State Medical Board of Ohio

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July 14, 1999

Rex W. Dinsmore, D.O.
261 South Avenue
Tallmadge, OH 44278

Dear Doctor Dinsmore:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Daniel Roberts, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 14, 1999, 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 may be taken to the Franklin County Court of Common Pleas only.

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

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 839 269
RETURN RECEIPT REQUESTED

cc: Stephen J. Pruneski, Esq.
CERTIFIED MAIL RECEIPT NO. Z 233 839 272
RETURN RECEIPT REQUESTED

Mailed 7/28/99

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 14, 1999, 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 Rex W. Dinsmore, 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.

Anand G. Garg, M.D.
Secretary

(SEAL)

JULY 14, 1999
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

REX W. DINSMORE, D.O. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on July 14, 1999.

Upon the Report and Recommendation of Daniel Roberts, 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 Rex W. Dinsmore, D.O. be REPRIMANDED.

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

Anand G. Garg, M.D.

Anand G. Garg, M.D.
Secretary

(SEAL)

JULY 14, 1999
Date

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REPORT AND RECOMMENDATION IN THE CONSOLIDATED MATTERS OF EDMUND I. CSERNYIK, D.O.; REX. W. DINSMORE, D.O.; BRENDA S. HENSLEY, D.O.; DAVID J. SASSANO, D.O.; AND NICHOLAS V. RIMEDIO, D.O.

The consolidated matters of Edmund I. Csernyik, D.O.; Rex W. Dinsmore, D.O.; Brenda S. Hensley, D.O.; David J. Sassano, D.O.; and Nicholas V. Rimedio, D.O., were heard by Daniel Roberts, Attorney Hearing Examiner for the State Medical Board of Ohio, on April 27, 1999.

INTRODUCTION

I. Basis for Hearing

A. By separate letters dated September 9, 1998, the State Medical Board of Ohio [Board] notified Edmund I. Csernyik, D.O.; Rex W. Dinsmore, D.O.; Brenda S. Hensley, D.O.; and David J. Sassano, D.O., that it had proposed to determine whether to take disciplinary action against their respective certificates to practice osteopathic medicine and surgery in Ohio. The Board based its proposed action on the following allegations:

> On or about September 10, 1996, Drs. Csernyik, Dinsmore, Hensley, and Sassano entered into a supervision agreement with Mary Jo Foote, P.A., a physician assistant employed in their practice group. This agreement was approved by the Board. Ms. Foote's employment was terminated in March 1997. However, Drs. Csernyik, Dinsmore, Hensley, and Sassano failed to report this termination of the supervision agreement until May 1998.

The Board alleged that the conduct of Drs. Csernyik, Dinsmore, Hensley, and Sassano constitutes "'failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730 of the [Ohio] Revised Code and the rules adopted under that chapter,' as that clause is used in Section 4731.22(B)(32), Ohio Revised Code, to wit: Section 4730.21(B), Ohio Revised Code."

Accordingly, the Board advised Drs. Csernyik, Dinsmore, Hensley, and Sassano of their right to request a hearing in this matter. (State's Exhibits 1A, 2A, 3A and 5A)

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B. By separate letter dated September 9, 1998, the Board notified Nicholas V. Rimedio, D.O., that it had proposed to determine whether to take disciplinary action against his certificate to practice osteopathic medicine and surgery in Ohio. The Board based its proposed action on the following allegations:

1. On or about September 10, 1996, Dr. Rimedio entered into a supervision agreement with Mary Jo Foote, a physician assistant employed by his practice group. This agreement was approved by the Board. Ms. Foote's employment was terminated in March 1997. However, Dr. Rimedio failed to report this termination of his supervision agreement until May 1998.

2. At the time of Ms. Foote's termination of employment Dr. Rimedio had reason to believe that she was impaired in her ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances in violation of Section 4730.25(B)(5), Ohio Revised Code, and Dr. Rimedio knew that she had forged prescriptions for Ritalin for her own use, in violation of Section 4730.25(B)(12), Ohio Revised Code. However, Dr. Rimedio failed to report this information to the Board in accordance with Ohio law.

The Board alleged that Dr. Rimedio's acts, conduct, and/or omissions, as alleged in paragraph 1, above, individually and/or collectively constitute "'failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730 of the [Ohio] Revised Code and the rules adopted under that chapter,' as that clause is used in Section 4731.22(B)(32), Ohio Revised Code, to wit: Section 4730.21(B), Ohio Revised Code."

The Board also alleged that Dr. Rimedio's acts, conduct, and/or omissions, as alleged in paragraph 2, above, individually and/or collectively constitute "'violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter of any rule promulgated by the board.' as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.224(B), Ohio Revised Code and 4731-15-01, Ohio Administrative Code."

The Board further alleged that Dr. Rimedio's acts, conduct, and/or omissions, as alleged in paragraph 2, above, individually and/or collectively constitute "'[c]omission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice,' as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 4731.224(B) and 4731.99(E), Ohio Revised Code."

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Accordingly, the Board advised Dr. Rimedio of his right to request a hearing in this matter. (State's Exhibit 4A)

C. On October 7, 1998, William A. Powel, III, Esq., submitted written hearing requests on behalf of Drs. Csernyik, Dinsmore, Hensley, Sassano and Rimedio. (State's Exhibit 1B, 2B, 3B, 4B, and 5B)

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers, Assistant Attorney General.

B. On behalf of the Respondents: Stephen J. Pruneski, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

A. Presented by the State

1. Nicholas V. Rimedio, D.O., as if on cross examination
2. John R. Gilbride
3. Penny Grubb

B. Presented by Respondent

1. Randi L. Rimedio
2. Nicholas V. Rimedio, D.O.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A-1X, 2A-2X, 3A-3X, 4A-4X, and 5A-5X: Procedural exhibits.

2. State's Exhibit 6: Copy of Physician Assistant Supervision Agreement, effective September 10, 1996, between Mary Jo Foote and Drs. Csernyik, Dinsmore, Hensley, Rimedio, and Sassano.

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3. State's Exhibits 7-11: Copies of September 10, 1996, letters from the Board to Drs. Csernyik, Dinsmore, Hensley, Sassano, and Rimedio, respectively, approving the agreement contained in State's Exhibit 6.

4. State's Exhibit 12: Certified copies of documents from the Summit County Court of Common Pleas in the case of the *State of Ohio v. Mary Josephine Foote*, case number 97-04-0734.

5. State's Exhibit 13: Copy of May 7, 1997, letter from Dr. Rimedio to the Summit County Court of Common Pleas urging the granting of probation to Ms. Foote.

6. State's Exhibit 14: Copy of May 29, 1998, letter from William A. Powel, III, Esq., to the Board advising that Ms. Foote's employment had been terminated.

7. State's Exhibit 15-18: Certified copies of records of the Board in reference to Drs. Csernyik, Dinsmore, Hensley, and Rimedio, respectively, including each physician's 1988 citation letter and consent agreement.

B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of May 26, 1998, letter from Dr. Rimedio to the Board advising that Ms. Foote had been terminated.

2. Respondent's Exhibit B: Copy of Akron Police Department Report of Investigation in reference to Ms. Foote. [Note: Portions of the document were redacted by the Hearing Examiner, with the agreement of the parties.]

3. Respondent's Exhibit C: Copy of August 12, 1996, letter from the Board to Dr. Rimedio advising him that his standard Physician Assistant Utilization Plan had been approved.

4. Respondent's Exhibit D: Copy of March 21, 1997, letter from Karen Mullen to Ms. Foote.

5. Respondent's Exhibit E: Copy of March 24, 1997, file memo by Ms. Mullen detailing the discharge of Ms. Foote.

6. Respondent's Exhibit F: Copy of Disciplinary Warning documenting the discharge of Ms. Foote. [Note: Portions of the document were redacted by the Hearing Examiner, with the agreement of the parties.]

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PROCEDURAL MATTERS

1. On November 4, 1998, the State of Ohio filed a Motion for Consolidation of Hearings in the matters of Edmund I. Csernyik, D.O.; Rex W. Dinsmore, D.O.; Brenda S. Hensley, D.O.; David J. Sassano, D.O.; and Nicholas V. Rimedio, D.O. On November 20, 1998, the Hearing Examiner spoke to Rebecca J. Albers, Esq., representing the State of Ohio, and William A. Powel, III, Esq., representing the Respondents. Mr. Powel advised that the respondents did not object to consolidation. The Hearing Examiner ordered the consolidation.

2. The remaining sections of this Report and Recommendation, with the exception of the proposed orders, will be consolidated for all Respondents.

3. Drs. Csernyik, Sassano, and Rimedio appeared in person at hearing. Drs. Hensley and Dinsmore elected not to appear in person but did appear by counsel. Stephen J. Pruneski, Esq., advised the Hearing Examiner on the record that all five Respondents consented to this arrangement and to his representation of all five respondents. Mr. Pruneski further advised that Drs. Dinsmore and Hensley elected to remain at their office the day of hearing to avoid having to close the practice entirely and inconvenience patients.

4. Respondent's Exhibits B and F contained the Social Security Number of Mary Jo Foote, P.A., and other identifying information which was redacted by the Attorney Hearing Examiner. This redaction was done with the agreement of the parties. (Transcript at 106-107)

SUMMARY OF THE EVIDENCE

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

1. Tallmadge Primary Care Physicians, 261 South Avenue, Tallmadge, Ohio, [Tallmadge] is a primary-care family practice which employs all five Respondents. Mary Jo Foote, P.A., was employed as a physician assistant by the practice from September 10, 1996, until March 24, 1997. Nicholas V. Rimedio, D.O., is the Medical Director for Tallmadge. (Transcript [Tr.] at 23-25, 85-86)

2. John R. Gilbride testified on behalf of the State. Det. Gilbride is a police officer with the Akron Police Department narcotics unit. Det. Gilbride testified that he became involved with the investigation of Ms. Foote as the result of information received from a local pharmacist concerning stolen prescriptions. Det. Gilbride's investigation led him to

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believe that Ms. Foote had passed the prescriptions. Det. Gilbride further testified that in the course of his investigation he contacted Dr. Rimedio, whose name appeared on the prescriptions as the issuing physician. Det Gilbride explained that he met with Dr. Rimedio on March 21, 1997, at which time Dr. Rimedio verified that Ms. Foote was an employee of the Tallmadge practice and that the signatures on the suspect prescriptions were not his. (Tr. 36-39)

Det. Gilbride testified that he interviewed Ms. Foote on March 21, 1997, at Tallmadge in the presence of Dr. Rimedio. Det. Gilbride further testified that Ms. Foote made a full confession that she had stolen prescription blanks from the practice, forged the writing on the prescriptions, and passed them to obtain Ritalin. Det Gilbride also testified that Ms. Foote had admitted to being impaired. (Tr. 38-39, 46-48; Respondent's Exhibit [Resp. Ex.] A)

Det. Gilbride testified that both Ms. Foote and Dr. Rimedio were cooperative and that Dr. Rimedio appeared to understand the seriousness of the problem. Subsequently, Ms. Foote pleaded guilty to illegal processing of drug documents and deception to obtain a dangerous drug. She was granted treatment in lieu of conviction by the court. (Tr. 40-43; State's Exhibit [Sts. Ex.] 12; Resp. Ex. B)

3. Dr. Rimedio testified that he graduated from the College of Osteopathic Medicine and Surgery in Des Moines, Iowa, in 1962 and has been licensed to practice medicine in Ohio for 36 years. Dr. Rimedio described his practice as a primary-care family practice consisting of five physicians. Dr. Rimedio testified that when his practice group originally formed it was known as Tallmadge Family Medical Center. Dr. Rimedio explained that the practice was later sold to Summa Health System [Summa], and it then became part of Northeast Ohio Primary Care Physicians [Northeast], a Summa subsidiary. Dr. Rimedio further explained that the physician owners of the practice and all its employees became employees of Northeast. Dr. Rimedio was appointed Medical Director at Tallmadge and nine new employees were brought in to help manage the practice. (Tr. 23-25, 84-85)

Dr. Rimedio testified that his practice had had one previous disciplinary action by the Board. That action had been in reference to a physician assistant. Dr. Rimedio testified that Eric Ess had been hired as a physician assistant with the understanding that he had been properly registered and employed by another physician. Dr. Rimedio further testified that he later learned, contrary to what Mr. Ess had stated when he was hired, that Mr. Ess had never been registered as a physician assistant. Dr. Rimedio testified that State's Exhibit 18 includes a copy of the consent agreement he entered into with the Board in 1988 which included a reprimand. Drs. Csernyik, Dinsmore, and Hensley entered into similar agreements arising out of the same incident. [Note: Dr. Sassano had not yet joined the practice when the incident with Mr. Ess occurred.] (Tr. 31-33, 35-36, 88-90, 102-103; Sts. Ex. 15-18)

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Dr. Rimedio testified that when the Tallmadge practice was sold, Karen Mullen was brought in as the practice manager and became his supervisor. Dr. Rimedio testified that Ms. Mullen oversaw all of the operations of the practice and handled all the paperwork for insurance, licensing, and other administrative matters. Dr. Rimedio also testified that Ms. Mullen was the liaison between Summa's legal department and the practice employees. Ms. Mullen's office was not located at the Tallmadge practice. (Tr. 85-86)

In August 1996, the Board approved a standard Physician Assistant Utilization Plan that had been submitted by Tallmadge. In addition, Dr. Rimedio identified State's Exhibit 10 as a copy of a letter from the Board to Dr. Rimedio notifying him of the approval of his Physician Assistant Supervision Agreement with Ms. Foote. Dr. Rimedio acknowledged that, among other things, the letter specifically advised him of his obligation to notify the Board in the event the supervision agreement was terminated. State's Exhibits 7-9 and 11 are copies of identical letters, addressed to each of the other Respondents. (Tr. 26-27, 87-88; Resp. Ex. C; Sts. Ex. 7-11)

Dr. Rimedio testified that Ms. Foote had worked for Tallmadge starting in 1995. Dr. Rimedio explained that Ms. Foote performed medical assisting tasks prior to the approval of the supervision agreement. Dr. Rimedio testified that he did not complete the physician assistant application materials for Ms. Foote; however, he did sign the documents which had been prepared by Ms. Mullen. Dr. Rimedio testified Ms. Mullen prepared all licensing and malpractice insurance paperwork and that the appropriate physician then signed the completed forms as needed. (Tr. 24, 85-86)

Dr. Rimedio identified State's Exhibit 6 as a copy of Ms. Foote's supervision agreement and acknowledged his signature on the agreement as a supervising physician. This agreement also bears the signatures of each of the other Respondents as supervising physicians for Ms. Foote. (Tr. 25; Sts Ex. 6)

Dr. Rimedio testified that he first learned of a potential problem with Ms. Foote in March 1997 when office staff told him that they suspected Ms. Foote had been writing prescriptions. Dr. Rimedio testified that in response to this information he notified the legal department of Summa and Ms. Mullen. Dr. Rimedio testified that he subsequently met with Det. Gilbride. Dr. Rimedio testified that during his meeting with Det. Gilbride he was shown the forged prescriptions and advised Det. Gilbride that he had not issued the prescriptions. (Tr. 27-28, 91-99)

Dr. Rimedio testified that Ms. Mullen advised him that Ms. Foote's employment would be terminated. Dr. Rimedio further testified that he told Ms. Mullen of the need to report the situation to the Board. Dr. Rimedio also testified that Ms. Mullen's response that she would take care of this matter was consistent with past practice. Dr. Rimedio explained

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that he was a little nervous about the reporting issue because of what had happened previously with Mr. Ess. Accordingly, Dr. Rimedio testified that he again spoke with Ms. Mullen on March 24, 1997, and reminded her of the need to report Ms. Foote's termination to the Board. Dr. Rimedio explained that Ms. Mullen again stated that she would. Dr. Rimedio testified that he had no doubt in his mind that Ms. Mullen would take care of the necessary reporting. Dr. Rimedio identified Respondent's Exhibits D, E, and F, which describe and document Ms. Mullen's actions in terminating Ms. Foote, as having been prepared by Ms. Mullen and as being consistent with his recollection of events. (Tr. 91-99, 101-102; Resp. Exs. D-F)

Dr. Rimedio acknowledged that as a licensee of the Board he is required to be familiar with the laws and rules governing the practice of medicine. Dr. Rimedio further acknowledged that he understood on March 21, 1997, that Ms. Foote had committed a crime by forging the prescriptions. Dr. Rimedio explained that he understood his obligation to report Ms. Foote's impairment and her termination of employment. However, Dr. Rimedio testified that, as an employee of Northeast, everything involving legal issues had to go through Summa and the task of notifying the Board had been delegated to Ms. Mullen. (Tr. 25, 28-29, 88, 103-105; Sts. Ex. 13)

Dr. Rimedio testified that he first became aware that the Board had not been appropriately notified of Ms. Foote's termination of employment when a Board investigator visited his office about a year after Ms. Foote's employment was terminated. Dr. Rimedio further testified that, on or about May 29, 1998, he drafted and mailed a formal notice to the Board of the termination. Dr. Rimedio also testified that he notified Summa's legal department of the problem and that William A. Powel, III, an attorney in that department also sent the Board a formal notification letter. Dr. Rimedio identified State's Exhibit 14 as a copy of Mr. Powel's letter and Respondent's Exhibit A as a copy of his own letter to the Board. (Tr. 99-100; Sts. Ex. 14, Resp. Ex. A)

Dr. Rimedio testified that Tallmadge currently employs one physician assistant and has employed physician assistants for over 20 years. Dr. Rimedio further testified that he was unsure how many physician assistants the practice had employed during that time but that he could easily recall the names of six. Dr. Rimedio also noted that he has a new physician assistant student working with him every six weeks as part of the student's training. Dr. Rimedio testified that the practice has found it necessary to terminate four physician assistants in the last twenty years. (Tr. 30-31)

4. Randi L. Rimedio testified on behalf of the Respondents. Ms. Rimedio testified that she is employed at Tallmadge as a medical assistant. Ms. Rimedio has worked for Tallmadge for about four years and is married to Dr. Rimedio. Ms. Rimedio described her duties as varied. (Tr. 67-70)

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Ms. Rimedio testified that she and Ms. Foote had worked together at Tallmadge and that, prior to becoming authorized to work as a physician assistant, Ms. Foote had worked as a medical assistant. Ms. Rimedio explained that when Ms. Foote began working as a physician assistant Ms. Rimedio assisted her one or two times a week. Ms. Rimedio testified that prior to March 1997 she had no reason to believe Ms. Foote was impaired. (Tr. 70-72)

Ms. Rimedio testified that on approximately March 15, 1997, she received a telephone call from a local pharmacist concerning questionable prescriptions from Tallmadge. The pharmacist faxed copies of the questioned prescriptions to Ms. Rimedio who then contacted the Akron Police Department. Ms. Rimedio testified that she also had contact with a second pharmacy, the State Board of Pharmacy, and Det. Gilbride to discuss the investigation. Ms. Rimedio testified that during a conversation with Det. Gilbride on March 20, 1997, she was told that Ms. Foote was passing the stolen prescriptions. Ms. Rimedio testified that Det. Gilbride and his partner came to Tallmadge the next day. (Tr. 72-76)

Ms. Rimedio testified that Ms. Mullen had been involved in the March 21, 1997, discussions of how to deal with the situation created by Ms. Foote's conduct. Ms. Rimedio explained that Ms. Mullen was not at Tallmadge on March 21, but participated in the conversation by telephone. Ms. Rimedio testified that a speaker phone was used enabling her to hear both sides of the conversation. Ms. Rimedio testified that during this conversation, Dr. Rimedio had informed Ms. Mullen of the need to notify the Board and Ms. Mullen responded that she understood and that she would handle it. Ms. Rimedio noted that she left the room when Ms. Foote was asked to come in. (Tr. 76-77)

Ms. Rimedio testified that Ms. Mullen came to the Tallmadge practice on March 24, 1997. At that time, Dr. Rimedio again mentioned to Ms. Mullen the need to notify the Board. Ms. Rimedio stated that Dr. Rimedio insisted that the report be made immediately and that Ms. Mullen responded that she would take care of it. Ms. Rimedio further testified that Ms. Mullen told them that she was meeting with Ms. Foote shortly to terminate her employment. Ms. Rimedio also testified that no one who worked at the Tallmadge location participated in the actual termination meeting. (Tr. 77-82)

5. Penny Grubb, Chief of Licensure for the Board, testified on behalf of the State. Ms. Grubb testified that she was familiar with Tallmadge from having processed forms for them as part of her duties with the Board. Ms. Grubb explained that when a supervision agreement is approved a letter is sent to the physician who submitted the agreement. Ms. Grubb identified State's Exhibits 7-11 as copies of the September 10, 1996. letters sent to Drs. Csernyik, Dinsmore, Hensley, Rimedio, and Sassano notifying them that the supervision agreement with Ms. Foote had been approved. Ms. Grubb testified that each

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letter contains a paragraph reminding the physician that they must notify the Board if the agreement is terminated. This paragraph recites the notice requirement of Section 4730.21(B), Ohio Revised Code. Ms. Grubb also identified State's Exhibit 14 as a copy of a May 29, 1998, letter from Mr. Powel, addressed to Lori Gilbert, an Enforcement Coordinator with the Board, notifying the Board that the supervision agreement between Ms. Foote and Drs. Csernyik, Dinsmore, Hensley, Rimedio, and Sassano had been terminated on March 24, 1997. Ms. Grubb testified that in her review of the file she found no notifications of the termination except for State's Exhibit 14. (Tr. 50-55; Sts. Ex. 7-11, 14)

FINDINGS OF FACT

1. On or about September 10, 1996, Edmund I. Csernyik, D.O.; Rex W. Dinsmore, D.O.; Brenda S. Hensley, D.O.; David J. Sassano, D.O.; and Nicholas V. Rimedio, D.O. entered into a supervision agreement with Mary Jo Foote, P.A., a physician assistant employed by their practice group. This agreement was approved by the Board. Ms. Foote's employment was subsequently terminated in March 1977. Nevertheless, Drs. Csernyik, Dinsmore, Hensley, Sassano, and Rimedio failed to report this termination of the supervision agreement until May 1998.

2. At the time of Ms. Foote's termination of employment Dr. Rimedio had reason to believe that she was impaired in her ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances in violation of Section 4730.25(B)(5), Ohio Revised Code and Dr. Rimedio knew that she had forged prescriptions for Ritalin for her own use, in violation of Section 4730.25(B)(12), Ohio Revised Code. However, Dr. Rimedio failed to report this information to the Board in accordance with Ohio law.

CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Edmund I. Csernyik, D.O.; Rex W. Dinsmore, D.O.; Brenda S. Hensley, D.O.; David J. Sassano, D.O.; and Nicholas V. Rimedio, D.O., as set forth in Findings of Fact 1, in failing to report Ms. Foote's termination of employment, individually and/or collectively constitute "failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730 of the [Ohio] Revised Code and the rules adopted under that chapter," as that clause is used in Section 4731.22(B)(32), Ohio Revised Code, to wit: Section 4730.21(B), Ohio Revised Code.

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2. Dr. Rimedio's acts, conduct, and/or omissions, as set forth in Findings of Fact 2, for failing to report Ms. Foote's impairment, individually and/or collectively constitute "failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730 of the [Ohio] Revised Code and the rules adopted under that chapter," as that clause is used in Section 4731.22(B)(32), Ohio Revised Code, to wit: Section 4730.21(B), Ohio Revised Code.

3. Dr. Rimedio's acts, conduct, and/or omissions, as set forth in Findings of Fact 2, individually and/or collectively constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter of any rule promulgated by the board." as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.224(B), Ohio Revised Code, and Rule 4731-15-01, Ohio Administrative Code.

4. Dr. Rimedio's acts, conduct, and/or omissions as set forth in Findings of Fact 2, individually and/or collectively constitute "[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Sections 4731.224(B) and 4731.99(E), Ohio Revised Code.

* * * * *

There is no evidence of any intent on the part of the Respondents to deceive the Board or fail to comply with the law. However, its is clear that the relevant statutes and rules place the responsibility for reporting the termination of a Physician Assistant Supervision Agreement on the physician, not on the corporation or non-physician employee. Any claim that Respondents are absolved from responsibility by the delegation of the reporting duty to a practice manager is without merit.

The conduct of David J. Sassano, D.O., and an appropriate sanction for that conduct can be differentiated from that of the other Respondents. Dr. Sassano is the junior member of the practice and is the only Respondent not to have been previously disciplined by the Board for conduct or omissions relating to the supervision of a physician assistant.

The additional failure of Nicholas V. Rimedio, D.O., to report his knowledge of Ms. Foote's impairment does not justify any additional sanction. Dr. Rimedio's errors in failing to assure the reporting of both the termination and the impairment are in reality one error and any sanctions for this conduct should merge.

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PROPOSED ORDER IN THE MATTER OF EDMUND I. CSERNYIK, D.O.

It is hereby ORDERED that:

1. The certificate of Edmund I. Csernyik, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be SUSPENDED for a period of 90 days. Such suspension is STAYED, subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one (1) year.

   a. Dr. Csernyik shall not request modification of the terms, conditions, or limitations of probation for at least 1 year after imposition of these probationary terms, conditions, and limitations.

   b. Dr. Csernyik shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio.

   c. Dr. Csernyik shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective, at three month intervals thereafter, and upon his request for termination of the probationary period, 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. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Csernyik's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Csernyik shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

   d. Dr. Csernyik shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

   e. Dr. Csernyik shall provide acceptable documentation of successful completion of a course or courses dealing with the supervision of physician assistants. The exact number of hours and the specific content of the course or courses shall be subject

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to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the CME acquisition period(s) in which they are completed.

f. Dr. Csernyik shall take and successfully pass an Examination on Ohio Statutes and Rules Relating to the Practice of Physician Assistants. Successful completion of this examination shall be a prerequisite to Dr. Csernyik being released from probation.

g. Within thirty (30) days of the effective date of this Order, Dr. Csernyik shall provide a copy of this Order to all employers or entities with which he is under contract to provide physician services or is receiving training, and the Chief of Staff at each hospital where Dr. Csernyik has privileges or appointments. Further, Dr. Csernyik shall provide a copy of this Order to all employers or entities with which he contracts to provide physician services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Csernyik applies for or obtains privileges or appointments.

h. In the event that Dr. Csernyik should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Csernyik 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 probationary monitoring is otherwise being performed.

i. If Dr. Csernyik violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.

2. If Dr. Csernyik violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the suspension of Dr. Csernyik's certificate.

3. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Csernyik's certificate will be fully restored.

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

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PROPOSED ORDER IN THE MATTER OF REX W. DINSMORE, D.O.

It is hereby ORDERED that:

1. The certificate of Rex W. Dinsmore, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be SUSPENDED for a period of 90 days. Such suspension is STAYED, subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one (1) year.

   a. Dr. Dinsmore shall not request modification of the terms, conditions, or limitations of probation for at least one (1) year after imposition of these probationary terms, conditions, and limitations.

   b. Dr. Dinsmore shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio.

   c. Dr. Dinsmore shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective, at three month intervals thereafter, and upon his request for termination of the probationary period, 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. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Dinsmore's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Dinsmore shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

   d. Dr. Dinsmore shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

   e. Dr. Dinsmore shall provide acceptable documentation of successful completion of a course or courses dealing with the supervision of physician assistants. The exact

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number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the CME acquisition period(s) in which they are completed.

f. Dr. Dinsmore shall take and successfully pass an Examination on Ohio Statutes and Rules Relating to the Practice of Physician Assistants. Successful completion of this examination shall be a prerequisite to Dr. Dinsmore being released from probation.

g. Within thirty (30) days of the effective date of this Order, Dr. Dinsmore shall provide a copy of this Order to all employers or entities with which he is under contract to provide physician services or is receiving training, and the Chief of Staff at each hospital where Dr. Dinsmore has privileges or appointments. Further, Dr. Dinsmore shall provide a copy of this Order to all employers or entities with which he contracts to provide physician services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Dinsmore applies for or obtains privileges or appointments.

h. In the event that Dr. Dinsmore should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Dinsmore 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 probationary monitoring is otherwise being performed.

i. If Dr. Dinsmore violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.

2. If Dr. Dinsmore violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the suspension of Dr. Dinsmore's certificate.

3. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Dinsmore's certificate will be fully restored.

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

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PROPOSED ORDER IN THE MATTER OF BRENDA S. HENSLEY, D.O.

It is hereby ORDERED that:

1. The certificate of Brenda S. Hensley, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be SUSPENDED for a period of 90 days. Such suspension is STAYED, subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one (1) year.

    a. Dr. Hensley shall not request modification of the terms, conditions, or limitations of probation for at least one (1) year after imposition of these probationary terms, conditions, and limitations.

    b. Dr. Hensley shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio.

    c. Dr. Hensley shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective, at three month intervals thereafter, and upon her request for termination of the probationary period, 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. Although the Board will normally give her written notification of scheduled appearances, it is Dr. Hensley's responsibility to know when personal appearances will occur. If she does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Hensley shall immediately submit to the Board a written request to be notified of her next scheduled appearance.

    d. Dr. Hensley shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

    e. Dr. Hensley shall provide acceptable documentation of successful completion of a course or courses dealing with the supervision of physician assistants. The exact number of hours and the specific content of the course or courses shall be subject

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to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the CME acquisition period(s) in which they are completed.

f. Dr. Hensley shall take and successfully pass an Examination on Ohio Statutes and Rules Relating to the Practice of Physician Assistants. Successful completion of this examination shall be a prerequisite to Dr. Hensley being released from probation.

g. Within thirty (30) days of the effective date of this Order, Dr. Hensley shall provide a copy of this Order to all employers or entities with which she is under contract to provide physician services or is receiving training, and the Chief of Staff at each hospital where Dr. Hensley has privileges or appointments. Further, Dr. Hensley shall provide a copy of this Order to all employers or entities with which she contracts to provide physician services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Hensley applies for or obtains privileges or appointments.

h. In the event that Dr. Hensley should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Hensley 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 probationary monitoring is otherwise being performed.

i. If Dr. Hensley violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.

2. If Dr. Hensley violates probation in any respect, the Board, after giving her notice and the opportunity to be heard, may set aside the stay order and impose the suspension of Dr. Hensley's certificate.

3. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Hensley's certificate will be fully restored.

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

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PROPOSED ORDER IN THE MATTER OF DAVID J. SASSANO, D.O.

It is hereby ORDERED that:

1. The certificate of David J. Sassano, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one (1) year.

   a. Dr. Sassano shall not request modification of the terms, conditions, or limitations of probation for at least one (1) year after imposition of these probationary terms, conditions, and limitations.

   b. Dr. Sassano shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio.

   c. Dr. Sassano shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective, at three month intervals thereafter, and upon his request for termination of the probationary period, 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. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Sassano's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Sassano shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

   d. Dr. Sassano shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

   e. Dr. Sassano shall provide acceptable documentation of successful completion of a course or courses dealing with the supervision of physician assistants. The exact number of hours and the specific content of the course or courses shall be subject

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to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the CME acquisition period(s) in which they are completed.

f. Dr. Sassano shall take and successfully pass an Examination on Ohio Statutes and Rules Relating to the Practice of Physician Assistants. Successful completion of this examination shall be a prerequisite to Dr. Sassano being released from probation.

g. Within thirty (30) days of the effective date of this Order, Dr. Sassano shall provide a copy of this Order to all employers or entities with which he is under contract to provide physician services or is receiving training, and the Chief of Staff at each hospital where Dr. Sassano has privileges or appointments. Further, Dr. Sassano shall provide a copy of this Order to all employers or entities with which he contracts to provide physician services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Sassano applies for or obtains privileges or appointments.

h. In the event that Dr. Sassano should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Sassano 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 probationary monitoring is otherwise being performed.

i. If Dr. Sassano violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.

2. If Dr. Sassano violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate.

3. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Sassano's certificate will be fully restored.

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

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PROPOSED ORDER IN THE MATTER OF NICHOLAS V. RIMEDIO, D.O.

It is hereby ORDERED that:

1. The certificate of Nicholas V. Rimedio, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be SUSPENDED for a period of 90 days. Such suspension is STAYED, subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one (1) year.

   a. Dr. Rimedio shall not request modification of the terms, conditions, or limitations of probation for at least one (1) year after imposition of these probationary terms, conditions, and limitations.

   b. Dr. Rimedio shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio.

   c. Dr. Rimedio shall appear in person for interviews before the full Board or its designated representative within three months of the date in which probation becomes effective, at three month intervals thereafter, and upon his request for termination of the probationary period, 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. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Rimedio's responsibility to know when personal appearances will occur. If he does not receive written notification from the Board by the end of the month in which the appearance should have occurred, Dr. Rimedio shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

   d. Dr. Rimedio shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

   e. Dr. Rimedio shall provide acceptable documentation of successful completion of a course or courses dealing with the supervision of physician assistants. The exact number of hours and the specific content of the course or courses shall be subject

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to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the CME acquisition period(s) in which they are completed.

f. Dr. Rimedio shall take and successfully pass an Examination on Ohio Statutes and Rules Relating to the Practice of Physician Assistants. Successful completion of this examination shall be a prerequisite to Dr. Rimedio being released from probation.

g. Within thirty (30) days of the effective date of this Order, Dr. Rimedio shall provide a copy of this Order to all employers or entities with which he is under contract to provide physician services or is receiving training, and the Chief of Staff at each hospital where Dr. Rimedio has privileges or appointments. Further, Rimedio shall provide a copy of this Order to all employers or entities with which he contracts to provide physician services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Rimedio applies for or obtains privileges or appointments.

h. In the event that Dr. Rimedio should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Rimedio 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 probationary monitoring is otherwise being performed.

i. If Dr. Rimedio violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.

2. If Dr. Rimedio violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the suspension of Dr. Rimedio's certificate.

3. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Rimedio's certificate will be fully restored.

Daniel Roberts
Attorney Hearing Examiner

State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

EXCERPT FROM THE DRAFT MINUTES OF JULY 14, 1999

REPORTS AND RECOMMENDATIONS

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

Dr. Steinbergh asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Edmund I. Csernyik, D.O.; Rex W. Dinsmore, D.O.; Brenda S. Hensley, D.O.; David J. Sassano, D.O.; and Nicholas V. Rimedio, D.O.; Scott R. Henry, M.T.; and George A. Rafferty, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

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.

Dr. Steinbergh 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.

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REPORT AND RECOMMENDATION IN THE CONSOLIDATED MATTERS OF EDMUND I. CSERNYIK, D.O.; REX W. DINSMORE, D.O.; BRENDA S. HENSLEY, D.O.; DAVID J. SASSANO, D.O.; AND NICHOLAS V. RIMEDIO, D.O.

Dr. Steinbergh directed the Board's attention to the matter of Nicholas V. Rimedio, D.O., et al. She advised that objections were filed to Hearing Examiner Roberts' Report and Recommendation and were previously distributed to Board members; however these objections were not filed in a timely manner. Dr. Steinbergh asked whether the Board wished to accept these objections into the record.

DR. SOMANI MOVED TO ACCEPT THE OBJECTIONS FILED ON BEHALF OF DR. RIMEDIO, ET AL., INTO THE HEARING RECORD. DR. STIENECKER SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Steinbergh continued that a request to address the Board has been timely filed on behalf of Dr. Rimedio, et al. Five minutes would be allowed for that address.

Mr. Pruneski stated that he would like to point to several key points that were in the Report and

Recommendation that he believes the Board should consider in line with the objections he filed. First and foremost, the most telling point found by Mr. Roberts in his report is the following statement: "There is no evidence of any intent on the part of the Respondents to deceive the Board or fail to comply with the law."

Mr. Pruneski stated that this whole matter involves the termination of a physician assistant and the failure to give the proper 48-hour notice of that termination, all occurring because the supervisor of this practice promised to do it for the doctors and didn't do it. The key facts for the Board's consideration are that when the police found out that this P.A. was forging prescriptions, and when they contacted the practice, there was immediate and total cooperation by the practice, by the physicians and their staff. They cooperated in the investigation. They cooperated in confronting Mary Jo Foote regarding her infraction. They immediately terminated her when the police told them that she had confessed. The undisputed evidence that Mr. Roberts found was that Dr. Rimedio immediately said that notice had to be made to the Board, and it had to be done quickly. What happened was that Karen Mullen, who was the supervisor, and who had become their boss in the practice, working for the Summa Health System, which had bought Tallmadge Family Medical Center, said that she would notify the Board, that it was her responsibility. That's where the ball was dropped; she didn't do it. Mr. Pruneski stated that there is undisputed evidence that the physicians knew their responsibility, that they knew notice was required, and that the proper notice wasn't given because they relied on their boss to do it and it didn't get done.

Mr. Pruneski stated that the second point is that, in considering Mr. Roberts' proposal, they object because he has obviously considered, with respect to four of the doctors, a reprimand that was issued twelve years earlier that also involved a purely administrative matter. That involved another P.A. back in the 1987-1988 time frame who had applied to work in the practice. That P.A. was in the Board records as being employed by someone else. There was a long delay in the processing of the application. The group started using the P.A.'s services prior to the application process being concluded. When that was disclosed, the proceedings started and a Board reprimand was issued. That happened twelve years ago, and it was an administrative matter. Mr. Pruneski stated that, as he understands it, if one starts looking in the history, the way they handled those applications changed not too long after that.

Mr. Pruneski stated that the last couple of points are pretty simple. This doesn't involve the treatment of patients. That's very important. Time and time again, the Board sees physicians whose conduct involves the treatment of patients and the endangering of patients. It was elicited in the testimony, and found in the record, that the Board doesn't care who gives the notice. The Board cares that a notice is given. What we have in this case is the doctors being held responsible for notice being given by the strict language of the statute when this Board has historically, as Penny Grubb testified, not cared who gave notice as long as notice is given. Mr. Pruneski stated that that is important because it says that it is a duty that is administrative in nature and it is delegable. The doctors have the right to ask someone else to do it for them.

Mr. Pruneski continued that he would finally like to address the sanction that is proposed. The Board will note in the record that it was found that Mary Jo Foote never saw one patient and never had a chance to

interact with one patient after they discovered that she was the one forging the prescriptions and that the police were involved. The group took immediate action: they terminated her, and, as he has always argued, they set into motion what was required by this Board and by statute, notice to the Board so that it is aware of what happened and why. The real objection is that the penalty that is proposed is a stayed 90-day suspension, with continuing education, with probation and several other restrictions. Mr. Pruneski stated that the record shows that the doctors knew their responsibility. They knew that they had to give notice. What the Board is trying to accomplish is to correct a course of conduct where they're not being attentive to all of their responsibilities as physicians. This proceeding made them very well aware that they are not to trust anybody else in giving these notices. He believes that the physicians have learned the lesson that the responsibility for making notice to the Board is theirs, and that if they rely on someone else, even their boss, to make notice and notice is not made, their licenses are in jeopardy. This couldn't be clearer now to these five physicians.

Dr. Steinbergh told Mr. Pruneski that he has 30 seconds to conclude.

Mr. Pruneski stated that Dr. Rimedio has trained P.A.s for 20 years, and he knows the rules. He also knows the responsibilities, so the stayed suspension and training really don't do much good because this is an isolated incident. Having them report to the Board in probation that they haven't terminated any physician assistants lately so they haven't had to give that notice, but they know to give it if they do, isn't going to solve anything.

Mr. Pruneski added that it is important to note that this is the first time that Dr. Sassano has been involved in anything such as this.

Mr. Pruneski stressed that it's not fair to take into account something administrative in nature twelve years earlier that also didn't involve care of patients, and he asked that the Board consider a lesser sanction in this case.

Dr. Steinbergh asked whether the Assistant Attorney General wished to respond.

Ms. Albers stated that counsel for the physicians made a very pertinent point just now when he said that it is ultimately the doctors' responsibility. They entered into supervision agreements to supervise this P.A. They were advised in a letter from this Board that they were to immediately notify the Board when the agreement was terminated. As licensed physicians of this Board who employ P.A.s, they are required to know the laws and rules that apply to themselves, as well as to P.A.s. They did not do this. The notice was not given until over a year after Ms. Foote left. It is ultimately the responsibility of the doctors who entered into this supervision agreement to report to the Board.

Ms. Albers continued that, as far as the Hearing Examiner considering the action from twelve years ago, she reminded the Board that it has an administrative rule that specifically addresses this. It says that prior Board actions shall be admitted in the hearings of this matter. This was pertinent, notwithstanding the fact

that it happened twelve years ago. It dealt with another issue where four of these physicians were reprimanded concerning P.A. issues. It is pertinent to show that, even though Dr. Rimedio trains and is familiar with the P.A. laws, it didn't stop him from not reporting this time.

Ms. Albers stated that she also wants to point out that there is a difference in degree and how this Board should treat these different physicians. As Mr. Pruneski pointed out, Dr. Sassano has never been in trouble with this Board before, and she believes the Board should keep that in mind. Dr. Rimedio was charged additionally with failing to report under §4731.224. Dr. Rimedio sat with the police officer and Ms. Foote and knew that she was impaired, and he didn't report that impairment to the Board. Ms. Albers stated that she believes that that posed a danger to the public. Dr. Rimedio knew that this P.A. was impaired and he didn't report it. That is far more serious than has been set forth in the Report and Recommendation and in counsel's comments.

Ms. Albers stated that she believes that the Board is setting a precedent in this case as to how seriously it is going to take this reporting requirement, and it she asked that members keep that in mind when making their decision.

DR. SOMANI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE CONSOLIDATED MATTERS OF EDMUND I. CSERNYIK, D.O.; REX W. DINSMORE, D.O.; BRENDA S. HENSLEY, D.O.; DAVID J. SASSANO, D.O.; AND NICHOLAS V. RIMEDIO, D.O. DR. BHATI SECONDED THE MOTION.

Dr. Steinbergh noted that language concerning the effective date has inadvertently been omitted from the separate Proposed Order for Nicholas V. Rimedio, D.O.

DR. SOMANI MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF NICHOLAS V. RIMEDIO, D.O., BY ADDING THE FOLLOWING LANGUAGE:

> "THIS ORDER SHALL BECOME EFFECTIVE IMMEDIATELY UPON THE MAILING OF NOTIFICATION OF APPROVAL BY THE BOARD."

DR. BHATI SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye

Dr. Buchan - aye
Dr. Steinbergh - aye

The motion carried.

Dr. Steinbergh stated that she would now entertain discussion in the above matter.

Dr. Egner stated that she would not like to consider this as a group, with all five physicians together. There is a distinction here. Dr. Rimedio was obviously the head of the group, and the most knowledgeable about the administrative duties. It is significant that he had past dealings with the Board twelve years ago. One would think that having dealt with the Board would have given him a heightened sense the second time around. He seems to be the only one of the physicians involved with the firing of the P.A. He was with the police and knew of the impairment. She therefore holds him more responsible than the others.

Dr. Egner continued that there were two problems. The P.A. is the Board's licensee and Dr. Rimedio had two reasons to contact the Board: the first and most important being the fact that Ms. Foote was impaired. His not reporting her impairment imposed a danger to the public because there was a P.A. out there who could have been hired by someone else who was not aware of the impairment. Secondly, the Board should have been notified of the P.A.'s termination from the practice. To say that Dr. Rimedio's office manager was his boss is not true; it's passing the buck to someone who is not his boss. Even though the group was bought by the company employing Ms. Mullen, she would not have been considered the boss. Otherwise, Dr. Rimedio would not have had the right to fire her. She would have had the right to fire him, and that's not the way it worked. There's testimony that once Ms. Mullen made this error, she was fired.

Dr. Egner stated that the second issue concerns what is delegable to the office manager. Dr. Egner stated that she believes Ms. Mullen should have written the letter to the Board, but she believes it should have still come from the physician, especially the notice regarding impairment. When that letter never came across Dr. Rimedio's desk to sign to send to the Board, he would have known that the Board may not have gotten it, that Ms. Mullen may not have done it. Dr. Rimedio had an obligation and a responsibility to follow up on that and he didn't do it. They indicate that twelve years ago they were reprimanded for something that was purely an administrative matter. That should have taught the group that even administrative matters are important to the Board and would have been important the second time around.

DR. EGNER MOVED THAT THE CONCLUSIONS OF LAW IN THE MATTER OF NICHOLAS V. RIMEDIO, D.O., ET. AL., BE AMENDED BY SUBSTITUTING THE FOLLOWING FOR THE THIRD UNNUMBERED PARAGRAPH FOLLOWING THE SYMBOL "* * * * *":

> The additional failure of Nicholas V. Rimedio, D.O., to report his knowledge of Ms. Foote's impairment is significant, and justifies additional sanction. While the reporting of termination of employment is essentially an administrative matter, the statutory obligation to report another Medical Board licensee due to impairment of ability to

practice exists to protect the public from harm at the hands of a health care provider. Reporting by Dr. Rimedio of his own belief--in fact, his direct knowledge--of Ms. Foote's impairment was not a matter that could or should have been delegated to administrative personnel. Strict compliance by all licensees with the reporting requirements set out in Ohio's statutes and rules is essential if the Medical Board is to effectively carry out its regulatory responsibilities.

SHE FURTHER MOVED: THAT THE PROPOSED ORDERS IN THE MATTERS OF EDMUND I. CSERNYIK, D.O., REX W. DINSMORE, D.O., AND BRENDA S. HENSLEY, D.O., BE AMENDED BY SUBSTITUTING ORDERS OF REPRIMAND; THAT THE AMENDED PROPOSED ORDER IN THE MATTER OF NICHOLAS V. RIMEDIO, D.O., BE AMENDED BY DELETING PARAGRAPH 1(e) AND RENUMBERING THE REMAINING PARAGRAPHS; AND THAT THE PROPOSED ORDER IN THE MATTER OF DAVID J. SASSANO, D.O., BE AMENDED BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that, although the Medical Board was substantially justified in initiating these proceedings with respect to David J. Sassano, D.O., no disciplinary action against him is warranted on the basis of the September 9, 1998 notice of opportunity for hearing.

Dr. Egner stated that she agrees that Dr. Sassano, as a junior member, probably didn't have a lot of administrative authority within the group and didn't have the benefit of a history with the Board.

Dr. Steinbergh noted that Dr. Egner eliminated paragraph 1 (e), the C.M.E. requirement from the Proposed Order in the Matter of Nicholas V. Rimedio, D.O. She asked whether Dr. Egner wishes to keep paragraph (f), the test on Ohio statutes and rules requirement.

Dr. Egner stated that she does. She thinks it's a very good requirement and one the Board may wish to use more in the future.

Dr. Egner continued that she thinks this group of doctors would like to see this case as a simple matter. They were supposed to notify the Board and thought someone was going to do it and it didn't get done. Dr. Egner stated that she believes this is a very serious matter. There was an impaired licensee out there of whom the Board was not aware.

DR. STIENECKER SECONDED DR. EGNER'S MOTION TO AMEND.

Dr. Stienecker stated that there was a large medical corporation involved in this case for whom Ms. Mullen was acting as agent. He thinks that the physicians may have looked on her as their boss, but organizations are not licensed to practice medicine, doctors are. They are the ones who are accountable for complying with Chapter 4731. Dr. Stienecker added that he thinks one can delegate responsibility, but cannot delegate

accountability. In this case the physician still retains the accountability for his actions and for living up to his obligations under of the Medical Practice Act. Delegation does not absolve a physician of that accountability. It did not absolve the physicians of their accountability to report this other Board licensee when they knew that she was impaired; he agreed with Dr. Egner on that point. Dr. Stienecker stated that that is the reason he believes that Dr. Rimedio merits a greater disciplinary action in this case than the other physicians.

Dr. Somani stated that when he read this case, he had the same concerns as Dr. Egner and Dr. Stienecker. The ultimate responsibility is with the doctors who signed a contract with the Medical Board when they requested approval for a P.A. Therefore, simply delegating it to someone else is not appropriate. As Dr. Egner pointed out, Dr. Rimedio also had to notify the Board about Ms. Foote's impairment. Dr. Somani stated that his concern is that, although he agrees that Dr. Rimedio, being the senior person in the group, has more responsibility, he's not so sure that the Board should let Dr. Sassano off the hook, because he did sign the P.A. document. Therefore, he was working with Ms. Foote and should have been involved with this case. To treat him somewhat differently would not be appropriate. Otherwise he won't learn the lesson that if he takes the responsibility of signing his name to a supervision agreement, he will be accountable and responsible. Dr. Somani stated that he should be reprimanded just like everybody else. Dr. Somani asked Dr. Egner to modify her amendment.

Dr. Stienecker disagreed with Dr. Somani with regard to Dr. Sassano. Dr. Stienecker stated that he doesn't recall that the Board had in evidence what Dr. Sassano knew and when he knew it. He can't hold Dr. Sassano accountable, even though he may have signed on as a junior partner.

Dr. Steinbergh stated that she agrees with Dr. Stienecker. Her first sense from the hearing record was that there was a group of physicians who had been reprimanded previously, there was a medical director who knew that the P.A. was impaired, who had a direct responsibility to the Board to notify the Board, and he failed to do so. The other physicians who also signed the supervision agreement certainly put themselves at risk. Three of those had been reprimanded previously. Dr. Sassano had not been exposed to this, and she sensed from the hearing record that there was really no one other than Dr. Rimedio in the room at the time that this occurred, but those other physicians who had been reprimanded once before certainly should have been on the alert for this type of issue. Once they knew that the P.A. was released, there should have been discussion in this group.

Dr. Steinbergh stated that she could not in good conscience vote to reprimand Dr. Sassano. She sees him as a young, innocent physician who did sign the P.A. form, but she doesn't believe he had the same level of responsibility or maturity, perhaps, as the other members of the group.

Dr. Somani stated that, by the same token, eleven years ago there was the same situation. Probably one of them should have been accountable but everyone was at that time. By the same token, he believes that once Ms. Foote was let go, the group, including Dr. Sassano, knew that she had been let go. He had also signed the form to "supervise" the P.A. To absolve him completely does not make sense.

Dr. Buchan agreed with Dr. Egner's original motion, adding that he feels that the seriousness of dealing with an impaired practitioner needs to be addressed here. He can't lessen the sanction. He believes that the burden is directed where it needs to be directed. The others should be reprimanded.

Dr. Somani asked whether Dr. Buchan is saying that Dr. Sassano should not be included.

Dr. Buchan stated that that is correct.

Dr. Talmage asked whether, given the discussion and the proposed amendment on Dr. Sassano, it would be appropriate to separate the issues and vote on the three amendments separately.

Dr. Steinbergh stated that it is her understanding that Dr. Egner's motion includes all of the amendments. That is what the Board will be voting on.

Dr. Talmage stated that his problem is that, if Board members agree with two parts but not the third, they will be forced to vote against the parts with which they agree.

Dr. Steinbergh stated that, in that case, the Board member should vote against the motion. She stated that at this time, unless Dr. Egner and Dr. Stienecker withdraw their motion, the Board will vote on this motion.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- nay
	Dr. Somani	- nay
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

The motion carried.

DR. BHATI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF NICHOLAS V. RIMEDIO, ET AL. DR. STIENECKER SECONDED THE MOTION.

Dr. Steinbergh asked whether further discussion in the above matter was necessary.

Board members indicated it was not.

A vote was taken on Dr. Bhati's motion to approve and confirm as amended:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

The motion carried.

September 9, 1998

Rex W. Dinsmore, D.O.
261 South Avenue
Tallmadge Family Med Center Inc.
Tallmadge, OH 44278

Dear Doctor Dinsmore:

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

(1) On or about September 10, 1996, you entered into a supervision agreement with Mary Jo Foote, a physician assistant employed by your practice group, Tallmadge Primary Care Physicians, Inc. This agreement was approved by the State Medical Board of Ohio. Ms. Foote's employment with your practice group was terminated in March 1997. However, you failed to report this termination of your supervision agreement to the State Medical Board of Ohio until May 1998.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "[f]ailure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter," as that clause is used in Section 4731.22(B)(32), Ohio Revised Code, to wit: Section 4730.21(B), Ohio Revised Code.

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

You are further advised that 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

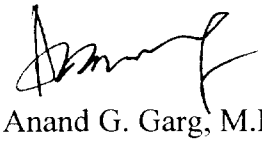
Mailed 9/10/98

at the hearing you may present evidence and examine witnesses appearing for or against you.

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/bjs
Enclosures

CERTIFIED MAIL #Z 395 591 298
RETURN RECEIPT REQUESTED

CONSENT AGREEMENT

BETWEEN

REX W. DINSMORE, D.O.

AND

THE STATE MEDICAL BOARD OF OHIO

THIS CONSENT AGREEMENT is entered into by and between REX W. DINSMORE, D.O., and THE STATE MEDICAL BOARD OF OHIO, a State agency charged with enforcing Chapters 4730 and 4731, Ohio Revised Code.

REX W. DINSMORE, D.O., enters into this Agreement being fully informed of his rights under Chapter 119, Ohio Revised Code, including his right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

1. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, or suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provisions of Chapter 4731, Revised Code and specifically Section 4731.41, Revised Code which requires that "no person shall practice medicine or surgery, or any of its branches without a certificate from the state medical board ..."

2. REX W. DINSMORE, D.O., is licensed to practice medicine and surgery in the State of Ohio.

3. REX W. DINSMORE, D.O., ADMITS that:

   a) On or about May 12, 1986 he did employ and/or utilize Mr. Eric J. Ess to work as a physician's assistant in his office.

   b) Mr. Eric J. Ess was not registered by the State Medical Board, but held himself out and functioned as DR. DINSMORE's physician assistant

between at least May 12, 1986 and January 8, 1988.

c) In the course of his employment during that period of time, Mr. Ess performed acts which constituted the unlicensed practicing of medicine or one of its branches, including the performance of physical examinations, and the initial evaluations and histories of new patients.

4. REX W. DINSMORE, D.O., ADMITS that by and so employing and/or utilizing an unlicensed and unregistered individual to perform these functions he did violate Sections 4731.22 and 4731.41, Ohio Revised Code in that he did permit the "practice of medicine or surgery or any of its branches without a certificate from the state medical board."

5. REX W. DINSMORE, D.O., states that he never wilfully intended to violate any provision of Chapter 4731 of the Ohio Revised Code, specifically §§4731.22 and 4731.41, and that the violation that did occur was due to a good faith belief that Mr. Eric J. Ess was temporarily certified to practice as a Physician's Assistant in the State of Ohio while his registration application was pending.

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, REX W. DINSMORE, D.O., knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO (hereinafter "BOARD") to the following terms and conditions:

1. REX W. DINSMORE, D.O. shall receive a written reprimand from the BOARD.

2. REX W. DINSMORE, D.O., shall obey all federal, state and local laws and rules governing the practice of medicine in Ohio.

3. REX W. DINSMORE, D.O., shall not employ or otherwise utilize a physician's assistant in his practice for a period of six (6) months.

4. The BOARD agrees not to initiate criminal prosecution against REX W. DINSMORE, D.O., as

a result of any allegations currently pending before the BOARD.

If, in the discretion of the secretary of THE STATE MEDICAL BOARD OF OHIO, REX W. DINSMORE, D.O., appears to have violated or breached any terms or conditions of this Agreement, THE STATE MEDICAL BOARD OF OHIO reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Agreement.

Any action initiated by THE STATE MEDICAL BOARD based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119, Ohio Revised Code.

REX W. DINSMORE, D.O., hereby releases THE STATE MEDICAL BOARD, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43, Revised Code, and shall become effective upon the last date of signature below.

REX W. DINSMORE, D.O.

12/15/88
DATE

LAWRENCE R. BACH
Attorney for
REX W. DINSMORE, D.O.

12-15-88
DATE

HENRY G. CRAMBLETT, M.D.
Secretary, State Medical Board of Ohio

12/16/88
DATE

JOHN E. RAUCH, D.O.
Supervising Member
State Medical Board of Ohio

DATE

CHRISTOPHER M. CULLEY
Assistant Attorney General

12-16-88
DATE

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

April 13, 1988

Rex W. Dinsmore, D.O.
261 South Avenue
Tallmadge, Ohio 44278

Dear Doctor Dinsmore:

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

(1) On or about May 12, 1986, you employed and/or utilized Mr. Eric J. Ess to work as a physician's assistant in your office. He was not registered by the State Medical Board, but held himself out and functioned as your physician's assistant between at least May 12, 1986 and January 8, 1988. In the course of his employment during this time period, Mr. Ess performed acts which constituted the unlicensed practice of medicine or one of its branches, including the performance of physical examinations, and the initial evaluations and histories of new patients.

The acts as alleged in paragraph (1) above constitute a violation of Section 4730.02(C), Ohio Revised Code, which states "No physician or physicians shall employ a physician's assistant without prior approval of the state medical board."

Your acts as alleged in paragraph (1) above constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provisions of this chapter or any rule promulgated by the board "as those clauses are used in Section 4731.22(B)(16), Ohio Revised Code, in effect prior to March 17, 1987, and Section 4731.22(B)(20), Ohio Revised Code, in effect subsequent to March 17, 1987, to wit: Mr.Ess' violation of Section 4731.41, Ohio Revised Code, which requires that "no person shall practice medicine or surgery, or any of its branches without a certificate from the state medical board . . . ."

STATE OF OHIO
THE STATE MEDICAL BOARD

April 13, 1988

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Henry G. Cramblett

Henry G. Cramblett, M.D.
Secretary

HGC:caa

enclosures

CERTIFIED MAIL RECEIPT NO. P 026 073 465
RETURN RECEIPT REQUESTED