablet material.

B. That a quantitative analysis of the tablet for fluoride using micro-diffusion and colorimetry did not detect the presence of fluoride.

C. That an infra red "fingerprint" of the compound confirmed the presence of lactose. Further testing recovered approximately 89 milligrams of anhydrous lactose per tablet. Correction for hydration resulted in a minimum recovery of 93.7 milligrams of lactose per 100 milligrams of tablet material. Dr. Tobia suggested that if the extraction procedure were repeated a few times, the lactose content of the tablets would be close to 100 percent.

D. That if fluoride were one of the remaining non-specific materials present, it would comprise an extremely small percentage of the tablet. (Transcript at page 59)

E. That the amount of calcarea fluorica which is claimed to exist in a tablet of Calcinar, per Respondent's Exhibit A, would have been detected by the atomic absorption spectroscopy if it had, in fact, been present. Dr. Tobia also agreed that lactose is a common base for medications. He had never heard of the compound calcarea fluorica.

7. The State continued by presenting the testimony of another expert witness, William H. Havener, M.D. Following a brief discussion of his medical training, Dr. Havener stated:

A. That he has been a practicing ophthalmologist since 1954. He is currently Chairman of the Department of Ophthalmology at the Ohio State University.

B. That he has published several hundred papers in his field, and has also written a number of books. His best-known work, Ocular Pharmacology, is the leading text on pharmacology of the eye in the world. It is currently in its fifth edition.

C. That he has acquired subspecialties in retinal detachment and cataract.

D. That in his experience, the chief cause of cataracts is the aging process. Cataracts may also develop if the lens of the eye sustains serious injury, either through mechanical or chemical means.

E. That the rate of cataract development varies from person to person, and even from eye to eye in an individual. Treatment involves helping the patient adapt during the period in which s/he is not sufficiently handicapped to warrant surgery. Those rare cataracts which arise from endocrine or metabolic disorders are usually arrested by treatment of the abnormality, such as avoiding substances which cannot be adequately matabolized. Dr. Havener stressed that cataracts of this sort make up less than one percent of the cataracts that are clinically encountered.

F. That over a six-month period, at least half of all cataracts will either remain constant or spontaneously improve.

G. That the most effective way to judge the progress of a cataract is to employ a slit lamp in examination. This device allows one to see an optical cross-section in microscopic detail. Dr. Havener distinguished the slit lamp from the slit lens attachment for an ophthalmoscope. He termed the latter, "a very crude way of detecting the presence of a very severe and gross cataract." (Transcript at 74) He added that even if an ophthalmoscope were used, a slit lens would provide only a fraction of the reflection needed to determine the extent of the cataract. He agreed that use of the full circle light of an ophtalmoscope would be of considerable value if a slit lamp were unavailable.

H. That he knows of no medical indication for the use of fluoride, calcium, calcium fluoride or lactose in the treatment of cataracts. It is his opinion that a cataract will not be altered by a course of treatment which relies on these substances.

I. That he knows of no one in Ohio who uses this methodology in dealing with cataracts.

J. That he has heard that calcerea fluorica is a homeopathic drug but is not aware of its chemical content.

8. Following Dr. Havener's testimony, Dr. Blackann was called as a witness on his own behalf. In response to questioning by his attorney, Dr. Blackann stated:

A. That approximately seventy percent of the patients for whom he has prescribed Calcinar have responded favorably to the medication.

B. That he told the patient mentioned in the citation letter:

1. The probabilities of obtaining successful results from the use of Calcinar;

2. That is would take a minimum of six months to determine whether or not she was responding to the medication.

C. That the patient did not seem reluctant to take the medication.

D. That the patient's cataracts did not warrant surgery, and that, in any case, he did not believe she would be able to withstand surgery because of her cardiac condition.

E. That he has received inquiries about calcerea fluorica from other physicians. (Respondent's Exhibit C)

F. That if a patient shows no sign of improvement after six months of treatment with Calcinar, he immediately refers them to other physicians for surgery. If he notes improvement in the patient's condition, he will recommend continued treatment with Calcinar.

G That he has never dispensed Calcinar with the knowledge that it would be ineffective for a particular patient. If he feels that the cataract is too advanced, he will recommend surgery rather than Calcinar.

H. He believes in the efficacy of Calcinar for the treatment of cataract, but he does not promise that it will help every patient.

I. That Calcinar is the only medication sold by his supplier, Wells-Calcinar. He explained that prior to objection by the FDA, the product had been marketed under the names "Afaco" and "Lensivar."

9. The following exhibits were stipulated to by both parties prior to the hearing:

A. State's Exhibit #1 is a copy of the citation letter issued to Dr. Blackann by the State Medical Board on December 8, 1982.

B. State's Exhibit #2 is a February 4, 1983 letter to Dr. Blackann from the Medical Board setting an initial hearing date for February 8, 1983, and continuing that hearing pursuant to Section 119.09, Ohio Revised Code.

C. State's Exhibit #3 is an April 6, 1984 letter from the Medical Board to Dr. Blackann setting this hearing for April 25, 1984.

D. State's Exhibit #4 is an April 24, 1984 letter to the Medical Board from Warren "Bo" Pritchard, Esquire, advising that he had been appointed to represent Dr. Blackann and requesting that the hearing be continued to a later date.

E. State's Exhibit #5 is an April 30, 1984 letter from the Medical Board to Mr. Pritchard rescheduling this hearing for June 20, 1984.

F. State's Exhibit #8 is a January 8, 1983 letter from Dr. Blackann to Dr. Anthony Ruppersberg of the State Medical Board explaining Dr. Blackann's use of Calcinar and discussing the chemical composition of the tablets.

10. The chemical analysis prepared by Dr. Tobia (State's Exhibit #6) and the white tablets identified by Drs. Tobia and Blackann (State's Exhibit #7) were admitted over Mr. Pritchard's objections.

11. The following documentary evidence was identified and admitted on behalf of the Respondent:

A. Respondent's Exhibit A is a letter to Dr. Blackann from Virginia P. Wells, along with attachments discussing homeopathic potencies.

B. Respondent's Exhibit B is a customer list for Wells-Calcinar, Inc.

C. Respondent's Exhibit C is a letter to Dr. Blackann over the signature of Dr. Cyril Von Savage requesting information about calcerea fluorica.

12. Ms. Maxwell objected to the introduction of each of the above documents on the basis of hearsay. Her objections were overruled.

13. At the close of the June 20, 1984 hearing, the record was held open for thirty days (July 20, 1984) to allow Respondent the opportunity to obtain an independent chemical analysis of the substance labeled Exhibit #7, as well as of the Calcinar kept by Dr. Blackann in his office. An additional thirty days was granted for both parties to submit written briefs summarizing their positions. Parties were advised that the record would be closed sixty days following the hearing date, on August 20, 1984.

14. On July 25, 1984, five days after the first established deadline, Respondent filed a motion requesting an additional two weeks in which to file a toxicology report. The State submitted a motion contra on August 7, 1984. Following a review of both requests, Respondent's motion was denied by this hearing officer on August 15, 1984.

15. Although the record in this matter was formally closed on August 20, 1984, the final argument received from Respondent on September 14, 1984 was admitted, and has been considered by this hearing officer for the purposes of reaching findings and an order. No final argument was received from the State.

FINDINGS OF FACT

1. Dr. James V. Blackann has maintained a general medical practice in Youngstown, Ohio since 1954.

   This fact is established by Dr. Blackann's testimony, Transcript at page 11.

2. Dr. Blackann does not have specialty training in ophthalmology, although he has had practical experience as an optician.

   This fact is established by Dr. Blackann's testimony, Transcript at page 11.

3. Dr. Blackann uses the slit lens of an ophthalmoscope and a distance visual acuity examination to track the progression of cataract in his patients.

   This fact is established by the testimony of Dr. Blackann, Transcript at page 12.

4. Dr. Blackann has dispensed a non-prescription medication referred to as Calcinar as a treatment to retard the advancement of cataracts.

   This fact is established by Dr. Blackann's testimony, Transcript at page 13.

5. Dr. Blackann charges a fee of ten dollars ($10) for each bottle (360 tablets) of Calcinar he dispenses.

   This fact is established by Dr. Blackann's testimony, Transcript at page 13.

6. Calcinar is the trade name for calcerea fluorica, a homeopathic compound which is available for purchase in health food stores.

   This fact is established by Dr. Blackann's testimony, Transcript at page 16.

7. Analysis of the substance identified as State's Exhibit #7 revealed that it is comprised almost exclusively of lactose. Traces of calcium were also found.

   This fact is established by the expert testimony of Abraham Tobia, Ph.D. and by State's Exhibit #6.

8. Lactose serves as a common base for many medications.

   This fact is established by the expert testimony of Dr. Tobia, Transcript at page 59.

9. The chief cause of cataracts is the aging process.

   This fact is established by the expert testimony of William H. Havener, M.D., Transcript at page 72.

10. At the present time, there is no acceptable scientific treatment for pre-operative cataracts beyond monitoring and reassuring the patient.

    This fact is established by the expert testimony of Dr. Havener, Transcript at page 72.

11. The acceptable scientific treatment for cataracts which are beyond maintenance is surgical excission.

    This fact is established by the expert testimony of Dr. Havener, Transcript at page 72.

12. Over a six-month period, half of all cataracts will either remain stable or will appear to spontaneously improve.

    This fact is established by the expert testimony of Dr. Havener, Transcript at page 73.

13. There is no medical indication for the use of fluoride, calcium, calcium fluoride, or lactose in the treatment of cataracts.

    This fact is established by the expert testimony of Dr. Havener, Transcript at page 86.

14. The most effective way to judge the progress of a cataract is to employ a slit lamp in examination, although an ophthalmoscope may be of some value.

    This fact is established by the expert testimony of Dr. Havener, Transcript at page 83.

CONCLUSIONS

1. Dr. James V. Blackann's use of the homeopathic compound calcerea fluorica ("Calcinar") for the treatment of cataracts constitutes "failure to use reasonable care discrimination in the administration of drugs" and "failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease", in contravention of Section 4731.22(B)(2), Ohio Revised Code. The expert testimony of William H. Havener, M.D., a noted authority in the area of cataract development and treatment, clearly establishes that there is currently no acceptable scientific treatment for preoperative cataracts. Nonetheless, Dr. Blackann continues to tout what amounts to a placebo as a highly effective cure for an untreatable ailment, claiming success on the basis of what is actually a common and natural regression of this condition. Dr. Blackann's continued reliance on this modality of treatment demonstrates a blatant lack of awareness about the drugs he is administering and the disease process he is treating.

2. Despite the fact that expert testimony has verified that the components of Calcinar have no discernable affect on the natural progression of cataract, Dr. Blackann has continued to recommend and sell this product to his patients as a proported treatment. By doing so, Dr. Blackann is indulging in nothing more than uncontrolled, unscientific experimentation. Such acts present grounds for disciplinary action against Respondent pursuant to Section 4731.22(B)(3), Ohio Revised Code, in that they constitute "selling, prescribing, giving away or administering drugs for other than legal and legitimate therapeutic purposes."

3. Dr. Blackann's unsubstantiated insistence that Calcinar will cure a condition which experts agree is untreatable prior to surgery is purely anecdotal evidence of the compound's effectiveness. The efficacy of Calcinar is not accepted. Indeed, Dr. Havener has stated that he knows of no one in Ohio who uses the components of Calcinar for the management of cataracts. By continuing to dispense this ineffective medication, Dr. Blackann has failed "to conform to minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established." These acts constitute grounds for disciplinary action against Respondent pursuant to Section 4731.22(B)(6), Ohio Revised Code.

4. Although he does not guarantee that Calcinar will effectuate a cure for cataract in every instance, Dr. Blackann has represented this compound in the course of his practice as a potential cure for a condition which is considered incurable at the present time. In addition to receiving monetary remuneration for the treatment he renders, Dr. Blackann speculated that he has also received referrals through his Calcinar patients. Deriving benefits from such misrepresentation is both unethical and fraudulent, and constitutes a violation of Section 4731.22(B)(7), Ohio Revised Code, to wit: ". . . representing, with the purpose of obtaining compensation or other advantage for himself or any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured."

5. By his own admission, Dr. Blackann was receiving the sum of ten dollars ($10) for each bottle of Calcinar tablets he dispensed. His sales of this compound were a direct result of his misrepresentations to patients that Calcinar offered a potential cure for cataracts. Such practice constitutes a direct violation of Section 4731.22(B)(9), Ohio Revised Code, as in effect prior to August 31, 1982, to wit: " . . . the obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of treatment."

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PROPOSED ORDER

It is hereby ORDERED:

1. That Dr. James V. Blackann's certificate to practice medicine and surgery in the State of Ohio be and is hereby indefinitely suspended, such suspension to begin thirty (30) days from the effective date of this Order;

2. Further, that the State Medical Board of Ohio shall not consider reinstatement of Dr. Blackann's license unless the following minimum requirements are met:

   A. Dr. Blackann shall complete and submit a written application for restoration to the State Medical Board of Ohio;

   B. Dr. Blackann shall sit for and pass the Ohio examination for licensure, in its entirety, in conformance with all statutory, regulatory, and policy requirements in effect at the time of sitting.

This Order shall become effective as determined by the Board.

Joseph P. Yut, M.D., Hearing Member
State Medical Board of Ohio

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

EXCERPT FROM THE MINUTES OF FEBRUARY 20, 1985

REPORT AND RECOMMENDATION IN THE MATTER OF JAMES V. BLACKANN, D.O.

Mr. Bumgarner, Ms. Yale, and Mr. Prunte remained out of the room.

Dr. Rauch asked if each member of the Board 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 James V. Blackann, D.O. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. O'Connor	- aye
	Dr. Buchan	- aye
	Mr. Johnston	- aye
	Dr. Yut	- abstain
	Dr. Oxley	- aye
	Ms. Rolfes	- aye
	Dr. Stephens	- aye

The motion carried.

.....

MR. JOHNSTON MOVED TO APPROVE AND CONFIRM DR. YUT'S FINDINGS OF FACT, CONCLUSIONS AND PROPOSED ORDER IN THE MATTER OF JAMES V. BLACKANN, D.O. MS. ROLFES SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. O'Connor	- aye
	Dr. Buchan	- aye
	Mr. Johnston	- aye
	Dr. Yut	- abstain
	Dr. Oxley	- aye
	Ms. Rolfes	- aye
	Dr. Stephens	- aye

The motion carried.

MR. JOHNSTON MOVED THAT THE ORDER BE EFFECTIVE IMMEDIATELY. DR. BUCHAN SECONDED THE MOTION. A discussion followed:

.....

DR. LANCIONE MOVED TO AMEND MR. JOHNSTON'S MOTION TO SET AN EFFECTIVE DATE OF APRIL 1, 1985. MR. JOHNSTON SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. O'Connor	- aye
	Dr. Buchan	- aye
	Mr. Johnston	- aye
	Dr. Yut	- abstain
	Dr. Oxley	- aye
	Ms. Rolfes	- aye
	Dr. Stephens	- aye

The motion carried.

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

ROLL CALL VOTE:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. O'Connor	- aye
	Dr. Buchan	- aye
	Mr. Johnston	- aye
	Dr. Yut	- abstain
	Dr. Oxley	- aye
	Ms. Rolfes	- aye
	Dr. Stephens	- aye

The motion carried.

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

December 8, 1982

James V. Blackann, D.O.
5675 Mahoning Avenue
Youngstown, OH 44515

Dear Doctor Blackann:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine under authority of Section 4731.22, Ohio Revised Code, whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register or reinstate your certificate to practice medicine or surgery in Ohio for one or more of the following reasons:

1. On or about June 1982, you dispensed or caused to be dispensed certain drugs to one Mrs. Julia Peltz. Said drugs consisted of lactose. Said drugs were prescribed for the treatment of cataracts.

Pursuant to Section 4731.22(B)(2), Ohio Revised Code, such acts constitute failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease.

Pursuant to Section 4731.22(B)(3), Ohio Revised Code, such acts constitute selling, prescribing, giving away or administering drugs for other than legal and legitimate therapeutic purposes.

Pursuant to Section 4731.22(B)(6), Ohio Revised Code, such acts constitute a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.

Pursuant to Section 4731.22(B)(7), Ohio Revised Code, such acts constitute representing, with the purpose of obtaining compensation or other advantage for himself or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured.

Pursuant to Section 4731.22(B)(9), Ohio Revised Code, such acts constitute the obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of treatment.

In accordance with Chapter 119., Ohio Revised Code, you are hereby advised that you have a right to a hearing in this matter. If you wish to request such a hearing, this request must be made 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 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 there is no request for such hearing made within thirty (30) days of the time of mailing of this notice, the State Medical Board of Ohio may, in your absence and upon consideration of this matter, determine whether or not to refuse to grant you a certificate to practice medicine and surgery in the State of Ohio.

Copies of the applicable Ohio Revised Code Sections are enclosed for your reference. (Effective prior to August 27, 1982)

Very truly yours,

Anthony Ruppersberg, Jr., M.D.
Secretary

AR:jmb

Enclosure:

CERTIFIED MAIL #P349 641 619
RETURN RECEIPT REQUESTED

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 1006
180 East Broad Street
Columbus, Ohio 43215

April 17, 1978

James V. Blackann, D.O.
5675 Mahoning Ave.,
Youngstown, OH. 44515

Dear Doctor Blackann:

Please find enclosed a certified copy of the Findings and Order as they have been entered in the Journal of the Ohio State Medical Board; and a certified copy of the Motion approved by the State Medical Board, meeting in regular session on April 13, 1978, approving and confirming the Findings and Order.

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 aforesaid, 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 days after the date of mailing of this letter, and in accordance with the requirements of Section 119.12, Revised Code.

The State Medical Board of Ohio

Anthony Ruppersberg, Jr., M.D.
Secretary

CERTIFIED MAIL #580635
RETURN RECEIPT REQUESTED

cc: Mr. Jerry Hultin, Esq.

STATE OF OHIO
THE STATE MEDICAL BOARD

CERTIFICATION

DATE: April 17, 1978

I hereby certify that the attached copy of the Findings and Order of the Ohio State Medical Board, in the matter of James V. Blackann, D.O., is a true and complete copy of the Findings and Order as they appear in the Journal of the State Medical Board; and that the attached copy of the Motion approved by the State Medical Board, meeting in regular session on April 13, 1978, is a true and complete copy as it appears in the Journal of the State Medical Board.

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

ANTHONY RUPPERSBERG, JR., M.D.
SECRETARY
THE STATE MEDICAL BOARD OF OHIO

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 1006
180 East Broad Street
Columbus, Ohio 43215

FINDINGS AND ORDER IN THE MATTER OF JAMES V. BLACKANN, D.O.

The matter of James V. Blackann, D.O. came on for hearing before me, Walter H. Paulo, member of the State Medical Board, on January 13, 1978.

After consideration of the testimony, examination of the evidence, and review of the transcript, I make the following Findings:

Guilty as charged, to wit:

On or about August 1975 through November 1976, Dr. Blackann did dispense or cause to be dispensed certain drugs to one Herbert Krebs. Said drugs consisted of lactose. Said drugs were prescribed for the treatment of cataracts.

CONCLUSIONS OF LAW

Such acts constitute a "departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances" as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

Such acts constitute a "failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease" as that clause is used in Section 4731.22(B)(2), Ohio Revised Code.

Such acts constitute the "obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of treatment" as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

ORDER

IT IS ORDERED that the license of James V. Blackann, D.O., to practice osteopathic medicine and surgery in the State of Ohio be suspended for sixty (60) days commencing June 1, 1978.

Walter H Paulo
Walter H. Paulo
Member
Ohio State Medical Board

STATE OF OHIO
THE STATE MEDICAL BOARD

April 13, 1978

Re: Approval of Findings and Order
in the matter of James V. Blackann, D.O.

Dr. Cramblett moved to approve and confirm the Findings and Order in the matter of James V. Blackann, D.O. as presented by Mr. Walter H. Paulo. Dr. Ruppersberg seconded the motion. A roll call vote was taken:

Dr. Cover	- aye
Dr. Gandy	- abstain
Dr. Press	- aye
Dr. Clarke	- aye
Dr. Lovshin	- aye
Dr. Cramblett	- aye
Mr. Paulo	- aye
Dr. Ferritto	- aye
Dr. Ruppersberg	- aye
Dr. Lancione	- aye

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 1006
180 East Broad Street
Columbus, Ohio 43215

August 11, 1977

James V. Blackann, D.O.
5675 Mahoning Avenue
Youngstown, OH 44515

Dear Doctor Blackann:

In accordance with Chapter 119, Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine, under the provisions of Section 4731.22, Revised Code, whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate your certificate to practice osteopathic medicine and surgery for one or more of the following reasons:

1. On or about August, 1975, through November, 1976, you dispensed or caused to be dispensed certain drugs to one Herbert Krebs. Said drugs consisted of lactose. Said drugs were prescribed for the treatment of cataracts.

Such acts constitute a "departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances" as that clause is used in Section 4731.22(B)(6), Revised Code.

Further, such acts constitute the "failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease" as that clause is used in Section 4731.22(B)(2), Revised Code.

Further, such acts constitute the "obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of treatment" as that clause is used in Section 4731.22(B)(9), Revised Code.

STATE OF OHIO
THE STATE MEDICAL BOARD

You are advised that under Chapter 119 of the Revised Code you are entitled to a hearing on this matter if you request such hearing 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 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 made within thirty (30) days of the time of mailing this notice, the State Medical Board may, in your absence and upon consideration of the matter, determine whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate your certificate to practice osteopathic medicine and surgery.

A copy of the Medical Practice Act is enclosed for your examination.

Very truly yours,

Anthony Ruppersberg, Jr., M.D.
Secretary

AR/cj-p

Enclosure 1

CERTIFIED MAIL #750244
RETURN RECEIPT REQUESTED