

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
:
JACK EDWIN SLINGLUFF, D.O. :

ENTRY OF ORDER

On November 24, 2008, Jack Edwin Slingluff, D.O., executed a Surrender of his license to practice osteopathic medicine and surgery in Ohio with consent to revocation, which document is attached hereto and fully incorporated herein.

Wherefore, upon ratification by the Board of the surrender, it is hereby ORDERED that Certificate No. 34-001265 authorizing Jack Edwin Slingluff, D.O., to practice osteopathic medicine and surgery in the state of Ohio be permanently REVOKED, effective December 10, 2008.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 10th day of December 2008, and the original thereof shall be kept with said Journal.



Lance A. Talmage, M.D.
Secretary

(SEAL)

December 10, 2008
Date

**STATE OF OHIO
THE STATE MEDICAL BOARD
SURRENDER OF CERTIFICATE
TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY**

I, Jack Edwin Slingluff, D.O., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein.

I, Jack Edwin Slingluff, D.O., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice osteopathic medicine and surgery, License #34.001265 to the State Medical Board of Ohio [Board], thereby relinquishing all rights to practice osteopathic medicine and surgery in Ohio.

I understand that as a result of the surrender herein I am no longer permitted to practice osteopathic medicine and surgery in any form or manner in the State of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement or restoration of certificate to practice osteopathic medicine and surgery License #34.001265, or issuance of any other certificate pursuant to the authority of the State Medical Board of Ohio, on or after the date of signing this Surrender of Certificate to Practice Osteopathic Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I hereby authorize the State Medical Board of Ohio to enter upon its Journal an Order permanently revoking my certificate to practice osteopathic medicine and surgery, License #34.001265, in conjunction with which I expressly waive the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board Members vote to revoke said certificate, and further expressly and forever waive all rights as set forth in Chapter 119., Ohio Revised Code, including but not limited to my right to counsel, right to a hearing, right to present evidence, right to cross-examine witnesses, and right to appeal the Order of the Board revoking my certificate to practice osteopathic medicine and surgery.

I, Jack Edwin Slingluff, D.O., hereby release the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. I, Jack Edwin Slingluff, D.O.,

Surrender of Certificate
Jack Edwin Slingluff, D.O.

acknowledge that my social security number will be used if this information is so reported and agree to provide my social security number to the Board for such purposes.

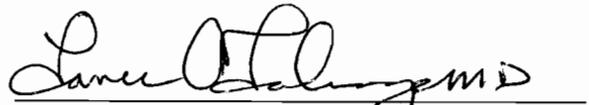
I stipulate and agree that I am taking the action described herein in lieu of formal disciplinary proceedings pursuant to Section 4731.22(B)(19), Ohio Revised Code.

EFFECTIVE DATE

It is expressly understood that this Surrender of Certificate is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.



JACK EDWIN SLINGLUFF, D.O.



LANCE A. TALMAGE, M.D.
Secretary

Nov 24, 2008

DATE

12-11-08

DATE



~~DAVID J. SIMMONS, ESQ.~~ Samuel J.
Attorney for Dr. Slingluff Ferruccio



RAYMOND J. ALBERT
Supervising Member

11-24-08

DATE

12/11/08

DATE



DANIEL S. ZINSMASTER, ESQ.
Enforcement Attorney

11/25/2008

DATE

The Supreme Court of Ohio

FILED

SEP 13 2006

MARY ANN ENGEL, CLERK
SUPREME COURT OF OHIO

Jack Edward Slingluff, D.O.

v.

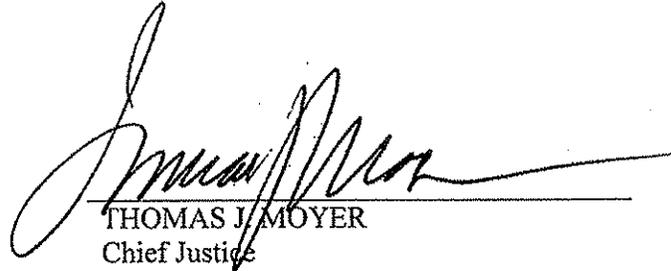
State Medical Board of Ohio

Case No. 06-1598

ENTRY

Upon consideration of the jurisdictional memoranda filed in this case, the Court declines jurisdiction to hear the case and dismisses the appeal as not involving any substantial constitutional question.

(Franklin County Court of Appeals; No. 05AP918)



THOMAS J. MOYER
Chief Justice

C3407J20

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

JACK EDWARD SLINGLUFF, D.O.

Appellant,

v.

Case No. 04CVF12-12991

JUDGE SHEERAN

STATE MEDICAL BOARD OF OHIO

Appellee.

ORDER

Pursuant to Appellant's Motion to Continue Stay Order, the Order of this Court dated December 13, 2004 staying the Order November 10, 2004 Order of the State Medical Board of Ohio pending appeal, is HEREBY continued on the same terms and conditions through the pendency of appellant's appeal to the Ohio Supreme Court.

IT IS SO ORDERED.



Judge

9/19/06

CLERK OF COURTS

2006 SEP 21 AM 10:41

FILED
COMMON PLEAS COURT
FRANKLIN COUNTY
OHIO

cc: **Kyle Wilcox, Assistant Attorney General**
Elizabeth Y. Collis, Esq.

IN THE SUPREME COURT OF OHIO

JACK EDWARD SLINGLUFF, D.O.	:	
	:	
Appellant	:	On appeal from the Franklin
	:	County Court of Appeals
v.	:	Tenth Appellate District
	:	
STATE MEDICAL BOARD OF OHIO	:	Court of Appeals
Appellee	:	Case No. 05AP-918
	:	

**Notice of Appeal of Appellant
Jack Edward Slingluff, D.O.**

Elizabeth Y. Collis (#0061961)
(Counsel of Record)
Collis, Smiles & Collis, LLC
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(614) 486-3909
FAX (614) 486-2129
Beth@Collislaw.com
Counsel for Appellant,
Jack Edward Slingluff, D.O.

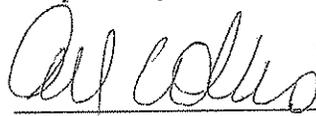
Kyle C. Wilcox (#0063219)
Assistant Attorney General
30 E. Broad Street, 26th Floor, HHS
Columbus, Ohio 43215
(614) 466-8600
(614) 466-6090 facsimile
Counsel for Appellee
State Medical Board of Ohio

Notice of Appeal of Appellant Jack Edward Slingluff, D.O.

Appellant, Jack Edward Slingluff, D.O., hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Franklin County Court of Appeals, Tenth Appellate District, entered in *Slingluff v. State Medical Board of Ohio*, Court of Appeals case No. 05 AP-918 on July 11, 2006.

This case raises questions arising under the United States and Ohio Constitutions and is one of public or great general interest.

Respectfully submitted,



Elizabeth Y. Collis (#0061961)
Collis, Smiles & Collis, LLC
Counsel of Record
Counsel for Appellant
Jack Edward Slingluff, D.O.

Certificate of Service

I certify that a copy of this Notice of Appeal was sent by ordinary U.S. mail to counsel for Appellee, State Medical Board of Ohio, Kyle C. Wilcox, Assistant Attorney General, Health and Human Services Section, 30 East Broad Street, 26th Floor, Columbus, Ohio 43215 this 24th day of August, 2006.



Elizabeth Y. Collis (0061961)
Counsel for Appellant
Jack Edward Slingluff, D.O.

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

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FRANKLIN CO OHIO
2006 JUL 11 PM 12:23
CLERK OF COURTS

Jack Edward Slingluff, D.O., :
Appellant-Appellant, :
v. :
State Medical Board of Ohio, :
Appellee-Appellee. :

No. 05AP-918
(C.P.C. No. 04CV-12991)

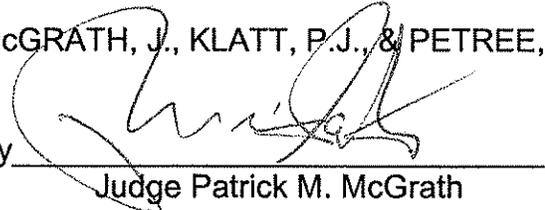
(REGULAR CALENDAR)

JUDGMENT ENTRY

For the reasons stated in the opinion of this court rendered herein on July 11, 2005, appellant's first and second assignments of error are overruled, and it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed. Costs shall be assessed against appellant.

McGRATH, J., KLATT, P.J., & PETREE, J.

By



Judge Patrick M. McGrath

HEALTH & HUMAN
JUL 14 2006
SERVICES SECTION

ON COMPUTER 12

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

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FRANKLIN CO. OHIO
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CLERK OF COURTS

Jack Edward Slingluff, D.O., :
Appellant-Appellant, :
v. :
State Medical Board of Ohio, :
Appellee-Appellee. :

No. 05AP-918
(C.P.C. No. 04CV-12991)
(REGULAR CALENDAR)

O P I N I O N
NUNC PRO TUNC

Rendered on July 13, 2006

Collis, Smiles & Collis, Elizabeth Y. Collis and Terri-Lynne B. Smiles, for appellant.

Jim Petro, Attorney General, and *Kyle C. Wilcox*, for appellee.

APPEAL from the Franklin County Court of Common Pleas.

McGRATH, J.

{¶1} Plaintiff-appellant, Jack Edward Slingluff, D.O. ("appellant"), appeals from a judgment of the Franklin County Court of Common Pleas which affirmed an order of defendant-appellee, State Medical Board of Ohio (the "board"), suspending appellant's license to practice osteopathic medicine and surgery for one year.

{¶2} The disciplinary proceeding against appellant originally stemmed from his guilty plea in federal court to one misdemeanor count of introduction or delivery for

introduction into interstate commerce of 30 vials of Laetrile, an unapproved new drug,¹ to be shipped from West Palm Beach, Florida, to Salem, Ohio, in violation of Sections 331(d), 355(a), and 333(A)(1), Title 21, U.S.Code. As a result of his federal misdemeanor conviction, the board charged appellant with "[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug" in violation of R.C. 4731.22(B)(3), and with having pled guilty to a misdemeanor, a violation of R.C. 4731.22(B)(11). Appellant was not charged with any violation of R.C. 4731.22(B)(6), failure to conform to minimal standards of patient care.

{¶3} The board's charges against appellant were first addressed in an evidentiary hearing before an attorney-hearing examiner, who subsequently issued a report and recommendation containing findings of fact and conclusions of law. Therein, the hearing examiner concluded that appellant's federal misdemeanor conviction

¹ According to the National Cancer Institute (NCI), a component of the National Institutes of Health (NIH):

Laetrile is a compound that has been used as an anticancer treatment in humans worldwide. It is not approved by the US Food and Drug Administration (FDA) as a treatment for cancer or any other medical condition. The term "laetrile" comes from 2 words (laevorotatory and mandelonitrile) and is used to describe a purified form of the chemical amygdalin. Amygdalin is a plant compound that contains sugar and produces cyanide. Cyanide is believed to be the active cancer-killing ingredient in laetrile. Amygdalin is found in the pits of many fruits and in raw nuts. It is also found in other plants such as lima beans, clover, and sorghum.

constituted a violation of both R.C. 4731.22(B)(3) and (11), and recommended to the board that appellant's license be suspended for 30 days, with the suspension stayed subject to certain probationary terms and conditions.

{¶4} Appellant did not file objections to the hearing examiner's report and recommendation, and the board subsequently convened to consider appellant's case. At the hearing before the board on November 10, 2004, appellant appeared, represented by counsel, and addressed the board, as did the attorney general's office. The minutes of the subsequent discussion by the board reflect that the board discussed appellant's case in connection with his federal misdemeanor conviction, as well as various allegations that appellant's use of Laetrile failed to conform to the minimal standards of patient care. The board subsequently adopted the hearing examiner's findings of fact and conclusions of law, but disregarded the hearing examiner's recommendation as to penalty, and, instead, suspended appellant's license for one year, subject to probationary terms and conditions for a period of at least a year.

{¶5} Appellant then appealed to the Franklin County Court of Common Pleas pursuant to R.C. 119.12. On August 4, 2005, the court of common pleas rendered its decision affirming the board's order as supported by reliable, probative, and substantial evidence, and in accordance with law.

{¶6} Appellant has timely appealed from the decision of the court of common pleas, and brings the following two assignments of error:

[1.] THE COURT OF COMMON PLEAS ABUSED ITS DISCRETION IN UPHOLDING THE MEDICAL BOARD'S ORDER TO SUSPEND DR. SLINGHUFF'S LICENSE FOR ONE YEAR BASED ON THE FACT THAT THE MEDICAL

BOARD CONSIDERED EVIDENCE THAT WAS NOT IN THE RECORD AS A BASIS TO MODIFY THE RECOMMENDATION AND THEREBY VIOLATED DR. SLINGHUFF'S RIGHT TO DUE PROCESS OF LAW.

[2.] THE COURT OF COMMON PLEAS ERRED IN UPHOLDING THE MEDICAL BOARD'S ORDER TO SUSPEND DR. SLINGHUFF'S LICENSE WHEN THE DECISION OF THE MEDICAL BOARD WAS NOT BASED ON RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE.

{¶7} In an administrative appeal, pursuant to R.C. 119.12, the trial court reviews an order to determine whether it is supported by reliable, probative, and substantial evidence, and is in accordance with the law. In applying this standard, the court must "give due deference to the administrative resolution of evidentiary conflicts." *University of Cincinnati v. Conrad* (1980), 63 Ohio St.2d 108, 111:

{¶8} The Supreme Court of Ohio has defined reliable, probative, and substantial evidence as follows:

* * * (1) "Reliable" evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonable probability that the evidence is true. (2) "Probative" evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue. (3) "Substantial" evidence is evidence with some weight; it must have importance and value.

(Footnotes omitted.) *Our Place, Inc. v. Ohio Liquor Control Comm.* (1992), 63 Ohio St.3d 570, 571.

{¶9} On appeal to this court, the standard of review is more limited. Unlike the court of common pleas, a court of appeals does not determine the weight of the evidence. *Rossford Exempted Village School Dist. Bd. of Edn. v. State Bd. of Edn.* (1992), 63 Ohio St.3d 705, 707. In reviewing the court of common pleas' determination that the board's

order was supported by reliable, probative, and substantial evidence, this court's role is limited to determining whether the court of common pleas abused its discretion. *Roy v. Ohio State Med. Bd.* (1992), 80 Ohio App.3d 675, 680. The term abuse of discretion connotes more than an error of law or judgment; it implies that the court's attitude is unreasonable, arbitrary or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219. However, on the question of whether the board's order was in accordance with the law, this court's review is plenary. *University Hosp., Univ. of Cincinnati College of Medicine v. State Emp. Relations Bd.* (1992), 63 Ohio St.3d 339, 343.

{¶10} With the appropriate standard of review in place, we now turn to the merits of the appellant's assignments of error. For ease of analysis, we will address appellant's assignments of error together, as they present inextricably related questions.

{¶11} The first question that must be answered is whether the trial court erred in concluding the board's order was supported by reliable, probative, and substantial evidence. In this case, appellant pled guilty in federal court to one misdemeanor count of introduction or delivery for introduction into interstate commerce of 30 vials of Laetrile, an unapproved new drug, in violation of Sections 331(d), 355 (a), and 333 (A)(1), Title 21, U.S.Code. The board determined appellant's conviction fell within the ambit of R.C. 4731.22(B)(3) and (11), which provides as follows:

(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

* * * *

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice[.] * * *

(Emphasis added.)

{¶12} At the onset, we note that appellant does not challenge the board's conclusion that his federal misdemeanor conviction constituted a violation of R.C. 4731.22(B)(11). On this basis alone, we conclude that the trial court did not err when it determined the board's order was supported by reliable, probative, and substantial evidence. See, e.g., *Smith v. State Med. Bd.* (Mar. 21, 2002), Franklin App. No. 01AP-863; *Herman v. Ohio State Med. Bd.* (Nov. 28, 2000), Franklin App. No. 99AP-967; *Davidson v. State Med. Bd.* (May 7, 1998), Franklin App. No. 97APE08-1036. In fact, the only argument advanced by appellant on appeal is that because there was no evidence "presented by the State to prove that Laetrile is illegal to possess, prescribe or administer by licensed physicians[,]" his conviction does not run afoul of R.C. 4731.22(B)(3). This argument, however, rings hollow when viewed against the clear and unambiguous language of that subsection, for indeed, if this court were to accept appellant's argument, then the second part of R.C. 4731.22(B)(3) (italicized above) would have no effect.

{¶13} Having concluded that the board's order was supported by reliable, probative, and substantial evidence, analysis proceeds to determine whether the penalty imposed by the board, which exceeded that recommended by the hearing examiner, is in accordance with law.

{¶14} Pursuant to R.C. 119.09, an agency is permitted to modify an order of a hearing examiner. That statute provides, in pertinent part:

* * * The recommendation of the referee or examiner may be approved, modified, or disapproved by the agency, and the order of the agency based on such report, recommendation, transcript of testimony and evidence, or objections of the parties, and additional testimony and evidence shall have the same effect as if such hearing had been conducted by the agency. No such recommendation shall be final until confirmed and approved by the agency as indicated by the order entered on its record of proceedings, *and if the agency modifies or disapproves the recommendations of the referee or examiner it shall include in the record of its proceedings the reasons for such modification or disapproval.*

(Emphasis added.) We have previously held that this statute is complied with when the minutes of the board reveal the reasons for modifying a hearing examiner's recommendation. *Feldman v. State Med. Bd.* (Sept. 30, 1999), Franklin App. No. 98AP-1627.

{¶15} In this case, the hearing examiner recommended that the board suspend appellant's license for 30 days, with the suspension stayed subject to certain probationary terms and conditions. The hearing examiner stated the reasons and rationale underlying her recommendation, explaining:

Dr. Slingluff's misdemeanor drug conviction is based upon conduct that was motivated by his desire to help patients, rather than financial gain. Dr. Slingluff appears to be a compassionate physician who administered Laetrile for no other reason other than that he believes that it is beneficial to cancer patients.

Further, Dr. Slingluff testified that he had not knowingly engaged in any illegal activity, and that he has not administered Laetrile since he learned of the criminal investigation. He stated that, had the authorities simply asked him to cease his conduct, he would have done so. Dr. Slingluff does not seem to be a physician who will defy the law because he disagrees with it. Indeed, he testified that he will not administer Laetrile again unless he becomes involved in a government sponsored research project or unless Laetrile

is approved by the FDA. For all of these reasons, minimal discipline is appropriate.

(Report and recommendation in the matter of Jack E. Slinghuff, D.O., Oct. 13, 2004, at 12.)

{¶16} Appellant asserts that the board violated fundamental principles of fairness and due process at his hearing by addressing issues related to patient care, with which appellant had not been charged. Thus, it is appellant's position that the severity of the sanction imposed by the board, which exceeded that recommended by the hearing examiner, was necessarily based on the prejudicial effect of these patient care issues discussed by the board.

{¶17} To support his claim that the board's decision to suspend his license was not based upon his federal conviction, appellant cites excerpts taken from the comments of various board members during the board's deliberations in appellant's case. The board's minutes, which are not verbatim, but nonetheless paraphrase the board's members' statements in detail, contains statements attributed to Dr. Egner as describing appellant as a physician who "blatantly practices what he thinks is a form of medicine that is outlawed." (Minutes at 4.) The board's minutes also contain Dr. Egner's comments that "[t]his case is about using a substance that has been banned," and "[t]his should have been a minimal standards case * * *." Id. at 4-5. In fact, Dr. Egner moved to amend the proposed order by substituting an order of permanent revocation, and Dr. Bhati seconded the motion.

{¶18} The minutes also contain statements by Dr. Kumar, who agreed with Dr. Egner. Dr. Kumar criticized appellant's use of Laetrile and vitamin therapy as treatment

modalities for cancer patients, as such are not the standard of care, and accused appellant of "taking advantage of the most vulnerable people in society, who are afraid of cancer." *Id.* at 5.

{¶19} The minutes also contain statements made by various board members who referred to Laetrile as being illegal, which appellant contends, the state failed to establish.

{¶20} On the face of these comments taken alone, it would appear that the board did in fact consider patient care issues, with which appellant was not charged. However, in examining these comments, we must consider the background of the board's deliberation. While it is true that Dr. Egner expressed her opinion that appellant's case "should have been a minimal standards case," she went on to state that "it doesn't really matter. There was a federal conviction of a crime for using a drug that has been banned." *Id.* at 5. Thus, Dr. Egner clarified her position that the decisive factor for consideration was appellant's conviction. Likewise, Dr. Buchan, who spoke against revocation, reminded the board "the fact remains that [appellant] was using a banned or illegal substance." *Id.* at 7. When considered in context, it is clear that Dr. Buchan was reminding the board that appellant's federal misdemeanor conviction, and not the controversy surrounding the use of Laetrile, was the definitive issue at hand. Dr. Steinbergh also stressed that appellant came before the board "because of his conviction of a drug-related misdemeanor. That's the charge today." *Id.* at 11. Although the board discussed, at times, the charges against appellant in relation to the standard of care, the minutes reflect that the board based its decision to impose a harsher penalty because of his violations of R.C. 4731.22(B)(3) and (11). To that end, while appellant is correct in asserting that the board discussed issues outside the scope of R.C. 4731.22(B)(3) and

(11), intellectual honesty demands we acknowledge that issues relating to the requisite standard of care cannot be completely divorced from appellant's statutory violations. This is especially true when considering the nature of appellant's conviction, which involved appellant's treatment of patients with an unapproved drug. Thus, contrary to appellant's position, the record does not support the conclusion that the board's consideration of patient care issues served as the motivating force behind its decision to modify the hearing examiner's recommendation as to penalty.

{¶21} We also note there was another aspect of the hearing before the board which could have influenced its decision to disregard the hearing examiner's recommended sanction and impose a heavier penalty. The record discloses that appellant was investigated by the board in the 1980s regarding his use of Laetrile, but for reasons not clear from the record, he was not charged with any violation. Comments made by several board members suggest their dismay with appellant, who was before them again regarding the same conduct, despite having previously received a "free pass."

{¶22} In *Clayman v. State Med. Bd. of Ohio* (1999), 133 Ohio App.3d 122, a case factually similar to the case sub judice, we found that:

* * * [D]espite the board's discussion of patient care issues with which appellant was not charged, viewed globally, the administrative hearing that lead to appellant's license revocation comported with the requirements of fairness and due process. Appellant was fully apprised of the violations with which he was charged, and was given a full opportunity to respond before an impartial board, satisfying due process. *Korn v. Ohio State Med. Bd.* (1988), 61 Ohio App. 3d 677, 684. While patient care issues with which appellant was not charged, and which he therefore would not have had a full opportunity to respond to, were discussed by the board, there is sufficient, reliable, probative, and substantial evidence in the record that substantiates both the charges against

appellant and the penalty imposed by the board to outweigh appellant's claims of prejudice from discussion of these patient care issues. See, e.g., *Bouquett v. State Medical Bd. of Ohio* (1997), 123 Ohio App. 3d 466, 474-475. It should be pointed out that some of the observations of board members relating to patient care, are directly or indirectly related to the disciplinary charges considered by the board. And while fundamental notions of due process would be offended if the appellant were penalized for matters that were not charged, the evidence of appellant's misconduct is overwhelming and the board acted within its discretion and lawful authority in imposing the severe sanction of revocation.* * *

Id. at 128-129.

{¶23} We reach the same result here. While the position of this court is more in line with the rationale articulated by the hearing examiner, that fact is of no consequence. The Supreme Court of Ohio has held that "the fact that the court of appeals, or this court, might have arrived at a different conclusion than did the administrative agency is immaterial. Appellate courts must not substitute their judgment for those of an administrative agency or a trial court absent the approved criteria for doing so." *Lorain City Bd. of Edn. v. State Emp. Relations Bd.* (1988), 40 Ohio St. 3d 257, 261. In this case, the board minutes, when viewed as a whole, set forth in some detail the factors and evidence in the record which the board considered to be exacerbating, leading to modification of the proposed penalty. As such, the trial court did not abuse its discretion in finding that "there is sufficient, reliable, probative, and substantial evidence in the record that substantiates both the charges against appellant and the penalty imposed by the board to outweigh appellant's claims of prejudice from discussion of these patient care issues." *Clayman*, supra, at 128.

{¶24} Based on the foregoing, appellant's first and second assignments of error are overruled, and the judgment of the Franklin County Court of Common Pleas affirming the order of the State Medical Board of is affirmed.

Judgment affirmed.

KLATT, P.J., and PETREE, J., concur.

**NOTICE OF APPEAL TO A COURT OF APPEALS
FROM A JUDGMENT OR
APPEALABLE ORDER**

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

JACK EDWARD SLINGLUFF, D.O. :
5850 Fulton Drive NW :
Canton, Ohio 44718 :
Appellant/Appellant :

Case No. 04CVF-12-12991

NOTICE OF APPEAL

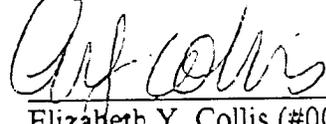
v. :

STATE MEDICAL BOARD OF OHIO :
77 South High Street, 16th floor :
Columbus, Ohio 43215-6127 :
Appellee/Appellee :

Notice is hereby given that Jack Edward Slingluff, Appellant/Appellant, hereby appeals to the Court of Appeals of Franklin County, Ohio, Tenth Appellant District from the Judgment Entry entered in this action on the 16th day of August, 2005, and the corresponding Decision Affirming the Order of the State Medical Board dated August 4, 2005. (see attached)

Appellant/Appellant appeals the decision of the trial court based upon the fact that the trial court abused its discretion in finding that the decision of the Board was based on reliable, probative and substantial evidence and was in accordance with law.

Respectfully submitted,



Elizabeth Y. Collis (#00061961)
Collis, Smiles & Collis, LLC
1650 Lake Shore Drive, Suite 225
Columbus, Ohio 43204
(614) 486-3909; (614) 486-2129 facsimile
Counsel for Appellant, Dr. Slingluff

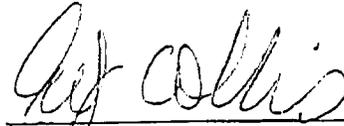
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FRANKLIN COUNTY, OHIO
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CLERK OF COURTS

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CLERK OF COURTS

05APE-09-0918

Certificate of Service

I hereby certify that a copy of the foregoing Notice of Appeal has been served on Counsel for Appellee/Appellee, Kyle Wilcox, Assistant Attorney General, 30 E. Broad Street, 26th Floor, HHS, Columbus, Ohio 43215 by regular U.S. mail, this 1st day of September, 2005.



Elizabeth Y. Collis, (#0061961)

STATE MEDICAL BOARD
OF OHIO
2005 SEP 23 A 10:05

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

JACK EDWARD SINGLUFF, D.O.)

Appellant,)

vs.)

STATE MEDICAL BOARD OF OHIO)

Appellee.)

005 SEP 22

FB 070H03

Case No. 04CVF-12-12991

JUDGE SHEERAN

2005 AUG 23 PM 2:29
CLERK OF COURTS

ORDER

On August 19, 2005, Appellant filed a Motion for Continuation of Stay Order and Memorandum in Support in this court. Based on the fact that Appellant intends to appeal the decision of this court to the Tenth District Court of Appeals and based on the fact that Appellant has followed all requirements of the this court's December 13, 2005 Stay Order (the "Stay Order"), it is hereby Ordered, Adjudged and Decreed that Appellant's Motion for Continuance of Stay Order and Memorandum in Support, dated August 19, 2005 is hereby GRANTED. The stay as provided for and subject to the terms and conditions set forth in the Stay Order is hereby continued in this matter throughout the appeal of this court's Decision and Judgment Entry, dated August 4, 2005, before the Tenth District Court of Appeals.

ON COMPUTER

2

Pat Sheeran 8/24/05

Judge Sheeran

Cc: Elizabeth Y. Collis
Collis, Smiles & Collis, LLC
1650 Lake Shore Drive
Suite 225
Columbus, Ohio 43204
Counsel for Appellant

Cc: Kyle Wilcox, AAG
30 E. Broad Street, 26th Floor
Columbus, Ohio 43215
Counsel for Appellee

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

2005 AUG 18 AM 8:25
CLERK OF COURTS

JACK EDWARD SLINGLUFF, D.O. :
Appellant, : Case No. 04 CV 12-12991
v. : JUDGE SHEERAN
STATE MEDICAL BOARD OF OHIO :
Appellee. :

**JUDGMENT ENTRY AFFIRMING THE STATE MEDICAL BOARD'S
NOVEMBER 10, 2004, ORDER SUSPENDING DR. SLINGLUFF'S MEDICAL
LICENSE FOR ONE YEAR**

This case is before the Court upon the appeal, pursuant to R.C. 119.12, of the November 10, 2004 Order of the State Medical Board of Ohio which suspended the Medical License of Jack Edward Slingluff for one year with conditions for reinstatement.

For the reasons stated in the decision of this Court rendered and filed on August 8, 2005, which decision is incorporated by reference as if fully rewritten herein, it is hereby:

ORDERED, ADJUDGED AND DECREED that judgment is entered in favor of Appellee, State Medical Board of Ohio, and the November 10, 2004 Order of the State Medical Board in the matter of Jack Edward Slingluff, D.O., is hereby AFFIRMED.

Costs to Appellant.

IT IS SO ORDERED.

8/16/05
Date



JUDGE SHEERAN

APPROVED:

JIM PETRO (0022096)
Attorney General



KYLE C. WILCOX (0063219)
Assistant Attorney General
Health & Human Services Section
30 East Broad Street, 26th Floor
Columbus, Ohio 43215-3400
614 466-8600
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ELIZABETH Y. COLLIS (0061961)
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Columbus, Ohio 43204
614 486-3909
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Counsel for Jack E. Slingluff, D.O.

Counsel for the State Medical Board

FINAL APPEALABLE ORDER

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

JACK EDWARD SLINGLUFF, D.O.,

Appellant,

vs.

STATE MEDICAL BOARD OF OHIO

Appellee

CASE NO. 04CVF-12-12991

JUDGE SHEERAN

TERMINATION NO. 10
BY: SS 8-4-05

FILED
CLERK OF COURTS
2005 AUG - 8 AM 9:37
FRANKLIN COUNTY, OHIO

DECISION AND JUDGMENT ENTRY AFFIRMING THE ORDER OF THE OHIO STATE MEDICAL BOARD

Rendered this 4th day of August, 2005

SHEERAN, JUDGE

This is an appeal pursuant to R.C. 119.12 of a November 10, 2004 Order of the State Medical Board of Ohio ("the Board") suspending the medical license of Appellant Jack Edward Slingluff, D.O., for one year and imposing conditions on reinstatement.

I. HISTORY OF THIS MATTER

On April 14, 2004, the Board notified Appellant that it proposed to take disciplinary action against his medical license. The Board alleged that Appellant had violated R.C. 4731.22(B)(3) and (B)(11) by reason of the following:

On or about March 16, 2004, in the United States District Court, Northern District of Ohio, Eastern Division, you pleaded guilty to one (1) misdemeanor count of introduction or delivery for introduction into interstate commerce of an unapproved drug to wit: thirty (30) vials of the unapproved new drug Amigdalina B-17 (AKA Laetrile) to be shipped from West Palm Beach, Florida to Salem, Ohio, in violation of Title 21, Sections 331(d), 355(a) and 333(a)(1), United States Code.

Your underlying conduct is provided in greater detail in the Information and Plea Agreement, copies of which are attached hereto and incorporated herein.

Appellant requested an administrative hearing, which was held on August 31, 2004.

On October 13, 2004, the Hearing Examiner issued a Report and Recommendation concluding that Appellant had committed the violations charged and recommending a 30-day stayed license suspension with conditions for reinstatement.

The Board considered this matter at its November 10, 2004 meeting. At the conclusion of the discussion, the Board voted to confirm the Hearing Examiner's findings and amend the proposed order by imposing a one-year suspension with conditions for reinstatement. On December 10, 2004, Appellant filed this appeal of the Board's Order.

II. FACTS

At the administrative hearing, the State presented certified copies of the federal information and plea agreement (Ex. 5), transcripts of the federal court proceedings (Ex. 2, 3), and a transcript of a federal investigation tape of a visit to Appellant's office (Ex. 6). The State also called Appellant as a witness. This evidence came in without objection.

Appellant is a 73-year-old osteopathic physician who has practiced medicine in the Canton, Ohio, area for over forty years. (Tr. 21-23). As part of his general medical practice, Appellant treats cancer patients.

In his testimony, Appellant acknowledged that even though Laetrile has not been approved by the FDA, he has been treating cancer patients with Laetrile since the late 1970's. (Tr. 26-29, 57). He stated that because Laetrile is unapproved, it cannot legally be imported or transported across state lines. (Tr. 26). He acknowledged that the

purpose of FDA approval is for the safety of patients, and one of the reasons Laetrile has not been approved is that it may convert to cyanide after being ingested. (Tr. 26-27).

By 2002, the FDA had begun to investigate Appellant. In August, 2002, the FDA sent a wired undercover agent to Appellant's office posing as a cancer patient. During this office visit, Appellant made negative comments to the "patient" about conventional treatment and made positive comments about treatment with Laetrile. Appellant stated that he had treated 2,000 cancer patients "mostly with Laetrile" and that Laetrile was "13 times safer than Aspirin." (Ex. 6, p. 20, 34).

The facts giving rise to the misdemeanor conviction in this case are as follows. Appellant was treating a cancer patient identified as Patient 1. Patient 1 purchased Laetrile and brought it to Appellant's office. (Tr. 31-32). Appellant testified that during the treatment, Patient 1 left her supply of Laetrile at Appellant's office. (Tr. 30). In January, 2003, the FDA executed a search warrant at Appellant's office and recovered 30 vials of Laetrile. (Tr. 30-31; Ex. 5). It was determined that the Laetrile had been shipped from Florida to Patient 1, in violation of restrictions on transporting Laetrile across state lines. (Tr. 32-33, 63).

Appellant was charged with one misdemeanor count of introduction or delivery for introduction into interstate commerce of an unapproved drug. Appellant pleaded guilty to this misdemeanor count and stipulated to the facts satisfying the elements of the offense. (Ex. 5). Appellant was sentenced to one year of probation. (Tr. 38, Ex. 5).

Appellant testified that he believed he could lawfully treat patients with Laetrile as long as the patients obtained the Laetrile in Ohio. (Tr. 56). He testified that he believed Patient 1 had obtained the Laetrile in Ohio, and that she had inadvertently left

the Laetrile in his office. (Tr. 63). Appellant stated that his patients were benefited, and not harmed by, the Laetrile treatments. (Tr. 65-66). Appellant presented an affidavit from Patient 1 supporting Appellant. (Tr. 76). Appellant testified that after the conviction, he stopped treating patients with Laetrile. (Tr. 81).

Appellant testified on direct examination. Appellant also called Cindy Boylan, his office manager, as a witness. She testified that each patient who received Laetrile consented to the treatment. (Tr. 91). She stated that Appellant provided patients with information regarding sources from which Laetrile was available, and the patients obtained the Laetrile. (Tr. 93). She stated that Patient 1 left two vials of Laetrile at the office. (Tr. 93). The FDA recovered 30 vials of Laetrile from Appellant's office. (Tr. 30-31, Ex. 5). Appellant called two patients as witnesses who testified that they wanted Appellant to continue to be their physician. (Tr. 100, 105).

In the Report and Recommendation, the Hearing Examiner found that Appellant's guilty plea to the misdemeanor count of introduction or delivery for introduction into interstate commerce of an unapproved drug in violation of United States Code Title 21, Sections 331(d), 355(a), and 333(a)(1) constituted a "plea of guilty to ... a violation of any federal or state law regulating the possession, distribution, or use of any drug" pursuant to R.C. 4731.22(B)(3) and a "plea of guilty to ... a misdemeanor committed in the course of practice" pursuant to R.C. 4731.22(B)(11). (Report, p. 11). The Hearing Examiner found that Appellant had not knowingly engaged in illegal activity and that the conviction resulted from conduct motivated by a desire to help patients. The Hearing Examiner recommended a stayed 30-day license suspension with conditions for reinstatement. (Report, p. 12-13).

The Board considered this matter at its November 10, 2004 meeting. Appellant and his counsel addressed the Board, as did counsel for the State. At the conclusion of its deliberations, the Board voted to confirm the Hearing Examiner's findings of fact and conclusions. The Board voted to amend the proposed order by imposing a one-year license suspension with conditions for reinstatement.

III. LAW

When considering an appeal from an order of the Medical Board, a common pleas court must uphold the order if it is supported by reliable, probative, and substantial evidence, and is in accordance with law. R.C. 119.12. *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St. 3d 619, 621; *Landefeld v. State Med. Bd.* (2000), Tenth Appellate District No. 99AP-612, 2000 Ohio App. LEXIS 2556.

The Ohio Supreme Court has recognized that the General Assembly granted the Medical Board a broad measure of discretion. *Arlen v. State* (1980), 61 Ohio St. 2d 168, 174. In *Farrand v. State Med. Bd.* (1949), 151 Ohio St. 222, 224, the court stated:

... The purpose of the General Assembly in providing for administrative hearings in particular fields was to facilitate such matters by placing the decision on facts with boards or commissions composed of men equipped with the necessary knowledge and experience pertaining to a particular field. ...

"Accordingly, when courts review a medical board order, they are obligated to accord due deference to the board's interpretation of the technical and ethical requirements of the medical profession." *Landefeld, supra*, at pg. 9.

IV. THE COURT'S FINDINGS AND CONCLUSIONS

Appellant's first argument is that the evidence does not support the Board's finding of a violation of R.C. 4731.22(B)(3).

R.C. 4731.22(B) provides as follows:

The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

...

(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, **a violation of any federal or state law regulating the possession, distribution, or use of any drug;** (emphasis added)

Appellant's brief argues that the evidence does not establish that he administered drugs for other than legal and legitimate purposes as set forth in the first part of R.C. 4731.22(B)(3). This argument disregards the remaining language of R.C. 4731.22(B)(3), which provides that discipline may also be based on "a plea of guilty to ... a violation of any federal or state law regulating the possession, distribution, or use of any drug." There is no dispute that Appellant entered such a plea, and therefore the Board had reliable, probative and substantial evidence to find that discipline was appropriate pursuant to R.C. 4731.22(B)(3).

Appellant's Reply brief argues that the Board improperly increased the penalty to a one-year suspension based on facts that were not in evidence at the hearing.

R.C. 119.09 provides, in pertinent part, as follows:

The recommendation of the referee or examiner may be approved, modified, or disapproved by the agency, and the order of the agency based on such report, recommendation, transcript of testimony and evidence, or objections of the parties, and additional testimony and evidence shall have the same effect as if such hearing had been conducted by the agency. No such recommendation shall be final until confirmed and approved by the agency as indicated by the order entered on its record of proceedings, and if the agency modifies or disapproves the recommendations of the referee

or examiner it shall include in the record of its proceedings the reasons for such modification or disapproval.

In *Feldman v. State Medical Board* (1999), Tenth App. Dist. Case No. 98AP-1627, 1999 Ohio App. LEXIS 4613, the court held that these provisions of R.C. 119.09 are satisfied if the minutes of the Board meeting reflect the basis for the decision to modify the Hearing Examiner's recommendation.

Appellant argues that the Board's modification of the Hearing Examiner's recommendation was improper in that the Board concluded, without supporting evidence, that Appellant had practiced below minimal standards. Appellant was not charged with practicing below minimal standards.

The minutes of the Board meeting of November 10, 2004, reflect that the Board members commented on the fact that Appellant admitted, at the hearing, prescribing Laetrile to many cancer patients over a long period of time. Evidence of this conduct was both presented by Appellant himself during his direct examination testimony and presented without objection. It can be expected that the Board members would consider and comment on the facts presented by Appellant surrounding the misdemeanor conviction.

The record shows that the Board did understand that the charges at issue related to the guilty plea and the conviction and not to allegations of practicing below minimal standards. The Report and Recommendation presented to the Board accurately identified the charges and the finding that Appellant's guilty plea was the basis for the disciplinary action. Minutes of the Board's meeting of November 10, 2004, also reflect that the Board accurately understood what the charges were. Dr. Steinbergh stated: "[T]he Board has charged him because of his conviction of a drug-related misdemeanor. That's

the charge today.” (Minutes, p. 9-10). Dr. Egner discussed the disciplinary guidelines for conviction of a misdemeanor. (*Id.*, p. 10). The following comment by Dr. Egner reflects the understanding that the case was not about practicing below minimal standards: “This should have been a minimal standards case, but it doesn’t really matter. There was a federal conviction of a crime for using a drug that has been banned.” (Minutes, p. 4).

Appellant further argues that Board based its decision on facts not in the record by concluding that Laetrile was a banned or illegal drug. Appellant argues that while Laetrile has not been approved by the FDA and cannot legally be imported or transported across state lines, it has not been “banned.”

The Hearing Examiner’s Report and Recommendation reflects the evidence that Laetrile has not been approved by the FDA and cannot be imported or transported across state lines. (Report, p. 8). The Report does not state that use of Laetrile has been entirely prohibited. The minutes of the Board’s meeting reflect that Dr. Bhati stated: “This is a drug not approved by the FDA” (Minutes, p. 6). Dr. Steinbergh described the drug as “experimental and not legally recognized” but did not suggest that its use was prohibited. (Minutes, p. 5).

At some points during the discussed Board members referred to Laetrile as “banned” or “illegal.” The Court finds that it is not a stretch for a person who is not an attorney to refer to a drug that is unapproved by the FDA and illegal to import or transport across state lines as “banned” or “illegal.” At one point, Appellant also referred to the drug as “banned from transporting or bringing it into the country.” (Tr. 26). Such references by themselves do not show that the Board reached, or based its decision on, an

erroneous finding, given that the record is clear as to the nature of the misdemeanor conviction and the charges against Appellant based on that conviction.

After reviewing the minutes of the Board's November 10, 2004 meeting, the Court finds that the minutes clearly reflect the basis for the Board's decision to modify the Hearing Examiner's recommendation. The Board members expressed the reasons for their view that a 30-day stayed suspension was insufficient, including their concerns about statements of Appellant that he knew Laetrile was unapproved because of safety concerns, his admissions that he had treated many patients with the drug over a long period of time, and his statements promoting Laetrile on the investigation tape. One of the Board members also emphasized that while Patient 1 had apparently left two vials of Laetrile in Appellant's office, 30 vials were located when the office was searched. (Minutes, p. 3).

The Court further notes that the penalty imposed by the Board is within the range of sanctions permitted under R.C. 4731.22(B).

For the foregoing reasons, the Court finds that the Board's Order is supported by reliable, probative and substantial evidence and in accordance with law. The Board's Order is **AFFIRMED**. This is a final, appealable Order. Costs to Appellant. Pursuant to Civil Rule 58, the Clerk of Court shall serve upon all parties notice of this judgment and its date of entry.

IT IS SO ORDERED.


PATRICK E. SHEERAN, JUDGE

Copies to:
Elizabeth Y. Collis, Counsel for Appellant
Kyle C. Wilcox, Counsel for Appellee

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

STATE MEDICAL BOARD
OF OHIO

JACK EDWARD SLINGLUFF, D.O.
5850 Fulton Road
Canton, Ohio 44718

2005 JAN -7 P 5: 05

04 CVF 12 12991

Appellant,

Case No. _____

vs.

JUDGE TRAVIS

STATE MEDICAL BOARD OF OHIO
77 South High Street, 16th floor
Columbus, Ohio 43215-6127

Appellee

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2005 DEC 13 PM 4: 18
CLERK OF COURTS

Order

On December 10, 2004, Appellant, Jack Edward Slingluff filed a *Motion to Stay the Medical Board Order* of November 10, 2004. Counsel for Appellee, State Medical Board of Ohio did not object to the granting of the Stay as long as conditions were placed on the Stay that prevented Appellant from treating patients with Lactrile.

Appellant's *Motion to Stay the Medical Board Order* of November 10, 2004 is hereby granted and the decision of the Ohio Board to suspend Appellant's license is Stayed pending appeal before the Franklin County Court of Common Pleas with the following conditions:

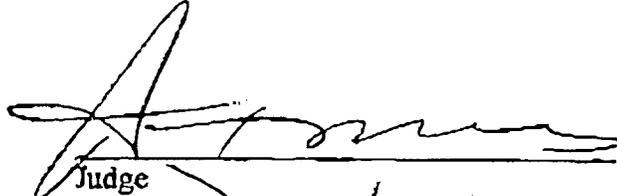
- Appellant, Dr. Slingluff must obey all Federal, state and local laws and rules;
- Appellant, must be in compliance with the provisions of his criminal probation;
- Appellant may not prescribe, purchase, order, administer or treat patients with

Laetrile;

- Appellant may also not counsel or advise patients on the use of Laetrile;
- Appellant may not refer patients to another facility or to another physician for

Laetrile treatment.

IT IS SO ORDERED.


Judge
December 13, 2004

Cc: Kyle Wilcox, AAG
Elizabeth Y. Collis, Esq.

STATE MEDICAL BOARD
OF OHIO

2005 JAN -7 P 5:05

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE MEDICAL BOARD
OF OHIO

2004 DEC 10 P 2:03

JACK EDWARD SLINGLUFF, D.O. :
5850 Fulton Road
Canton, Ohio 44718

04 CVF 12 12991

Appellant, :

Case No. _____

vs. :

JUDGE _____

STATE MEDICAL BOARD OF OHIO :
77 South High Street, 16th floor
Columbus, Ohio 43215-6127

Appellee :

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
04 DEC 10 PM 2:23
CLERK OF COURTS

NOTICE OF APPEAL

Appellant, Jack Edward Slingluff, D.O., pursuant to Ohio Revised Code Section 119.12 hereby appeals the final decision of the Ohio State Medical Board ("Appellee"), which **suspended his license to practice medicine for one year** in its Adjudication Order (attached hereto) issued on November 10, 2004 and mailed to Appellant on December 6, 2004.

Appellant asserts that the decision of the Ohio State Medical Board is not

2004 DEC 22 P 1:32

STATE MEDICAL BOARD
OF OHIO

supported by reliable, probative and substantial evidence and is not in accordance with
law.

Respectfully submitted,



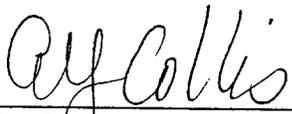
Elizabeth Y. Collis (#0061961)
Collis & Collis, LLC
1650 Lake Shore Drive, Suite 180
Columbus, Ohio 43204
(614) 486-3909; Fax (614) 486-2129
Attorney for Appellant,
Jack E. Slingluff, D.O.

2004 DEC 22 P 1: 32

STATE MEDICAL BOARD
OF OHIO

Certificate of Service

I certify that the *Notice of Appeal* was served upon Appellee, Ohio State Medical Board, 77 S. High Street, 17th Floor, Columbus, Ohio 43215 by hand delivery this 10th day of December, 2004 and upon and counsel for Appellee, Kyle Wilcox, Assistant Attorney General, Office of the Ohio Attorney General, Health and Human Services Section, 30 East Broad Street, 26th Floor, Columbus, Ohio 43215 by hand delivery on this 10th day of December 2004.


Elizabeth Y. Collis, Esq.

STATE MEDICAL BOARD
OF OHIO
2004 DEC 22 P 1:32



State Medical Board of Ohio

775 - 13001, 205 - 2717 • Columbus, OH 43217-9177 • (614) 456-3701 • <http://www.smb.state.oh.us>

November 10, 2004

Jack E. Slingluff, D.O.
5424 Peninsula Drive NW
Canton, OH 44718

Dear Doctor Slingluff:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Siobhan R. Clovis, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 10, 2004, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Lance A. Talmage, M.D.
Secretary *LAD*

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7000 0600 0024 5149 8934
RETURN RECEIPT REQUESTED

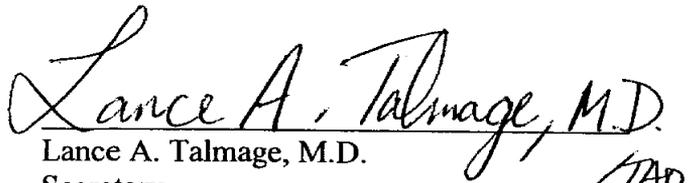
Cc: Elizabeth Y. Collis, Esq.
CERTIFIED MAIL NO. 7000 0600 0024 5149 8958
RETURN RECEIPT REQUESTED

MAILED 12-06-04

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Siobhan R. Clovis, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 10, 2004, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Jack E. Slingluff, D.O., 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.


Lance A. Talmage, M.D.
Secretary

(SEAL)

November 10, 2004

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

JACK E. SLINGLUFF, D.O.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on November 10, 2004.

Upon the Report and Recommendation of Siobhan R. Clovis, State Medical Board Attorney Hearing Examiner, designated in this Matter 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 of Ohio for the above date.

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE; PROBATION:** The certificate of Jack E. Slingluff, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for a period one year. Such suspension is subject to the following **PROBATIONARY** terms, conditions, and limitations for a period of at least one year.
1. **Obey the Law and Terms of Criminal Probation:** Dr. Slingluff shall obey all federal, state and local laws, and all rules governing the practice of medicine and surgery in Ohio, and all terms of probation imposed by the United States District Court for the Northern District of Ohio, Eastern Division, in criminal case number 4:04CR00074.
 2. **Declarations of Compliance:** Dr. Slingluff shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must

be received in the Board's offices on or before the first day of every third month.

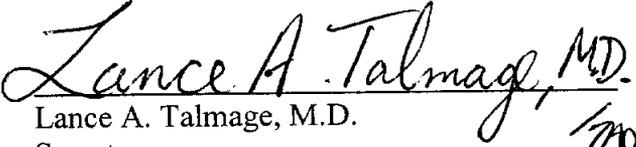
3. **Personal Appearances**: Dr. Slingsluff shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
 4. **Tolling of Probationary Period While Out of State**: In the event that Dr. Slingsluff should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Slingsluff must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 5. **Noncompliance Will Not Reduce Probationary Period**: In the event that Dr. Slingsluff is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- B. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Slingsluff's certificate will be fully restored.
- C. **VIOLATION OF THE TERMS OF THIS ORDER**: If Dr. Slingsluff violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- D. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Slingsluff shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Slingsluff shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- E. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, or as

otherwise determined by the Board, Dr. Slingluff shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license.

Dr. Slingluff shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Dr. Slingluff shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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

(SEAL)


Lance A. Talmage, M.D.
Secretary

November 10, 2004

Date

STATE MEDICAL BOARD
OF OHIO

2004 OCT 13 A 10:15

**REPORT AND RECOMMENDATION
IN THE MATTER OF JACK E. SLINGLUFF, D.O.**

The Matter of Jack E. Slingluff, D.O., was heard by Siobhan R. Clovis, Esq., Hearing Examiner for the State Medical Board of Ohio, on August 31, 2004.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated April 14, 2004, the State Medical Board of Ohio [Board] notified Jack E. Slingluff, D.O., that it had proposed to take disciplinary action against his certificate to practice osteopathic medicine and surgery in Ohio. The Board based its proposed action on the allegation that Dr. Slingluff had been convicted of a misdemeanor for his involvement in an interstate shipment of Lactrile, a drug unapproved by the FDA.

The Board alleged that the acts, conduct, and/or omissions of Dr. Slingluff, individually and/or collectively, constitute:

- “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,’ as those clauses are used in R.C. 4731.22(B)(3).”
- “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice,’ as that clause is used in R.C. 4731.22(B)(11).”

Accordingly, the Board advised Dr. Slingluff of his right to request a hearing in this matter. (State’s Exhibit 1A).

- B. The Board received a written hearing request from Dr. Slingluff on April 30, 2004. (State’s Exhibit 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.
- B. On behalf of the Respondent: Elizabeth Y. Collis, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State

Jack E. Slingluff, D.O., as if upon cross-examination

- B. Presented by the Respondent

- 1. Jack E. Slingluff, D.O.
- 2. Cindy Boylan
- 3. Tammy Sue Dallas
- 4. John Blend

II. Exhibits Examined

- A. Presented by the State

- 1. State's Exhibits 1A through 1N: Procedural exhibits.
- 2. State's Exhibit 2: Transcript of the May 25, 2004, sentencing hearing held in the United States District Court for the Northern District of Ohio, Eastern Division, in *United States v. Slingluff*, Criminal Action No. 4:04CR00074.
- 3. State's Exhibit 3: Transcript of the March 16, 2004, plea hearing held in the United States District Court for the Northern District of Ohio, Eastern Division, in *United States v. Slingluff*, Criminal Action No. 4:04CR00074.
- 4. State's Exhibit 5: Certified copies of documents maintained by the United States District Court for the Northern District of Ohio, Eastern Division, in *United States v. Slingluff*, Criminal Action No. 4:04CR00074. (Note: The Hearing Examiner numbered the pages.)

5. State's Exhibit 6: Certified copy of a transcript of an August 22, 2002, meeting with Dr. Slingluff, conducted as an undercover operation by the Food and Drug Administration. (Note: At the request of the parties, the Hearing Examiner redacted notations that had been added to the transcript. See Hearing Transcript at 8-10.)
- B. Presented by the Respondent
1. Respondent's Exhibit A: Curriculum Vitae of Jack E. Slingluff, D.O.
 2. Respondent's Exhibit B: Form for "Consent for Participation in a Clinical Research Study; Trial to Assess Chelation Therapy (TACT)." (Note: The Hearing Examiner numbered the pages.)
 3. Respondent's Exhibit C, C1, C2: Copies of documents demonstrating Dr. Slingluff's participation in continuing medical education.
 - * 4. Respondent's Exhibit D: Letters written in support of Dr. Slingluff. (Note: the State did not have an opportunity to cross-examine the authors of these letters.)
 5. Respondent's Exhibit E: Unsigned "Release of All Claims Concerning Laetrile Treatment."
 - * 6. Respondent's Exhibit F: August 30, 2004, Affidavit of Patient 1, with attached copy of Patient 1's signed "Release of All Claims Concerning Laetrile Treatment."
- C. Board exhibits:
- * 1. Board Exhibit Z: Patient key.

Note: All exhibits marked with an asterisk [*] have been sealed to protect patient confidentiality.

PROCEDURAL MATTERS

The hearing record in this matter was held open until September 7, 2004, to give the Respondent an opportunity to submit additional evidence. Additional evidence was timely submitted and entered into the record as Respondent's Exhibit F. (See Hearing Transcript at 109-110).

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner before preparing this Report and Recommendation.

1. Jack E. Slingluff, D.O., testified that he had attained his bachelor's degree in science from Kent State University in 1956, and his degree in osteopathic medicine from Kansas City College of Osteopathic Medicine and Surgery in 1961. He also stated that, before attending medical school, he had been a graduate student in mathematics at John Hopkins University for one semester in 1956. (Hearing Transcript [Tr.] at 20-21; Respondent's Exhibit [Resp. Ex.] A).

Dr. Slingluff testified that, after medical school, he had been an intern "for a little over a year," from 1961 through 1962, at Green Cross Osteopathic Hospital in Cuyahoga Falls, Ohio, and Youngstown Osteopathic Hospital in Youngstown, Ohio. (Tr. at 21; Resp. Ex. A).

Dr. Slingluff stated that, after completing his internship, he had returned home to Canton, Ohio, and opened a general family practice. He testified that he had also worked with other osteopathic physicians in the area to open Doctors Hospital of Stark County in "1963 or 1964." He testified that, at the hospital, he had run the emergency room for some time; performed minor surgeries on his patients; assisted with surgeries; and practiced obstetrics for 14 years. (Tr. at 21-22).

Dr. Slingluff testified that after deciding to cease practicing obstetrics, because "babies were too active at nighttime," he had concentrated on his general practice. He advised that Doctors Hospital is still open today, and that he still has privileges there. However, he testified that he no longer performs or assists surgeries. (Tr. at 22-23, 51).

Dr. Slingluff stated that his practice has been at its present location in Canton since "late 1979 or 1980." He testified that he is the sole physician and that he has five staff members. (Tr. at 23-24). He described his current practice:

My practice is a general practice. In general, we see patients with all types of diseases. I have a sizeable number of patients who have—have high blood pressure, they also have cholesterol problems, diabetics, and a variety of colds and that type of thing. You know, we treat virtually all those.

We treat people with chelation therapy. * * * [W]e're treating people for heavy metal toxicity and a variety of other types of treatments like the

osteopathic treatment. We do manipulation and we do prolotherapy, which is a procedure of relieving pain through injections, that type of thing.

(Tr. at 23).

Dr. Slingluff advised that, in addition to his Ohio license, he had also previously been licensed to practice osteopathic medicine and surgery in Florida and Missouri, but that those licenses had lapsed due to nonpayment of fees. He advised that he plans to reactivate his Florida license, because he may retire there. (Tr. at 19, 55-56).

2. On March 16, 2004, in the United States District Court, Northern District of Ohio, Eastern Division, Dr. Slingluff pleaded guilty to one misdemeanor count of introduction or delivery for introduction into interstate commerce of an unapproved drug, to wit: 30 vials of the unapproved new drug Amigdalina B-17 (AKA Laetrile) to be shipped from West Palm Beach, Florida, to Salem, Ohio, in violation of Title 21, Sections 331(d), 355(a), and 333(a)(1), United States Code. (State's Exhibit [St. Ex.] 3, 5).

On May 25, 2004, Dr. Slingluff was sentenced to one year of probation. He was not fined, but he was assessed a \$25 fee and the costs of the prosecution. He testified that he reports to a probation officer once a month through a written form or a phone call. He is not required to submit to drug testing. Dr. Slingluff advised that his probation will end in May 2005. (Tr. at 38, 40, 67-68; St. Ex. 2 at 7-8).

3. Dr. Slingluff explained what Laetrile is:

Laetrile, it's an extract of apricot pits and really also apple seeds and a variety of other sources of Laetrile. It's part of the seeding process in those plants, and it's been used in—by Central American Indians for the treatment of cancer for about 300 years.

It was in the 1898 Pharmacopedia as a treatment of cancer, as a matter of fact. Later on, it was refined by Doctors Krebs and Krebs, who obtained a process patent for purifying or putting it in the form to be used injectably as well as orally. And I don't know the exact date of that, but sometime prior to 1970, I'm sure.

(Tr. at 24-25).

Dr. Slingluff acknowledged that Laetrile is not approved by the Food and Drug Administration [FDA], and that the FDA disapproves certain medications because of safety concerns. He testified that he believes that one of the reasons that Laetrile has not been approved is because it may convert to cyanide after being ingested. (Tr. at 25-28).

4. Dr. Slingluff testified that he had become interested in Laetrile as a cancer treatment in the 1970s, when his mother had died of ovarian cancer. In the late 1970s, he had met with “Laetrile experts,” visited clinics in Mexico that administered Laetrile treatments, and met with groups who were working to legalize Laetrile in Ohio. Also in the late 1970s, he had testified before the Ohio State Senate and House of Representatives in favor of having Laetrile legalized in Ohio. (Tr. at 29, 57-59, 77).
5. Dr. Slingluff testified that, despite the FDA’s refusal to approve Laetrile, and the potential for Laetrile to convert to cyanide, he believes that Laetrile is safe and beneficial to cancer patients. Dr. Slingluff testified that he has been administering Laetrile to cancer patients since the late 1970s. He advised that, in his use of Laetrile, none of his patients has “had any reaction from the cyanide group.” He stated that he had monitored his patients for heightened cyanide levels. (Tr. at 28-29, 41, 57, 65-66, 77-29).

Dr. Slingluff also stated that he does not believe that Laetrile is a cure for cancer. He explained that he believes that Laetrile enhances a patient’s condition, and improves survivability. (Tr. at 75). He testified:

Now the two things that have developed from [Laetrile treatments in Mexico] is very long survivability on coming back from Mexico and continuing the treatment along with the nutritional program.

For instance, I have at least three patients who have, apparently, terminal cancer, and were treated possibly in Mexico at the time, and they’re now 25 year survivors. And when I started treating people with lymphomas, I was delighted to find out that these people, in the short term, started to come out of their symptoms. They became stronger, and they were able to function better. And in many cases, they survive well past the five-year waiting point.

(Tr. at 41-42).

6. Dr. Slingluff testified that his typical patient has been through conventional cancer treatments and has been told that he or she does not have long to live. He advised that he starts such a patient on a program of nutritional IVs, three times per week, for a total of ten weeks. He advised that he also monitors each patient’s blood work. (Tr. at 34-35).
Dr. Slingluff advised the following about the nutritional IVs:

Generally, they’re a lactated ringer solution, and then we use a variety of different vitamins, B complex, B-12. We add certain minerals like calcium and magnesium, if necessary.

* * *

Basically, it enhances their lack of nutrition, which is what seems to be with their cancer, and we follow this with blood work to see if everything is good. For instance, many people come in with anemia; so we want to stimulate their system to build more blood cells.

(Tr. at 64-65).

Dr. Slingluff testified that, in addition to the nutritional program, he had also referred many cancer patients to clinics in Mexico for Laetrile treatments. He further stated that he had administered Laetrile to cancer patients by adding it to the nutritional IVs. (Tr. at 33-35, 41, 57-59).

7. Dr. Slingluff further testified that patients who request Laetrile treatments are required to sign a release form. (Tr. at 75). The release form states, in part:

J.E. Slingluff, D.O., has fully described to you the method of administration of Laetril; the purpose of its administration in your case; its potential for good, and its potential for harmful side effects; and you have indicated a desire to undertake this procedure in your case. It is now my purpose to stipulate our full and complete understanding with reference to such therapy and to place a limitation upon my legal liability in the event it is unsuccessful.

You have been advised that Laetril is an “EXPERIMENTAL” drug that is not legally recognized[;] that it is not a cure; and has been used chiefly in research.

I cannot and do not guarantee or warrant the results in any manner.

(Resp. Ex. E).

8. Dr. Slingluff testified that he does not advise patients to abandon conventional cancer treatments; rather, most of his patients come to him after they have exhausted conventional options. He also testified that he advises patients to comply with any recommendations that they have received for conventional treatments. Further, he stated that he does not advise patients that Laetrile is a cure for cancer. (Tr. at 42-43, 59, 75).

During an FDA investigation of Dr. Slingluff, two individuals working undercover visited Dr. Slingluff under the pretense of inquiring about Laetrile treatments for prostate cancer. The transcript shows that Dr. Slingluff had made several negative comments to the undercover “patient” about conventional treatments, while his comments about Laetrile

were much more positive. However, he never directly advised the “patient” to abandon conventional treatment, and he explained that Laetrile is not a cure for cancer. For instance, despite his negative comments, Dr. Slingluff told the “patient”: “Chemotherapy, radiation, and surgery are tools. And I think they’re very effective on some, some diseases. So you have to weigh that according to the individual.” (St. Ex. 6 at 1, 11-12, 18-20, 27-29, 33-35, 37).

At hearing, Dr. Slingluff acknowledged two misstatements that he had made during the “patient” visit: that he had treated 2,000 cancer patients “mostly” with Laetrile and that Laetrile was 13 times safer than aspirin. He explained that he had not treated 2,000 patients, although he may have administered 2,000 IVs over the years. He further explained that he believes that he had learned at a lecture that Laetrile was less toxic than aspirin, but he conceded that “13 times” might be incorrect. (Tr. at 46-47; St. Ex. 6 at 19-20, 34, 37).

9. Dr. Slingluff testified that he does not advertise. He stated that he believes that his patients are usually referred to him by other patients. (Tr. at 44).

Cindy Boylan, Dr. Slingluff’s office manager, testified that the price for each nutritional IV is \$110 or \$145. She advised that there is no additional charge if Laetrile is added to the nutritional IV. She further advised that insurance companies generally do not cover nutritional therapy, and that, therefore, the office does not usually submit claims to insurance companies for nutritional IVs. (Tr. at 88, 91, 95-97).

Ms. Boylan also testified that the office does not purchase or supply Laetrile; that each patient receiving Laetrile treatment must sign the release form; and that less than one percent of Dr. Slingluff’s patients had received Laetrile treatments. (Tr. at 91-92, 95-96).

10. Dr. Slingluff testified about his previous understanding of the legal ramifications of the FDA’s refusal to approve Laetrile. He advised that, prior to the criminal action against him, he had believed the following:
 - The use of Laetrile had not been banned; rather its importation into the United States had been prohibited.
 - In the late 1970s, a federal court had decided that an individual could bring Laetrile into the United States after being treated with Laetrile in Mexico, providing that the individual had an affidavit from a physician averring that the individual had a malignancy. Dr. Slingluff also explained that “thousands of people” are treated with Laetrile in Mexico.

- In the late 1970s or 1980s, pharmacists had begun compounding Laetrile, including pharmacists in the State of Ohio. Although Laetrile could not be brought into Ohio, compounding Laetrile in Ohio had not been illegal.

(Tr. at 26-27, 32-33, 59-61).

Dr. Slingluff and Ms. Boylan testified that Dr. Slingluff's office had never purchased or supplied Laetrile; rather Dr. Slingluff had administered Laetrile to patients who had obtained Laetrile for themselves. Dr. Slingluff testified that some of his patients had obtained Laetrile during treatments in Mexico. He further testified that his office had also provided patients with a telephone number as a contact to obtain Laetrile. He testified that he had believed that this had been the contact number for a pharmacist who compounded Laetrile in Ohio. (Tr. at 32-33, 95).

Dr. Slingluff testified that his criminal charge was based upon his office's assistance to Patient 1 in obtaining Laetrile by providing her with the contact number. Dr. Slingluff further testified that the pharmacist, unbeknownst to Dr. Slingluff, had apparently moved from Ohio to West Palm Beach, Florida. Ms. Boylan testified that, although Dr. Slingluff had not usually kept Laetrile in his office, two of Patient 1's Laetrile vials had been stored at the office because she had left them behind after an appointment. These vials were discovered by federal investigators during a January 2003 search of Dr. Slingluff's office. (Tr. at 30-33, 37, 61-63, 67, 93-94).

11. Dr. Slingluff testified that Patient 1 had been a 24-year-old female suffering from an advanced malignancy of the descending colon. He explained that she had been "at a Stage 2 or 3" when she had requested Laetrile treatments. (Tr. at 30-31, 63-64). An August 30, 2004, affidavit of Patient 1 was submitted by Dr. Slingluff. In the affidavit, Patient 1 averred the following:

- She had been treated with Laetrile by Dr. Slingluff.
- Dr. Slingluff had advised her that Laetrile was an experimental drug that was not legally recognized for treatment of cancer.
- She had reviewed and signed Dr. Slingluff's release form before being treated with Laetrile.

(Resp. Ex. F).

12. Dr. Slingluff testified that, before his misdemeanor conviction, he had never been charged with any crime, apart from speeding. He further testified that he has never been sued because of his use of Laetrile, and that he has never been disciplined by the Board. However, he stated that he had been investigated by the Board in the early 1980s because

of his use of Laetrile and chelation therapy. He advised that he and his attorney had met with Board representatives to discuss these issues, and that he had brought Laetrile and chelation therapy experts with him to the meetings. He testified that, after the meetings, he had never been advised by the Board to cease his administration of Laetrile treatments. (Tr. at 53-56, 77, 82).

Dr. Slingluff testified that, aside from Laetrile, he has not knowingly administered any medications that are unapproved by the FDA. He further testified that he had not knowingly violated the law. He stated that, had the authorities requested him to cease his Laetrile treatments, he would have done so. Dr. Slingluff further stated that he has not administered Laetrile since he learned of the FDA investigation. He testified that he will not administer Laetrile in the future, unless he becomes involved in a government-sponsored Laetrile research project, or unless Laetrile is approved by the FDA. (Tr. at 27, 39, 41, 81).

13. Dr. Slingluff testified that he is 73 years old, and that he would like to continue practicing for as long as his health allows. Dr. Slingluff advised that he currently sees around 50 patients a week. He explained that the number of patients that he sees has significantly decreased in the last few years due to the illness and death of his wife, who had been vice president and office manager of the practice. (Tr. at 50-52, 90).

Dr. Slingluff also testified about a clinical research study, known as TACT, with which he is involved. TACT, which stands for "Trial to Assess Chelation Therapy," is sponsored by the National Institutes of Health. Dr. Slingluff testified that TACT is a seven-year program, with about two years completed. He stated that, as a participant in the study, he provides chelation therapy to patients who are over 50 and who have suffered a heart attack within the last six months to seven years. (Tr. at 69-70, 85; Resp. Ex. B at 1).

The Consent Form for Participation in TACT advises the patient that the purpose of the study is to "determine that effectiveness of chelation therapy for patients who have survived a heart attack." The Consent Form further advises that, "[c]helation therapy, as used in this study, consists of 40 treatments through a vein in your arm (infusion) of a solution of vitamins and dissolved minerals that are thought to bind specific toxic elements circulating in your blood." (Resp. Ex. B at 1).

Dr. Slingluff testified that he would like to complete the TACT study and to become involved in other research projects. He advised that he would also like to bring another physician into his practice, so that the new physician could take over Dr. Slingluff's practice after Dr. Slingluff retires. (Tr. at 44, 80-81).

14. Tammy Sue Dallas and John Blend, two of Dr. Slingluff's patients, testified on his behalf. Ms. Dallas testified that she had been very ill with two very rare forms of yeast infection, which Dr. Slingluff had successfully treated with nutritional IVs along with antibiotics and

“regular medicine.” Ms. Dallas stated, “If I don’t have Dr. Slingluff as a doctor, I don’t have a doctor.” (Tr. at 101-103).

Mr. Blend testified that he is an 86-year-old retired police captain. He advised that Dr. Slingluff had treated him with Laetrile for colon cancer about five years ago. He stated that, prior to his Laetrile treatments, he had been treated with chemotherapy, which had made him very sick, and a surgery that had removed 18 inches of his colon. Mr. Blend testified that he is currently cancer free. Mr. Blend testified that he would like to continue seeing Dr. Slingluff as his doctor, and that he hopes that Dr. Slingluff is “around for another ten years.” (Tr. at 105-109).

Dr. Slingluff also submitted support letters written by patients and family members of patients. Several of the supporters noted that Dr. Slingluff “takes his time” with patients, and that he is always willing to answer questions and fully discuss any issues that patients have. Several of the letters also praised Dr. Slingluff’s “alternative” approach to cancer treatment. (Resp. Ex. D).

FINDINGS OF FACT

On March 16, 2004, in the United States District Court, Northern District of Ohio, Eastern Division, Jack E. Slingluff, D.O., pleaded guilty to one misdemeanor count of introduction or delivery for introduction into interstate commerce of an unapproved drug, to wit: 30 vials of the unapproved new drug Amigdalina B-17 (AKA Laetrile) to be shipped from West Palm Beach, Florida, to Salem, Ohio, in violation of Title 21, Sections 331(d), 355(a), and 333(a)(1), United States Code.

CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Jack E. Slingluff, D.O., individually and/or collectively constitute “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,” as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code.
2. The acts, conduct, and/or omissions of Dr. Slingluff, individually and/or collectively, constitute “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention 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.

* * * * *

Dr. Slingluff's misdemeanor drug conviction is based upon conduct that was motivated by his desire to help patients, rather than financial gain. Dr. Slingluff appears to be a compassionate physician who administered Laetrile for no other reason other than that he believes that it is beneficial to cancer patients.

Further, Dr. Slingluff testified that he had not knowingly engaged in any illegal activity, and that he has not administered Laetrile since he learned of the criminal investigation. He stated that, had the authorities simply asked him to cease his conduct, he would have done so. Dr. Slingluff does not seem to be a physician who will defy the law because he disagrees with it. Indeed, he testified that he will not administer Laetrile again unless he becomes involved in a government-sponsored research project or unless Laetrile is approved by the FDA. For all of these reasons, minimal discipline is appropriate.

PROPOSED ORDER

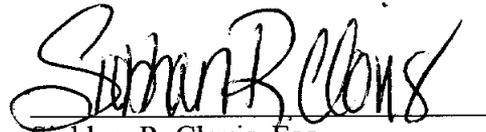
It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE, STAYED; PROBATION:** The certificate of Jack E. Slingluff, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for a period of thirty days. Such suspension is **STAYED**, subject to the following **PROBATIONARY** terms, conditions, and limitations for a period of at least one year.
1. **Obey the Law and Terms of Criminal Probation:** Dr. Slingluff shall obey all federal, state and local laws, and all rules governing the practice of medicine and surgery in Ohio, and all terms of probation imposed by the United States District Court for the Northern District of Ohio, Eastern Division, in criminal case number 4:04CR00074.
 2. **Declarations of Compliance:** Dr. Slingluff shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 3. **Personal Appearances:** Dr. Slingluff shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board.

- Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Tolling of Probationary Period While Out of State:** In the event that Dr. Slingluff should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Slingluff must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 5. **Noncompliance Will Not Reduce Probationary Period:** In the event that Dr. Slingluff is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- B. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Slingluff's certificate will be fully restored.
- C. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Slingluff violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- D. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Slingluff shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Slingluff shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- E. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Slingluff shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Slingluff shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper

licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Slingsluff shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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


Stobhan R. Clovis, Esq.
Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF NOVEMBER 10, 2004

REPORTS AND RECOMMENDATIONS

Ms. Sloan announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Fred Andrew Brindle, M.D.; William W. Hunter, Jr., M.D.; Alberto Leon, M.D.; Jack E. Slingluff, D.O.; Peter Steven Stanos, D.O.; and Hsiang Lee Tseng, M.D. A roll call was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

Ms. Sloan 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:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

Ms. Sloan noted that, in accordance with the provision in Section 4731.22(F)(2), 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 these matters.

Ms. Sloan stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

JACK E. SLINGLUFF, D.O.

Ms. Sloan directed the Board's attention to the matter of Jack E. Slingluff, D.O. She advised that no objections were filed to Hearing Examiner Clovis' Report and Recommendation. Ms. Sloan noted that both Dr. Garg and Dr. Talmage served as Secretary in this matter.

Ms. Sloan continued that a request to address the Board has been timely filed on behalf of Dr. Slingluff. Five minutes would be allowed for that address.

Dr. Slingluff was accompanied by his attorney, Elizabeth Y. Collis.

Ms. Collis advised that no objections were filed in this case; she and Dr. Slingluff fully support the Report and Recommendation. Ms. Collis stated that she believes that the Report and Recommendation accurately outlined that this is a case where Dr. Slingluff is no threat to his patients or the citizens of Ohio. This case results because Dr. Slingluff administered Laetrile to patients. He was charged and pled guilty to one misdemeanor count of introduction or delivery for introduction into interstate commerce of an unapproved drug, which was Laetrile. This was not a result of a patient complaint. Patient 1 in this case, who is the patient who purchased the Laetrile and brought it to Dr. Slingluff's office, did not complain. This was a result of an FBI investigation that took place in Dr. Slingluff's office. It was found that Dr. Slingluff had Laetrile in his office.

Ms. Collis stated that the Board had investigated Dr. Slingluff over 20 years ago. At that investigation, the Board questioned, and testimony was presented at the investigation stage, regarding his administering Laetrile to patients. This Board took no disciplinary action against Dr. Slingluff at that time. In fact, the Board did not issue a cease or desist order or any type of letter saying that the Board does not condone his administering Laetrile to patients. This was a very small part of Dr. Slingluff's practice. As he testified at hearing, it was much less than one percent of his practice. Ms. Collis stated that Dr. Slingluff is not the type of physician who is a renegade or who would have gone against the recommendations of this Board. As Dr. Slingluff testified at the hearing 20 years ago, if the Board had told him that it wasn't comfortable with him administering Laetrile, he would have stopped then. Certainly now that the criminal conviction has taken place, he has stopped.

Ms. Collis asked that the Board note that the criminal conviction in this case was extremely minor. It is a misdemeanor, it was in federal court. He received no jail time, one year probation and a \$25.00 fine. No patients have been harmed in this case, and all that they ask is that the Board allow Dr. Slingluff to be able to continue to practice. He's at the end of his practice right now and he would like to be able to continue to practice for his last few years so he can continue to do the work talked about at the hearing that he's been doing with NIH.

Dr. Slingluff thanked the Board for listening to them. He stated that in the 40 years that he's been practicing medicine, he's consistently attempted to follow all the rules and regulations. The incident with the FDA was by accident because of a change that occurred in the use of Laetrile, which was, until a few years ago, legal if it was accompanied by an affidavit, under a decision by a federal judge in New Mexico. Patients coming to his office had gone to Mexico. They returned to the United States and brought the Laetrile under that provision. The State of Ohio never told him that he couldn't use this or continue the treatment that they had received. Dr. Slingluff stated that he's never told anybody that this is a cure because he doesn't feel that that's the case; however, he has had patients who used this conjunctively with conventional treatment and had very good results, they feel.

Dr. Slingluff stated that, at the time he was here 20 years ago, the Board was interested in chelation therapy, which he has been doing since that time. Chelation therapy is not illegal in the State of Ohio, nor in the United States, that he knows of. Dr. Slingluff stated that he is presently an onsite investigator for the FDA in a research project called Trial to Assess Chelation Therapy (TACT). This is a seven-year program that has been going on for about a year and a half. Patients there are subject to a double-blind study. This is all under the control of the FDA and is financed by the NIH. Dr. Slingluff stated that he would like to continue that, along with the family practice he has, which includes care of patients with a multitude of different problems, such as diabetes, heart disease, high cholesterol, and all the usual things seen in a family practice.

Ms. Sloan asked whether the Assistant Attorney General wished to respond.

Mr. Wilcox stated that this case boils down to a public protection issue. Dr. Slingluff was dealing with a very vulnerable patient population, i.e., cancer patients, injecting them with a substance he knows has been banned and not approved by the FDA. Mr. Wilcox asked what kind of physician would inject unapproved medication. There are good reasons why the FDA bans drugs, and, obviously, public safety is certainly a prime consideration.

Mr. Wilcox stated that, regardless of his motives, Dr. Slingluff was knowingly flouting the law. He was telling patients how to import this drug from out of state. He was giving these patients injections of Laetrile. How would he know if the Laetrile is safe? There are no labels; there are no guarantees, no approval process, no way to know if what he is injecting is, indeed, a pure substance. This is equivalent to a patient coming into a physician's office and saying, "Doctor, I just got this stuff while I was in Tijuana, Mexico. It's supposed to be great. Would you inject it into me?" Mr. Wilcox asked what physician would

say, "Sure! I'll go ahead and do that." Mr. Wilcox stated that he doesn't think any physician would because there's no way of knowing what's in the drug or in the Laetrile.

Mr. Wilcox stated that Dr. Slingluff's judgment as a physician is what this Board needs to consider today. Regardless of his motivation, his judgment was extremely bad in this case. He doesn't seem to think that he's done anything wrong, and this lack of judgment is dangerous to the public. The Board needs to focus on this and bring forth a penalty that is more in line with what has occurred in this case.

DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JACK E. SLINGLUFF, D.O. DR. BHATI SECONDED THE MOTION.

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Egner stated that she feels very differently about this case from what the Report and Recommendation says. She wants to address a couple of things. First, she'll address the most recent of what has been said today, that Dr. Slingluff is no threat to his patients, that he's no threat to the patients in the State of Ohio, and that he's not a renegade. Dr. Egner stated that Dr. Slingluff is the most blatant renegade that she thinks the Board has seen in a long time. He blatantly practices what he thinks is a form of medicine that is outlawed.

Dr. Egner stated that there was a lot of testimony in the record regarding chelation therapy, and she thinks that this was done to try to legitimize what Dr. Slingluff does. He participates in this government program on chelation and therefore he has this better practice standard than if he were just doing Laetrile. Dr. Egner stated that she thinks that that should be totally disregarded. It does not matter to her one bit that Dr. Slingluff is in a program about chelation therapy. This case is about using a substance that has been banned.

Dr. Egner stated that she wants to go back to some of the testimony that Dr. Slingluff gave in the hearing record that she thinks is inconsistent with what he has said at other times. Dr. Slingluff was asked in the hearing whether the labeling of the vials that came from Mexico was in Spanish. Dr. Slingluff's answer to that was that he didn't know because he doesn't speak Spanish. Dr. Egner stated that she doesn't speak Spanish either, but she is pretty sure that she would be able to look at a label, as she does on many things today, and see if it is the Spanish language. Dr. Egner stated that that is just one example of Dr. Slingluff's saying "I don't have to follow your system, and I found a way to stay under the radar. I had the patients bring it in." Dr. Egner noted that Dr. Slingluff's patients didn't always bring it in from Mexico. Dr. Slingluff had the undercover patient tell him that he had prostate cancer, he wanted to use Laetrile. Dr. Slingluff gave the patient some Synthroid, saying that that would help the patient, gave the patient vitamin therapy, and when the patient left, the nurse gave him two pamphlets that are very clear on how to get the Laetrile. The patient didn't have to go to Mexico and produce an affidavit. Dr. Egner stated that she doesn't believe that the patient even brought medical information with him to verify the prostate cancer. Dr. Slingluff did not say that he wouldn't treat the patient until he had all of that verification.

Dr. Egner stated that there were 30 vials of Laetrile in Dr. Slingluff's office. She added that she doesn't know why that was never addressed in the hearing record. It remained a constant problem for her. There were 30 vials in the office. The patient who was the subject of the federal conviction can account for two of those vials. Dr. Egner stated that that's very telling.

Dr. Egner stated that she finds this case to be very egregious, and she thinks that Dr. Slingluff's license should be permanently revoked. This should have been a minimal standards case, but it doesn't really matter. There was a federal conviction of a crime for using a drug that has been banned. Dr. Egner stated that she thinks that Dr. Slingluff tried to work the system so that technically he could get away with it, but he really did know better.

DR. EGNER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF JACK E. SLINGLUFF, D.O., BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION. DR. BHATI SECONDED THE MOTION.

Dr. Kumar agreed with Dr. Egner. He stated that this case really bothered him. Dr. Slingluff is taking advantage of the most vulnerable people in society, who are afraid of cancer. Three or four things really bothered him: 1. Comments made to undercover agents were more negative when speaking of standard treatments. Dr. Slingluff didn't come out and tell patients not to get the more standard treatment, but he would make negative comments about it. When questioned about the use of Laetrile, Dr. Slingluff's comments were more positive in nature. He didn't stress that the treatment was experimental, but he did say that it would work.

Dr. Kumar stated that he's also bothered by the fact that Dr. Slingluff is giving people IV therapy three times a week with multiple vitamins and so forth. Dr. Kumar stated that he hasn't seen that as a standard of care for cancer patients. If you want to build up the patients by medications or by nutritional things, vitamins, etc., you can give them by the oral route.

Dr. Kumar stated that there were at least two colon cases here, at least one patient had surgery, but he doesn't believe the other patient had any conventional treatment. Dr. Kumar stated that he can't tell that exactly by the record, but he reads between the lines and that's how it appears to him.

Dr. Kumar stated that he thinks the proposed stayed 30-day suspension is too little. Dr. Slingluff has been trying to prescribe the medication, using the medication himself, and encouraging people to use the medication without a good reason for doing so. Dr. Kumar stated that he supports Dr. Egner's motion for permanent revocation.

Dr. Steinbergh stated that she is somewhat sympathetic to this case. She stated that she doesn't know Dr. Slingluff personally, but her assessment of the record is that she thinks that he, as well as other practitioners like him, believe in alternative choices. These are not case-based studies. It's all anecdotal. The patients had end-stage cancer of whatever, and were introduced to Laetrile. They go to Mexico and

get the treatment and then bring it back to the United States and continue treatment. Anecdotally, some of these people will get better. They may very well have gotten better, in terms of lymphoma and so forth, just spontaneously. There are people who believe in options, and because there are people who believe in options, this Board has recognized that there are alternative therapies, but that the physicians who provide those alternative therapies have to meet the same standards as other physicians; that is to say, they have to examine the patients, they have to come to a conclusion, have to document and be treating in the same way as they would if the patients had a strep throat or any other serious illness.

Dr. Steinbergh stated that, from her reading of the record, she did feel that Dr. Slingluff did, in fact, notify patients that this was not going to be a cure. She referred to the Report and Recommendation, noting that it indicates that the patients were required to sign a release form. Dr. Steinbergh stated that she was pleased to see that, because as she began reading this case, she wondered about whether he informed the patient properly. Dr. Steinbergh stated that she thinks that the informed consent form used by Dr. Slingluff was appropriate. Dr. Slingluff advised the patients that the drug is experimental and not legally recognized, that it's not a cure, and that it has been used chiefly in research. Dr. Steinbergh stated that she will admit that she doesn't know the extent of research of Laetrile. The release indicates that Dr. Slingluff cannot and does not guarantee or warrant the results in any manner.

Dr. Steinbergh stated that patients are given the options, and they make some choices for themselves. Dr. Steinbergh stated that she tries to evaluate those physicians who believe in this type of alternative care that is outside the standard of care of very traditional medicine. If physicians practice in a way that is reasonably safe for patients, and they believe in it, and the patient believes in it, she thinks it is important for people to have alternative choices.

Dr. Steinbergh stated that since she's been on the Board, the Board has not seen any serious cases involving alternative medicine. The Board has never significantly dealt with chelation and Laetrile cases. She stated that she only offers this as a thought. She's not saying that she would disagree with other Board members.

Dr. Egner stated that she thinks that what the Board is looking at here is not alternative medicine. She stated that she would recognize acupuncture, and some herbs, as alternative medicine. But what Dr. Slingluff did is illegal. When Dr. Slingluff's consent form says that this drug is not legally recognized, it is another way of saying that it is illegal to prescribe this drug. It is illegal for Dr. Slingluff to obtain that drug. That is the crux of the matter. Dr. Egner stated that she is not against alternative medicine, nor does she think that patients should not have an option; however, should they have options that are legally allowed? Absolutely. This is not. This is a banned drug, and that's the crux of the matter.

Dr. Kumar stated that he agrees with Dr. Steinbergh in that he also believes in alternative medicine in many aspects, but in this case, as Dr. Egner pointed out, it's not just a matter of an alternative way of treating cancer. The basic thing that bothered him is the fact that Dr. Slingluff will downplay regular medical treatments in some negative fashion in his discussions, regardless of what's written on the consent form. He will more positively talk about Laetrile treatment and more negatively talk about conventional

treatment, regardless of how effective the alternative treatment is. Dr. Kumar stated that he thinks that Dr. Slingluff is indirectly promoting the Laetrile treatments.

Dr. Buchan spoke against revocation, stating that this medicine has certainly been controversial over the last 30 years. Plus, there has been testimony across the land as to its merits or demerits. As such, there is created a sense of doubt or controversy as to whether it's effective or not. Dr. Slingluff has used it. Dr. Buchan stated that he thought Dr. Slingluff's consent form and conversations with his patients have been reasonable. He noted that the fact remains that Dr. Slingluff was using a banned or illegal substance. However, when he evaluates patient harm and gross negligence, he just didn't see it in this case. Is it wrong? Absolutely, and he would stand on that and think a sanction is necessary; but permanent revocation seems too severe when he evaluates this medicine and its controversial status over the years. Dr. Buchan stated that he's not espousing that the medicine is good. It's illegal and Dr. Slingluff should be sanctioned, but he doesn't think this case rises to the level of revocation. Dr. Buchan stated that he was actually leaning toward the Report and Recommendation, as written.

Dr. Bhati stated that he's a little bit horrified. This is a drug not approved by the FDA, it's considered illegal, and he's sitting here talking about alternative medicine to one of the most vulnerable patients you'll ever see. He's encouraging those patients to take this medication over and above recommending conventional medications. Dr. Bhati stated that, if this is not the most horrifying case, he doesn't know what else it would be. You have a patient sitting here and instead of giving conventional treatment you're encouraging the patient to take medications that are illegal, not approved by the FDA. How can you call that "alternative medicine?" It is not.

Dr. Steinbergh stated that her comments about alternative choices were such that Dr. Slingluff never disagreed with conventional therapy, although there was evidence that when an undercover person was sent in, as she recalls, Dr. Slingluff may have dissuaded that patient with prostatic cancer from conventional therapy, and that did bother her. Dr. Steinbergh added that she has the sense from Dr. Slingluff's testimony and from the record itself that Dr. Slingluff did not necessarily dissuade people but used it in conjunction with, at a stage where other physicians say that there is no further treatment for you. Dr. Steinbergh stated that she thinks that over all these years, when listening to reports in the news and so forth, most of these patients will tell you that their doctors had given up on them and that they went to Mexico and there was some hope with Laetrile. Doctors began using it after conventional therapy had been given up. It was with that kind of thing in mind that she approached this case. Dr. Slingluff was offering something that, although there isn't any real good documentation other than anecdotal evidence, people have done okay with. The treatments weren't causing deaths.

Dr. Egner stated that most of Dr. Slingluff's patients didn't say anything. If you look at the letters written in support of this that are part of the hearing record, most of them refer to patients who have died. The letters are written by the relatives. These patients weren't cured by Laetrile. They died.

Dr. Steinbergh stated that he was giving them some type of hope. She thinks that that's the philosophy of those physicians who do this.

Dr. Egner stated that your minister can give you hope. This is the Medical Board, and that's where her problem is. The court system was very lenient with Dr. Slingluff, but she doesn't think that the court system is responsible for the way medicine is practiced and the protection of Ohio's citizens. The Board sees this in a much different light because it is the Board's role to protect the citizens of Ohio. To have those patients who are terminally ill with cancer – and maybe they're not terminally ill. That is really not established in this case. To treat those patients with a medication that is banned is criminal. Dr. Slingluff has a federal criminal conviction, and she thinks it's outrageous.

Mr. Browning had left the room at some point during the previous discussion.

A vote was taken on Dr. Egner's motion to amend:

Vote:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- nay
	Dr. Kumar	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- nay
	Dr. Garg	- abstain
	Dr. Steinbergh	- nay
	Ms. Sloan	- aye

The motion carried.

Dr. Robbins stated that he doesn't feel that this case rises to the level of revocation, but he also doesn't feel that it deserves a slap on the wrist, which is what the initial order is. Dr. Robbins stated that he does have trouble with revocation here, but he wouldn't have a problem with an extended suspension and probation. He added that he couldn't agree more that these patients are looking for any hope. All physicians see it in medicine; he sees it all the time with blindness. If he told the patient to do anything, the patient would do it, no matter what it is. If they're blind and he offered the patient an eye transplant in Russia, the patient would do it; but it's like witchcraft. There is no scientific evidence that this helps, but they would do it. The obligation physicians have is to help lead patients in that manner. What disturbs him in this case is that it involves a drug that is illegal, pure and simple.

Dr. Robbins stated that part of the physician's charge is to offer hope, and he doesn't like the philosophy that there's absolutely nothing that can ever be done because state of mind is such an important thing. It's probably one of the standards of alternative medicine. He indicated that if patients feel there is hope, some positiveness can come out of this. But crossing the line like this is unacceptable. Dr. Robbins again stated, however, that he doesn't feel this case rises to the level of revocation.

Dr. Bhati stated that, in a way, Dr. Robbins has made his point. These are the most vulnerable people, and

physicians are supposed to help and protect them in the best way they know, not send them to Russia for an eye transplant. Laetrile is banned, and to give that medication and hope to the patient, and then the patient crashes the next day, is not the right thing to do. A physician who does that is coming very close to being a criminal.

Dr. Kumar stated that if this was only being given to people who were truly terminally ill, and everything else exhausted, he would have more compassion for Dr. Slingluff. But when he sees instances of this medicine being given as a first line to the undercover people who went to Dr. Slingluff and said they had prostate cancer, that really bothers him. It was not being offered as an absolute last resort. Dr. Slingluff many times offered it as a first resort.

Dr. Davidson stated that she had concerns about whether there is room for remediation or consideration in this case, and she didn't find any. Dr. Slingluff has had a long history of circumnavigating everybody's rules. Dr. Davidson stated that she doesn't see how the Board can do anything today other than revoke if the Board expects him to stop this illegal activity.

Dr. Buchan stated that he believes that he reads the record differently, and that's why there are 12 minds speaking today. Dr. Buchan stated that he didn't feel that Dr. Slingluff was necessarily taking advantage of this agreed vulnerable population. It appears as though, at least by the record, that this represents about one percent of his practice. It appears as though people came to him in "last resort" status, that's how he took what he read. Dr. Slingluff told the patients that it's not a cure. There's enough testimony over the last several decades that physicians don't believe that it cures people, but national testimony over the decades suggests that it might. So these people are coming, already having had traditional treatment. It's a small percentage of his practice. Dr. Slingluff does not have a factory, where he's running people in and out for huge financial appreciation. Dr. Buchan stated that Dr. Slingluff absolutely did something wrong, but he doesn't feel it rises to the level of revocation. If the Board suspends his license for a longer period of time, there might be some middle ground upon which Board members can agree.

Dr. Bhati stated that an undercover agent went to Dr. Slingluff's office, said he had prostate cancer, and the first treatment Dr. Slingluff offered was Laetrile.

DR. EGNER MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF JACK E. SLINGLUFF, D.O. DR. BHATI SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- nay
	Dr. Kumar	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- nay
	Dr. Garg	- abstain

Dr. Steinbergh - nay
Ms. Sloan - aye

Needing six votes to pass, the motion failed.

Dr. Egner noted that Mr. Browning is out of the room and suggested tabling this matter until his return.

**DR. EGNER MOVED TO TABLE THE MATTER OF DR. SLINGLUFF. DR. BUCHAN
SECONDED THE MOTION.**

Board members indicated that they wished discussion to continue.

**DR. BUCHAN WITHDREW HIS SECOND TO DR. EGNER'S MOTION. THE MOTION DIED
FOR LACK OF A SECOND.**

Dr. Bhati asked whether any Board member would consider changing their vote at this point.

Dr. Steinbergh stated that she would be willing to offer an alternative amended order. She suggested a year's suspension with probationary terms.

Dr. Buchan stated that that would be his position as well. He would be interested in a more protracted suspension period, but he can't vote for revocation at this point.

Dr. Robbins agreed.

Dr. Kumar indicated that he might be amenable to a longer suspension, and a ban against Dr. Slingsluff using Laetrile in his practice.

Dr. Bhati commented that the vote is pretty much split at this time. He stated that tabling to wait for Mr. Browning's return might not be a bad idea.

Dr. Steinbergh noted that Mr. Browning hasn't taken part in the discussion.

Mr. Dilling stated that Mr. Browning has indicated that he has read the record and reviewed it. At the same time, there has been significant discussion. If the Board tables it for a later vote, the Board could have this discussion with Mr. Browning present.

Dr. Robbins asked whether those members who voted for permanent revocation have any leeway in their vote.

Dr. Steinbergh stated that the Board has the ability to produce an alternative order and see if it passes.

Dr. Robbins stated that he would like to see if those voting for revocation would be willing to continue to discuss the matter.

Dr. Egner stated that if Mr. Browning votes for permanent revocation, there will be six votes and the motion will carry. If not, she would have to look at another alternative because Dr. Slingsluff deserves resolution of this matter. That's why she would rather wait to see how Dr. Browning would vote.

Dr. Buchan stated that if Dr. Slingsluff was running a drug clinic or heroin clinic, there would be no argument. The Board needs to understand the medicines he's administering and understand the outcome of that medicine. Dr. Buchan acknowledged that the drug is illegal.

Dr. Davidson stated that it's illegal for safety reasons. She added that it's not just unapproved. It's not an off-label use.

Dr. Buchan stated that Dr. Slingsluff has been using this medicine for 30 plus years. He stated that he's not suggesting that it's right. He's only suggesting that the level of severity of the Board's sanctions needs to be consistent with the crime.

Dr. Steinbergh added that the Board has charged him because of his conviction of a drug-related misdemeanor. That's the charge today. Dr. Steinbergh stated that she does believe that permanent revocation in this case is inappropriate. The Board charged him with a conviction of a misdemeanor.

Dr. Egner stated that permanent revocation is within the disciplinary guidelines for conviction of a misdemeanor. They're not coming up with something beyond the guidelines.

DR. EGNER MOVED TO TABLE THIS MATTER. DR. BHATI SECONDED THE MOTION. All members voted aye. The motion carried.

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Mr. Browning returned to the meeting during the previous discussion.

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DR. EGNER MOVED TO BRING THE MATTER OF JACK E. SLINGLUFF, D.O. OFF THE TABLE. DR. BHATI SECONDED THE MOTION. All members voted aye. The motion carried.

Dr. Egner stated that the Board has talked a lot about this case, and the misrepresentation when you give a patient a drug that is banned to inspire hope in a patient who may or may not be terminal, and then you lose the opportunity for conventional treatment. She stated that she would like to resubmit her amended order for permanent revocation.

Ms. Sloan stated that the motion to amend the order already passed. What did not pass is the motion to approve the amended order.

Dr. Buchan and Dr. Steinbergh reviewed the arguments made by those Board members who voted against permanent revocation.

Dr. Bhati reviewed the arguments made by those Board members who voted for permanent revocation.

DR. EGNER MOVED TO RECONSIDER THE MOTION TO APPROVE AND CONFIRM THE AMENDED ORDER IN THE MATTER OF JACK E. SLINGLUFF, D.O. DR. BHATI SECONDED THE MOTION.

Mr. Browning spoke against permanent revocation, but added that he would vote for a harsher sanction than that proposed by the Hearing Examiner.

A vote was taken on Dr. Egner's motion to reconsider:

Vote:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- nay
	Dr. Kumar	- aye
	Mr. Browning	- nay
	Dr. Davidson	- aye
	Dr. Robbins	- nay
	Dr. Steinbergh	- nay
	Ms. Sloan	- aye

The motion failed.

DR. STEINBERGH MOVED TO AMEND THE AMENDED ORDER TO IMPOSE A SUSPENSION PERIOD OF ONE YEAR, WITH THE SAME PROBATIONARY CONDITIONS CONTAINED IN THE HEARING EXAMINER'S ORIGINAL PROPOSED ORDER. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Egner	- nay
	Dr. Bhati	- nay
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

Ms. Sloan - nay

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF JACK E. SLINGLUFF, D.O. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Bhati	- nay
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- nay

The motion carried.



State Medical Board of Ohio

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

April 14, 2004

Jack E. Slingsluff, D.O.
5424 Peninsula Drive NW
Canton, Ohio 44718

Dear Doctor Slingsluff:

In accordance with R.C. Chapter 119., 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 osteopathic medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about March 16, 2004, in the United States District Court, Northern District of Ohio, Eastern Division, you pleaded guilty to one (1) misdemeanor count of introduction or delivery for introduction into interstate commerce of an unapproved drug to wit: thirty (30) vials of the unapproved new drug Amigdalina B-17 (AKA Laetrile) to be shipped from West Palm Beach, Florida to Salem, Ohio, in violation of Title 21, Sections 331(d), 355(a) and 333(a)(1), United States Code.

Your underlying conduct is provided in greater detail in the Information and Plea Agreement, copies of which are attached hereto and incorporated herein.

Your acts, conduct, and/or omissions, as alleged in paragraph one (1) above, individually and/or collectively, constitute “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,” as those clauses are used in R.C. 4731.22(B)(3).

Further, your plea of guilty or the judicial finding of guilt, as alleged in paragraph one (1) above, constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice,” as that clause is used in R.C. 4731.22(B)(11).

Pursuant to R.C. Chapter 119., 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 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.

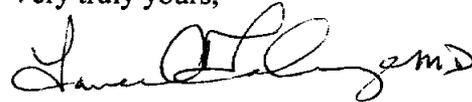
Mailed 4-15-04

In the event that there is no request for such hearing received within thirty 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 osteopathic medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, R.C. 4731.22(L), 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,



Lance A. Talmage, M.D.
Secretary

LAT/cw
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5142 3165
RETURN RECEIPT REQUESTED

5850 Fulton Drive NW
Canton, Ohio 44718

CERTIFIED MAIL # 7000 0600 0024 5142 3158
RETURN RECEIPT REQUESTED

Samuel J. Ferruccio, Jr., Esq.
Samuel J. Ferruccio, Jr., Co., L.P.A.
400 Unizan Bank Plaza
220 Market Avenue South
Canton, Ohio 44702-2106

CERTIFIED MAIL # 7000 0600 0024 5142 2694
RETURN RECEIPT REQUESTED

2004 FEB 11 AM 9:58



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JACK EDWIN SLINGLUFF, D.O.,

Defendant.

~~INFORMATION~~
4:04 CR 074

CR. NO.

Title 21, Section 331
United States Code

JUDGE NUGENT

COUNT 1

The United States Attorney charges:

On or about May 21, 2001, in the Northern District of Ohio, Eastern Division, JACK EDWIN SLINGLUFF, D.O., did cause the introduction or delivery for introduction into interstate commerce of a new drug that was neither approved pursuant to Title 21, Section 355(b) or (j), Section 505 of the Federal Food, Drug, and Cosmetic Act, nor exempt from approval pursuant to Section 355(i), to wit: JACK EDWIN SLINGLUFF, D.O., caused thirty (30) vials of the unapproved new drug Amigdalina B-17 (AKA Laetrile) to be shipped from West Palm Beach, Florida, to Salem,



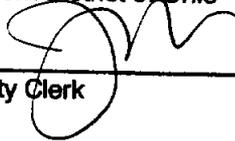
Ohio; in violation of Title 21, Sections 331(d), 355(a) and
333(a)(1), United States Code.



GREGORY A. WHITE
UNITED STATES ATTORNEY

I hereby certify that this instrument is a true and
correct copy of the original on file in my office.

Attest: Geri M. Smith, Clerk
U.S. District Court
Northern District of Ohio

By: 
Deputy Clerk

2004 MAR 16 PM 6:40
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 JACK EDWIN SLINGLUFF,)
)
 Defendant.)

Case No. **4:04 CR 074**
Judge **JUDGE NUGENT**
PLEA AGREEMENT

Pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure, and in consideration of the mutual promises set forth below, the United States Attorney's Office for the Northern District of Ohio (hereinafter "USAO"), by and through its undersigned attorney, and the defendant, Jack Edwin Slingluff (hereinafter "Defendant"), agree as follows:

Defendant's Initials: JS

#6

**MAXIMUM PENALTIES AND OTHER
CONSEQUENCES OF PLEADING GUILTY**

1. **Waiver of Constitutional Trial Rights.** Defendant understands that Defendant has the right to plead not guilty and go to trial. At trial, Defendant would be presumed innocent, have the right to trial by jury or the Court, with the consent of the United States, the right to the assistance of counsel, the right to confront and cross-examine adverse witnesses and subpoena witnesses to testify for the defense, and the right against compelled self-incrimination. Defendant understands that Defendant has the right to an attorney at every stage of the proceeding and, if necessary, one will be appointed to represent Defendant. Defendant understands that, if Defendant pleads guilty and that plea is accepted by the Court, there will not be a further trial of any kind, so that by pleading guilty Defendant waives the right to a trial.

2. **Maximum Sentence.** The statutory maximum sentence(s) for the count(s) to which Defendant agrees to plead guilty is/are as follows:

<u>Count(s)</u>	<u>Statute</u>	<u>Maximum sentence</u>	
1	21 U.S.C. § 331(a)(1) (introduction of unapproved new drug	Imprisonment:	one year
		Probation:	five years
		Fine:	\$100,000
		Supervised Release:	one year

Defendant's Initials: JEH

3. **Alternative Maximum Fine.** The maximum fine that the Court may impose is the greater of the statutory maximum stated above or twice the gross pecuniary loss or gain from the offense of conviction, whichever is greater.

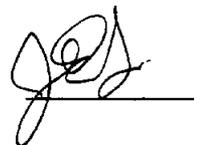
4. **Sentencing Guidelines.** In imposing sentence, the Court will be required to consider any applicable Sentencing Guidelines but may depart from those Guidelines under some circumstances.

5. **Special Assessment.** Defendant will be required to pay a mandatory special assessment of \$100, due immediately upon sentencing.

6. **Costs.** The Court may order Defendant to pay the costs of prosecution and sentence, including but not limited to imprisonment, community confinement, home detention, probation, and supervised release.

7. **Restitution.** The Court may order Defendant to pay restitution as a condition of the sentence, probation, and/or supervised release.

8. **Violation of Probation/Supervised Release.** If Defendant violates any term or condition of probation or supervised release, such violation could result in a period of incarceration or other additional penalty as imposed by the Court. In some circumstances, the combined term of imprisonment under the initial sentence and additional period of incarceration could exceed the maximum statutory term.

Handwritten initials "JES" in black ink, written over a horizontal line.

ELEMENTS OF THE OFFENSE(S)

9. The elements of the offense to which Defendant will plead guilty are:

21 U.S.C. § 331: Conspiracy to Commit an Offense	
One:	The Defendant caused the introduction or delivery for introduction of a new drug that was neither approved nor exempt from approval;
Two:	knowingly; and
Three:	into interstate commerce.

AGREEMENTS AND STIPULATIONS OF THE PARTIES

GUILTY PLEA / OTHER CHARGES

10. **Agreement to Plead Guilty.** Defendant agrees to plead guilty to Count 1 of the Information in this case.

11. **Agreement Not to Bring Certain Other Charges.** The USAO will not bring any other criminal charges against Defendant with respect to conduct charged in the Information based on facts currently within the knowledge of the USAO.

FACTUAL BASIS

12. The parties stipulate to the following facts, which satisfy all of the elements of the offense to which Defendant agrees to plead guilty.

On or about May 21, 2001, in the Northern District of Ohio, the Defendant caused

jes

the introduction or delivery for introduction into interstate commerce of Laetrile, a new drug that was neither approved nor exempt from approval pursuant to Title 21, United States Code Section 355 (b) or (j), Section 505 of the Federal Food, Drug and Cosmetic Act, to wit: thirty (30) vials of Amigdalina B-17, also known as Laetrile, shipped from West Palm Beach, Florida to Salem, Ohio.

WAIVER OF APPEAL AND POST-CONVICTION ATTACK

13. Defendant acknowledges having been advised by counsel of Defendant's rights, in limited circumstances, to appeal the conviction or sentence in this case, including the appeal right conferred by 18 U.S.C. § 3742, and to challenge the conviction or sentence collaterally through a post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255. The Defendant expressly waives those rights, except as reserved below. Defendant reserves the right to appeal: (a) any punishment in excess of the statutory maximum; (b) any punishment to the extent it constitutes an upward departure from the Sentencing Guideline range deemed most applicable by the Court. Nothing in this paragraph shall act as a bar to the Defendant perfecting any legal remedies Defendant may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct.

Handwritten initials of Jack Edwin Slingluff, consisting of the letters 'JES' in a stylized, cursive script, written over a horizontal line.

RESTITUTION

14. The parties agree that the amount of restitution applicable to Defendant shall be determined by the Court at time of sentencing. Defendant agrees to make full restitution, on a joint and several basis, payable immediately on such terms and conditions as the Court may impose, for the losses caused by Defendant's relevant conduct in this case, as defined under Guideline § 1B1.3. Defendant agrees not to seek the discharge of any restitution obligation, in whole or in part, in any present or future bankruptcy proceeding.

SENTENCING STIPULATIONS AND AGREEMENTS

15. **Stipulated Guideline Computation.** The parties agree that the following calculation, using the Guidelines Manual effective November 1, 2000, represents the correct computation of the applicable offense level in this case, prior to any adjustment for acceptance of responsibility. The parties agree that no other Sentencing Guideline adjustments apply.

Count 1	Guideline §	
Base offense level	6	§ 2N2.1(a)
Subtotal before Acceptance of Responsibility	6	

16. **Acceptance of Responsibility.** The USAO has no reason to believe at this time that Defendant has not clearly and affirmatively accepted personal responsibility for

Defendant's Initials: 

Defendant's criminal conduct. Defendant understands, however, that the Court will determine acceptance of responsibility based on Defendant's overall conduct as of the date of sentencing.

17. **Agreement Not to Seek Departures.** The parties agree that there are no bases for either an upward or downward departure from the Sentencing Guidelines and agree not to seek any such departure.

18. **Criminal History Category.** The parties have no agreement as to the Criminal History Category applicable in this case. Defendant understands that the Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the U.S. Probation Office.

OTHER PROVISIONS

19. **Agreement Silent as to Matters Not Expressly Addressed.** This agreement is silent as to all aspects of the determination of sentence not expressly addressed herein, and the parties are free to advise the Court of facts and to make recommendations to the Court with respect to all aspects of sentencing not agreed to herein.

20. **Sentencing Recommendations Not Binding on the Court.** Defendant understands that the recommendations of the parties will not be binding upon the Court, that the Court alone will decide the applicable sentencing range, whether there is any basis to

depart from that range, and what sentence to impose. Defendant further understands that once the Court has accepted Defendant's guilty plea(s), Defendant will not have the right to withdraw such plea(s) if the Court does not accept any sentencing recommendations made on Defendant's behalf or if Defendant is otherwise dissatisfied with the sentence.

21. **Consequences of Breaching the Plea Agreement.** Defendant understands that if Defendant breaches any promise in this agreement or if Defendant's guilty plea or conviction in this case is at any time rejected, vacated, or set aside, the USAO will be released from all of its obligations under this agreement and may institute or maintain any charges and make any recommendations with respect to sentencing that would otherwise be prohibited under the terms of the agreement. Defendant understands, however, that a breach of the agreement by Defendant will not entitle Defendant to withdraw, vacate, or set aside Defendant's guilty plea(s) or conviction.

22. **Agreement not Binding on other Jurisdictions and Agencies.** Defendant understands that this plea agreement is binding only on the United States Attorney's Office for the Northern District of Ohio (USAO). It does not bind any other United States Attorney, any other federal agency, or any state or local government.

23. **Defendant is Satisfied with Assistance of Counsel.** Defendant makes the following statements: I acknowledge receiving the assistance of counsel from attorney Samuel J. Ferruccio, Jr. concerning this plea agreement. I have fully discussed with my

_____

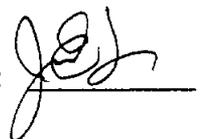
attorney all of my Constitutional trial and appeal rights, the nature of the charges, the elements of the offenses the United States would have to prove at trial, the evidence the United States would present at such trial, the Sentencing Guidelines, and the potential consequences of pleading guilty in this case. I have had sufficient time and opportunity to discuss all aspects of the case in detail with my attorney and have told my attorney everything I know about the charges, any defense that I may have to those charges, and all personal and financial circumstances in possible mitigation of sentence. My attorney has done everything I have asked my attorney to do and I am satisfied with the legal services and advice provided to me by my attorney and believe that my attorney has given me competent and effective representation.

24. **Agreement Is Complete and Voluntarily Entered.** Defendant and Defendant's undersigned attorney state that this agreement constitutes the entire agreement between Defendant and the USAO and that no other promises or inducements have been made, directly or indirectly, by any agent or representative of the United States government concerning any plea to be entered in this case. In particular, no promises or agreements have been made with respect to any actual or prospective civil or administrative proceedings or actions involving Defendant, except as expressly stated herein. In addition, Defendant states that no person has, directly or indirectly, threatened or coerced Defendant to do or

Handwritten signature of Jack Edwin Slingsluff, consisting of the letters 'JES' in a cursive script, followed by a horizontal line.

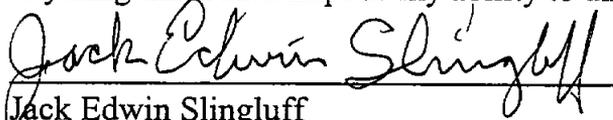
Plea Agreement of Jack Edwin Slingluff - page 10 of 11

refrain from doing anything in connection with any aspect of this case, including entering a plea of guilty.

Handwritten initials "JES" written in black ink over a horizontal line.

SIGNATURES

Defendant: I have read this entire plea agreement and have discussed it with my attorney. I have initialed each page of the agreement to signify that I have read, understood, and approved the provisions on that page. I am entering this agreement voluntarily and of my own free will. No threats have been made to me, nor am I under the influence of anything that could impede my ability to understand this agreement.

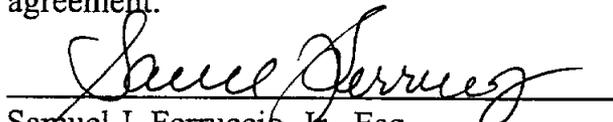


Jack Edwin Slingluff

1-23-04

Date

Defense Counsel: I have read this plea agreement and concur in Defendant pleading in accordance with terms of the agreement. I have explained this plea agreement to Defendant, and to the best of my knowledge and belief, Defendant understands the agreement.

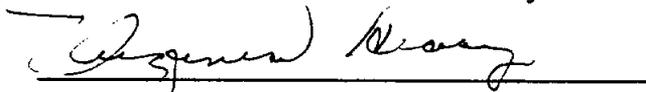


Samuel J. Ferruccio, Jr., Esq.

1-23-04

Date

United States Attorney's Office: I accept and agree to this plea agreement on behalf of the United States Attorney for the Northern District of Ohio.



Virginia D. Hearey
Assistant U. S. Attorney (#0025773)
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113-1852
(216) 622-3785; (216) 522-2403 (facsimile)
E-mail: Virginia.Hearey@usdoj.gov

3/16/04

Date

APPROVED:



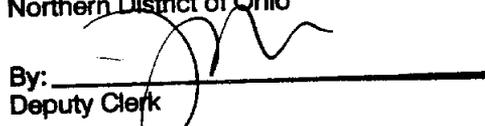
UNITED STATES DISTRICT JUDGE

March 16, 2004

Date

I hereby certify that this instrument is a true and correct copy of the original on file in my office.

Attest: Geri M. Smith, Clerk
U.S. District Court
Northern District of Ohio

By: 

Deputy Clerk

Defendant's Initials: 