

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

May 4, 1982

Robert J. McConnell, D.O.  
107 Kenbrook Drive  
Vandalia, OH. 45377

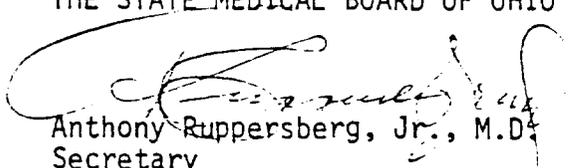
Dear Doctor McConnell:

Please find enclosed a certified copy of the Order; a certified copy of the Report and Recommendation of Peter Lancione, M.D., Member, State Medical Board of Ohio; and a certified copy of the Motion by the State Medical Board, meeting in regular session on April 14, 1982, modifying the Proposed Order and approving and confirming said modified Report and Recommendation as the Findings and Order of the State Medical Board.

You are hereby notified that you may appeal this Order to the Court of Common Pleas of the county in which your place of business is located, or the county in which you reside. If you are not a resident and have no place of business in this state, you may appeal to the Court of Common Pleas of Franklin County, Ohio.

To appeal as stated above, you must file a notice of appeal with the Board setting forth the Order appealed from, and the grounds of the appeal. You must also file a copy of such notice with the court. Such notices of appeal shall be filed within fifteen (15) days after the date of mailing of this letter and in accordance with Section 119.12, Revised Code.

THE STATE MEDICAL BOARD OF OHIO

  
Anthony Ruppertsberg, Jr., M.D.  
Secretary

AR:em

CERTIFIED MAIL NO. P32 4765269  
RETURN RECEIPT REQUESTED

cc: Horace W. Baggott, Jr., Esq.

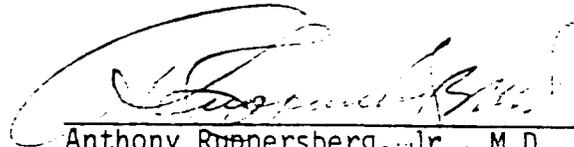
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RETURN RECEIPT REQUESTED

STATE OF OHIO  
THE STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Peter Lancione, M.D., Member, State Medical Board of Ohio; and the attached copy of the Motion approved by the State Medical Board, meeting in regular session on April 14, 1982, modifying the Proposed Order, and approving and confirming said modified Report and Recommendation as the Findings and Order of the State Medical Board constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Robert J. McConnell, D.O., as it appears in the Journal of the State Medical Board of Ohio.

(SEAL)



Anthony Ruppertsberg, Jr., M.D.  
Secretary

5-4-82  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF                   \*  
  \*  
ROBERT J. MCCONNELL, D.O.       \*

ORDER

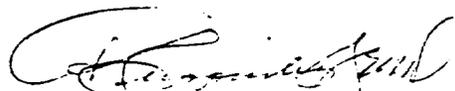
This matter came on for consideration before the State Medical Board of Ohio the 14th day of April, 1982.

Upon the Report and Recommendation, a true copy of which is attached hereto and incorporated herein, of Peter Lancione, M.D., the Hearing Member in this matter designated pursuant to R.C. 4731.23, the Findings of Fact, Conclusions, and Proposed Order as modified by vote of the Medical Board on April 14, 1982 are Hereby APPROVED and CONFIRMED by vote of the State Medical Board of Ohio as reflected by the Motions of the Board at its meeting for the above date, a true copy of said Motions of the Board being attached hereto and incorporated herein.

WHEREFORE, it is hereby ORDERED that effective immediately the certificate of Robert J. McConnell, D.O., to practice osteopathic medicine and surgery in the State of Ohio is REINSTATED subject to the following conditions: that he appear before the Board in six months' time and again six months later, and that at these appearances he bring with him a log, clearly written, of all Schedule II drugs that he has prescribed by written prescription or given in his office.

This ORDER is to be entered upon the Journal of the State Medical Board of Ohio for this 14th day of April, 1982, and the original thereof shall be kept with said Journal.

(SEAL)

  
\_\_\_\_\_  
Anthony Ruppertsberg, Jr., M.D.  
Secretary

5-4-82  
Date

STATE OF OHIO  
THE STATE MEDICAL BOARD

'82

REPORT AND RECOMMENDATION  
IN THE MATTER OF ROBERT J. McCONNELL, D.O.

The matter of Robert J. McConnell, D.O., came before me, Peter Lancione, M.D., Member, State Medical Board of Ohio, on February 11, 1982, for hearing.

INTRODUCTION AND SUMMARY OF EVIDENCE

1. Dr. McConnell voluntarily surrendered his license to practice osteopathic medicine and surgery on June 9, 1981, after pleading guilty to two counts of illegal processing of drug documents, a felony under Section 2925.33, Ohio Revised Code. (Transcript at 1, Exhibit 2)
2. Dr. McConnell requested reinstatement of his surrendered license in a letter received by the State Medical Board on July 27, 1981. (Exhibit 1)
3. Dr. McConnell subsequently appeared before the Board at its November 5, 1981, meeting to discuss that reinstatement. (Exhibit 5)
4. The Board acted negatively upon Dr. McConnell's reinstatement request at its December 2, 1981 meeting and notified him of his hearing rights under Chapter 119., Ohio Revised Code. (Transcript at 6, Exhibit 4)
5. Dr. McConnell requested a formal hearing by letter to the Board received December 28, 1981. (Exhibit 6)
6. The State's case was presented by Kathleen McManus, Assistant Attorney General.
7. Dr. McConnell was presented by his attorney, Horace Baggot, Jr.
8. Dr. McConnell was called as a witness by the State as if on cross-examination. His testimony indicated that:
  - a. He was approached by a friend of his from high school, Mr. Fairchild, who asked for help on getting his girlfriend off narcotics. (Transcript at 13)
  - b. He recommended the girl seek help from B.U.D.A., the local drug detoxification unit in Dayton. (Transcript at 14)
  - c. After a refusal on her part to pursue that program, Dr. McConnell's friend again approached him and indicated he wanted to marry her, but could not while she was on narcotics. (Transcript at 14)

- d. Dr. McConnell then wrote a Dilaudid prescription for the girl, but area pharmacists would not fill it because they knew her as an addict. (Transcript at 14-15)
  - e. He then proceeded upon a course of writing Dilaudid or Demerol prescriptions in the name of a deceased cancer patient, picking up the drugs himself, and delivering them to his friend for use by the girl. (Transcript at 15-16, Exhibit 12)
  - f. The criminal charges against Dr. McConnell, his subsequent conviction, and his voluntary surrender all followed from this prescribing activity. (Transcript at 16, 17)
  - g. He was asked to take a polygraph test and was informed that if everything came out all right he would receive help in getting his license reinstated. (Transcript at 19)
  - h. Dr. McConnell was told he passed the polygraph examination. (Transcript at 19)
  - i. He has not practiced medicine since his voluntary surrender. (Transcript at 19)
9. Charles E. Gentry of the Organized Crime Unit of the Dayton Police Department was called as a witness by the State. His testimony indicated that:
- a. Upon questioning, Dr. McConnell admitted giving drugs, mostly Talwin, to Mr. Fairchild without maintaining a drug or prescription record. (Transcript at 38-39)
  - b. The letter forwarded to the State Medical Board by the Dayton Police Department recommending return of Dr. McConnell's license with limitations was based upon the Department's belief that the doctor had performed satisfactorily on his polygraph test. Subsequent discussions with the polygraphist, however, revealed Dr. McConnell had not passed the polygraph examination. (Transcript at 41-42, Exhibit 3, Exhibit 13)
  - c. Dr. McConnell, upon questioning by detectives gave two explanations for his activities. One was that he wanted some of the drugs for himself for pain and didn't know the proper procedure for obtaining them. The other was that he was simply giving drugs to Mr. Fairchild. (Transcript at 50)

10. Richard J. Sievers, D.O., was called as a witness by Dr. McConnell. His testimony indicated that:
  - a. Dr. McConnell had covered his practice while he was on vacation.
  - b. Dr. McConnell's practice is of excellent quality.
  - c. Dr. McConnell has a good reputation for truth and integrity.
  - d. Dr. McConnell did not tell him of the felony conviction. (Transcript at 58 through 60)
11. Gretchen Smith, a Branch Director of the Arthritis Foundation, was called as a witness by Dr. McConnell. Her testimony revealed that:
  - a. Dr. McConnell served as a member of the Foundation's Medical and Scientific Committee and its Speaker's Bureau. (Transcript at 62)
  - b. He was also selected to attend the Arthritis Foundation Care and Education Program. (Transcript at 62-63)
  - c. She was aware of Dr. McConnell's conviction and he had discussed the matter with her. (Transcript at 64)
12. Reverend George Bowles of the Grace United Methodist Church in Dayton, Ohio was called as a witness by Dr. McConnell. He testified as to Dr. McConnell's excellent reputation for integrity and truth.
13. Exhibit 13 consists of a number of letters concerning Dr. McConnell's reinstatement from:
  - a. John W. Cox, D.O.
  - b. Mary L. Theodoras, D.O., Regional Assistant Dean, Ohio University College of Osteopathic Medicine.
  - c. Richard J. Sievers, D.O., FAAFP
  - d. Emil R. Pinta, M.D., Department of Psychiatry, Ohio State University
  - e. Arthur A. Greenfield, D.O.
  - f. Sgt. R.L. Reynolds, Commander, Organized Crime Unit, Dayton Department of Police.
  - g. Donald Siehl, D.O., Past President, American Osteopathic Association.
14. Exhibit 9 is a letter concerning Dr. McConnell's reinstatement from Robert D. Head, Assistant Prosecuting Attorney, Montgomery County.
15. Exhibit 10 is a followup letter from Donald Siehl, D.O., concerning reinstatement of Dr. McConnell.

16. In view of the inconsistencies raised concerning the outcome of Dr. McConnell's initial polygraph examination, the hearing record was left open to receive additional evidence. As a result, Dr. McConnell voluntarily underwent a subsequent polygraph examination. The results of that test, along with accompanying letters from Mr. Baggott and Ms. McManus are hereby admitted to the record for consideration. Dr. McConnell did pass this polygraph test.

#### FINDINGS OF FACT

Based upon the testimony and evidence presented, I find that:

1. Dr. McConnell was convicted of two counts of illegal processing of drug documents, a felony, in violation of Section 2925.33, Ohio Revised Code. (Exhibit 2)
2. Dr. McConnell, as a result, voluntarily surrendered his license to practice osteopathic medicine and surgery on June 9, 1981. (Transcript at 1)
3. The State Medical Board, at its December 2, 1981 meeting, initially denied Dr. McConnell's reinstatement request. (Transcript at 6, Exhibit 4)
4. Dr. McConnell subsequently appealed in a timely fashion, requesting a formal hearing under Chapter 119. of the Ohio Revised Code. (Exhibit 6)
5. Dr. McConnell admitted that he did, indeed, embark upon a course of writing prescriptions in the name of Betty Hudson, a deceased patient for whom the drugs were not intended, and I so find. (Transcript at 15-16, Exhibit 12)
6. No evidence was presented rebutting Dr. McConnell's testimony that he has not practiced medicine since surrendering his license on June 9, 1981, and I so find. (Transcript at 19)

#### CONCLUSIONS

1. Robert J. McConnell, D.O., having been convicted of a felony, is in violation of the disciplinary provisions of Section 4731.22, Ohio Revised Code. Consequently, grounds exist for a refusal to register or reinstate his certificate to practice osteopathic medicine. Although it may be arguable that Dr. McConnell's actions were not performed in what one would consider a physician's usual "course of practice" as that language is used in paragraph (B)(10) of Section 4731.22, such an argument matters none, since the combined effect of paragraphs (B)(10) and (B)(11) of Section 4731.22 is to make felony conviction a basis for refusal whether or not committed in the course of practice.

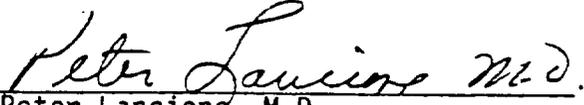
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2. Having concluded that statutory basis exists for refusal, I must now turn to the more delicate, yet most important, matter of whether it is proper to return Dr. McConnell's certificate at this time, about 9 months since its surrender, and, if proper, whether restrictions should be imposed.
3. I feel it is proper to return Dr. McConnell's certificate to practice medicine and surgery in Ohio with no restrictions for the following reasons:
  - a. Dr. McConnell has been adequately punished for his mistake. He lost his medical certificate for nine months because he helped out a friend.
  - b. While his certificate has been revoked, Dr. McConnell has not been in anymore trouble.
  - c. I believe that Dr. McConnell has learned his lesson and there will be no further problems.
  - d. The felony conviction of illegal processing of drug documents was his first offense.
  - e. The outcome of the second polygraph examination was satisfactory.

PROPOSED ORDER

It is hereby proposed that:

1. Dr. McConnell's certificate to practice osteopathic medicine and surgery in Ohio is hereby reinstated.

  
Peter Lancione, M.D.  
Member, State Medical Board  
of Ohio

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

EXCERPT FROM THE MINUTES OF APRIL 14, 1982

REPORT AND RECOMMENDATION IN THE MATTER OF ROBERT J. MCCONNELL, D.O.

Mr. Bumgarner and Ms. Cato remained out of the room during discussion of the above-captioned case.

Dr. Cover asked if each member of the Board received, read and considered the hearing record, the proposed findings and order, and any objections filed to the proposed findings and order in the matter of Robert J. McConnell, D.O. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Lovshin	- aye
	Dr. Clarke	- aye
	Dr. Yut	- aye
	Dr. Oxley	- aye
	Mr. Paulo	- aye
	Dr. Ferritto	- aye
	Dr. Ruppertsberg	- aye

Dr. Cover asked Dr. McConnell if he wished to address the Board. Dr. McConnell advised that he was present to answer any questions any of the Board members might have.

Dr. Lancione read the conclusion and order of the above-captioned report and recommendation, the original of which is to be maintained in the exhibits section of this journal.

Dr. Ferritto asked if Dr. McConnell was asking for return of his DEA certificate, as well as his license to practice osteopathy. Dr. Lancione stated that Dr. McConnell wants reinstatement of his full license, with no restrictions on obtaining the DEA. Dr. Ferritto referred to correspondence from the prosecuting attorney in Montgomery County, which stated that it was his understanding that Dr. McConnell would not be seeking reinstatement of DEA for Schedule I and II drugs.

Dr. Lancione stated that Dr. McConnell has been in practice for fifteen years. He did something wrong to help a friend. Polygraph tests indicated that Dr. McConnell was telling the truth regarding why he did what he did. Dr. Lancione concluded that he didn't feel that there would be any problems with Dr. McConnell having his DEA, and added that Dr. McConnell made a mistake and realizes now what he did wrong, although he didn't realize what he was doing at the time he was doing it.

Dr. Ferritto noted that previously Dr. McConnell has stated that he was not trained in care for addicted people, and didn't realize what he was doing. He asked if Dr. McConnell has subsequently taken any training so that he will know how to handle cases of this type, or if Dr. McConnell might be drawn into this type of situation again.

Dr. Lancione advised that the average family physician has no training in this area.

Dr. McConnell stated that prior to this case he had never treated a drug addict and that this was the only one he attempted to treat, to help a friend out. Dr. McConnell stated that he realizes that he made a mistake, and he has learned his lesson. He has listened to tapes and read articles on drug abuse and the tricks that drug addicts use in coming to physicians' offices. Dr. McConnell stated that in the past he had never written for addicts, nor had he written any quantity of Class II drugs. If he is reinstated, he stated that he will never again consider treatment of an addict.

Dr. Ferritto asked if Dr. McConnell would need to be able to prescribe Class I and Class II drugs. Dr. McConnell stated that the only time he would consider using a Class I or II drug would be for conditions such as acute myocardial infarctions, in which case he would need to prescribe or dispense morphine, or he might need to prescribe something for a patient with a renal stone.

Dr. Lancione stated that in his family practice he keeps demerol in his office and only uses it every three or four months.

Dr. Clarke asked Dr. McConnell if he would find it a drawback if the Board returned his license with certain restrictions, such as appearing before the Board and keeping a drug log. Dr. McConnell stated that this would not handicap him, and that he would be happy to do it.

DR. CLARKE MOVED TO APPROVE AND CONFIRM THE FINDINGS OF FACT AND CONCLUSIONS OF DR. LANCIONE IN THE MATTER OF ROBERT J. MCCONNELL, D.O., AND TO MODIFY THE ORDER TO STATE AS FOLLOWS:

IT IS HEREBY PROPOSED THAT:

1. DR. MCCONNELL'S CERTIFICATE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY IN OHIO IS HEREBY REINSTATED WITH THE FOLLOWING CONDITIONS FOR REINSTATEMENT: THAT HE BE PLACED ON PROBATION FOR A PERIOD OF ONE YEAR; THAT HE APPEAR BEFORE THE BOARD IN SIX MONTHS' TIME AND AGAIN SIX MONTHS LATER, AND THAT AT THESE APPEARANCES HE BRING WITH HIM A LOG, CLEARLY WRITTEN, OF ALL SCHEDULE II DRUGS THAT HE HAS PRESCRIBED BY WRITTEN PRESCRIPTION OR GIVEN IN HIS OFFICE.

DR. CLARKE STATED THAT THE REASON FOR THIS MODIFICATION IS BECAUSE HE FEELS THAT DR. MCCONNELL NEEDS FURTHER SUPERVISION, AND THIS ACTION IS ONE FOR WHICH THE BOARD HAS PRECEDENT. DR. LOVSHIN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- aye
	Dr. Lancione	- abstain
	Dr. Lovshin	- aye
	Dr. Clarke	- aye

REPORT AND RECOMMENDATION IN THE MATTER  
OF ROBERT J. MCCONNELL, D.O.

ROLL CALL VOTE: (CONT.)

Dr. Yut	- nay
Dr. Oxley	- aye
Mr. Paulo	- aye
Dr. Ferritto	- aye
Dr. Ruppertsberg	- aye

The motion carried.

Dr. McConnell and Mr. Wills left the meeting at this time.

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

December 11, 1981

BY CERTIFIED MAIL

Robert J. McConnell, D.O.  
107 Kenbrook Drive  
Vandalia, OH 45377

Dear Doctor McConnell:

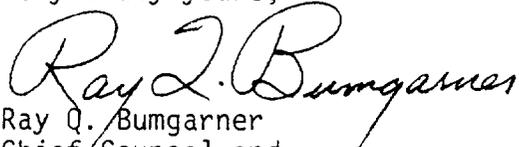
In accordance with Chapter 119. of the Ohio Revised Code, you are hereby advised that at its December 2, 1981 meeting, the State Medical Board denied your request for reinstatement of your certificate to practice osteopathic medicine and surgery in Ohio due to your conviction and the nature of the charges against you. The authority for this refusal to reinstate is found in Division (B) of Section 4731.22 of the Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, please be advised that you may request a hearing of this matter. If you wish to request such a hearing, this request must be made within thirty (30) days of the time of mailing of this notice.

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

Should you desire a copy of the Board minutes of November 5, 1981 pertaining to your appearance before the Board, or a copy of the minutes of December 2, 1981 pertaining to the action denying your reinstatement, please notify us and they will be forwarded upon proper approval by the Board.

Very truly yours,

  
Ray Q. Bumgarner  
Chief Counsel and  
Assistant to the Administrator

RQB:jmb

CERTIFIED MAIL #P30 5191000  
RETURN RECEIPT REQUESTED

Vandalism

VOLUNTARY SURRENDER OF LICENSE  
TO PRACTICE MEDICINE AND SURGERY JUN 12 1931

I, Robert J. McConnell, D. O., <sup>and the OHIO STATE MEDICAL BOARD</sup> am ~~not~~ represented 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, Robert J. McConnell, D. O., do hereby voluntarily, knowingly, and intelligently surrender my license to practice medicine and surgery, No. 001569, to the Ohio State Medical Board.

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

Signed this 9TH day of JUNE, 19 31 in the office of \_\_\_\_\_

Robert J. McConnell  
Robert J. McConnell, D.O.  
\_\_\_\_\_  
WITNESS  
\_\_\_\_\_  
WITNESS

Sworn to and signed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public