

STATE MEDICAL BOARD  
JUN 26 2000

**STATE OF OHIO  
THE STATE MEDICAL BOARD**

**PERMANENT SURRENDER OF CERTIFICATE  
TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY**

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

I, JOHN W. MCCRACKEN, JR., D.O., do hereby voluntarily, knowingly, intelligently and permanently surrender my certificate to practice osteopathic medicine and surgery, No. 34-001657, to the State Medical Board of Ohio, thereby permanently relinquishing all rights to practice osteopathic medicine and surgery in Ohio. This surrender shall be effective upon the date of the signed acceptance by the Secretary and Supervising Member of the State Medical Board of Ohio.

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

I agree that I shall be ineligible for, and shall not apply for, reinstatement of certificate to practice osteopathic medicine and surgery, No. 34-001657, or issuance of any other certificate pursuant to Chapters 4730. or 4731., Ohio Revised Code, on or after the date of signing this Permanent Surrender of Certificate to Practice Osteopathic Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board. This Permanent Surrender of Certificate to Practice Osteopathic Medicine and Surgery supersedes, and serves as resolution of all obligations arising from, the State Medical Board of Ohio Order dated August 11, 1999, which is attached hereto and incorporated herein by reference.

I, JOHN W. MCCRACKEN, JR., D.O., hereby release the State Medical Board of Ohio, its members, employees, agents and officers, jointly and severally, from any and all liability arising from the within matter.

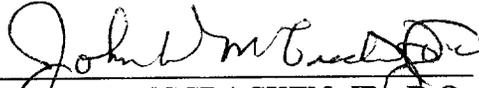
This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code.

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Permanent Surrender of Certificate  
John W. McCracken, D.O.  
Page 2

Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

Signed this 20<sup>th</sup> day of JUNE, 2000

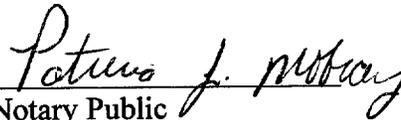
  
JOHN W. MCCRACKEN, JR., D.O.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Sworn to and subscribed before me this 20 day of June, 2000.

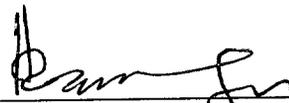


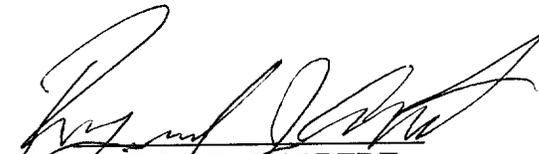
  
Notary Public

SEAL

(This form must be either witnessed OR notarized)

Accepted by the State Medical Board of Ohio:

  
ANAND G. GARG, M.D.  
SECRETARY

  
RAYMOND F. ALBERT  
SUPERVISING MEMBER

07/31/00  
DATE

8/7/00  
DATE

Enclosure



# State Medical Board of Ohio

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

August 11, 1999

John W. McCracken, Jr., D.O.  
7817 N. Via Laguna Niguel  
Tucson, AZ 85743

Dear McCracken:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 11, 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.  
Secretary

AGG:jam  
Enclosures

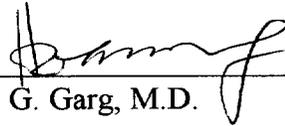
CERTIFIED MAIL RECEIPT NO. Z 233 839 317  
RETURN RECEIPT REQUESTED

*Mailed 8/26/99*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 11, 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 John W. McCracken, Jr., 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)

\_\_\_\_\_  
AUGUST 11, 1999

Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

\*

\*

JOHN W. MCCRACKEN, JR., D.O.

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**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio on August 11, 1999.

Upon the Report and Recommendation of R. Gregory Porter, 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:

1. The certificate of John W. McCracken Jr., 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 three years:
  - a. Dr. McCracken shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
  - b. Dr. McCracken shall obey all federal, state, and local laws, and all rules governing the practice of medicine in the state in which he is practicing.
  - c. Dr. McCracken 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, and upon his request for termination of the probationary period, or as otherwise requested by the Board.

- d. Dr. McCracken 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. McCracken shall notify the Board of any action in any state taken against a certificate to practice held by Dr. McCracken in that state. Moreover, Dr. McCracken shall provide acceptable documentation verifying the other state board's actions.
- f. Dr. McCracken shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, prior to commencing practice in Ohio, the Board may require that Dr. McCracken comply with additional terms, conditions, or limitations, including the following:
  - i. Prior to commencement of practice in Ohio, Dr. McCracken shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. McCracken's activities will be directly supervised and overseen by a monitoring physician approved by the Board. The monitoring physician shall monitor Dr. McCracken and his patient charts. The chart review may be done on a random basis, with the number of charts reviewed to be determined by the Board. The monitoring physician shall provide the Board with reports on Dr. McCracken's progress and status and on the status of his patient charts on a quarterly basis. All monitoring physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. McCracken's quarterly declaration. It is Dr. McCracken's responsibility to ensure that the reports are timely submitted.

Dr. McCracken shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

In the event that the approved monitoring physician becomes unable or unwilling to serve, Dr. McCracken shall immediately notify the Board in writing and shall make arrangements for another monitoring physician as soon as practicable. Dr. McCracken shall refrain from practicing until such supervision is in place, unless otherwise

determined by the Board. Dr. McCracken shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

- ii. Prior to commencement of practice in Ohio, Dr. McCracken shall provide written documentation acceptable to the Board verifying that Dr. McCracken otherwise holds a full and unrestricted license to practice medicine and surgery in all other states in which he is licensed at the time of application.
- iii. In the event that Dr. McCracken has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to commencement of practice in Ohio, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.
- iv. Dr. McCracken 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 Dr. McCracken's 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 Dr. McCracken written notification of scheduled appearances, it is Dr. McCracken'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. McCracken shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

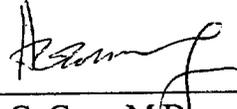
- v. Within thirty days of commencing practice in Ohio, Dr. McCracken shall provide a copy of this Order to all employers or entities with which he is under contract to provide physician services or is receiving training, and the Chief of Staff at each hospital where Dr. McCracken has privileges or appointments. Further, Dr. McCracken 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. McCracken applies for or obtains privileges or appointments.
- g. If Dr. McCracken 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, up to and including the permanent revocation of his certificate.

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

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

(SEAL)



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Anand G. Garg, M.D.  
Secretary

AUGUST 11, 1999

Date

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**REPORT AND RECOMMENDATION  
IN THE MATTER OF JOHN W. MCCRACKEN JR., D.O.**

The Matter of John W. McCracken Jr., D.O., was heard by R. Gregory Porter, Attorney Hearing Examiner for the State Medical Board of Ohio, on June 16, 1999.

**INTRODUCTION**

I. Basis for Hearing

A. By letter dated March 10, 1999, the State Medical Board of Ohio [Board] notified John W. McCracken Jr., D.O., that it had proposed to take disciplinary action against his certificate to practice osteopathic medicine and surgery in Ohio. The Board based its proposed action on one or more of the following allegations:

1. On or about December 30, 1997, the Arizona Board of Osteopathic Examiners in Medicine and Surgery [Arizona Board], entered its Findings of Fact, Conclusions of Law and Board Order, in which the Arizona Board concluded that Dr. McCracken had fallen below the community standard and endangered the health of a patient, which constituted unprofessional conduct.
2. On or about December 12, 1997, Dr. McCracken was notified by the Eisenhower U.S. Army Medical Center, Fort Gordon, Georgia, that his clinical privileges had been restricted and that he "was being released from working as a contract emergency room physician, based upon [Dr. McCracken's] pattern of substandard care in treating seriously ill patients."

The Board alleged that the Arizona Board Findings of Fact, Conclusions of Law and Board Order, as alleged in paragraph 1 above, constituted "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code."

The Board further alleged that the Eisenhower U.S. Army Medical Center restrictions, as alleged in paragraph 2 above, constituted "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the department of defense, or the veterans administration of the United States, for any act or acts that would also constitute a violation of this chapter," as that clause is

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used in Section 4731.22(B)(24), Ohio Revised Code, to wit: Section  
4731.22(B)(6), Ohio Revised Code.”

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The Board advised Dr. McCracken of his right to request a hearing in this matter.  
(State's Exhibit 1)

- B. By letter received by the Board on April 5, 1999, Dr. McCracken requested a hearing. (State's Exhibit 4)

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by James M. McGovern, Assistant Attorney General.
- B. On behalf of the Respondent: Dr. McCracken, having previously been apprised of his right to attend the hearing in person or by representative, did not attend the hearing. Instead, Dr. McCracken presented his arguments and contentions in writing.

**EVIDENCE EXAMINED**

I. Testimony Heard

No testimony was presented.

II. Exhibits Examined

- A. State's Exhibits 1 and 3 through 6: Procedural exhibits.
- B. State's Exhibit 2: Dr. McCracken's written arguments and contentions, received by the Board on March 19, 1999. [Note: This exhibit has been sealed to protect patient confidentiality.]
- C. State's Exhibit 7: Certified copies of documents concerning Dr. McCracken from the Arizona Board of Osteopathic Examiners in Medicine and Surgery.
- D. State's Exhibit 8: Certified copy of documents concerning Dr. McCracken from the U.S. Department of the Army. [Note: This exhibit has been sealed pursuant to 10 U.S.C. 1102(a).] [Further note: Portions of these documents had been redacted prior to their being presented at the hearing.]

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III. Proffered Exhibit

Respondent's Exhibit A: Letter and note sent to the Hearing Examiner by Dr. McCracken and received by the Board on May 11, 1999.

**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. John W. McCracken Jr., D.O., obtained his Doctor of Osteopathic Medicine degree in 1965 from the Kansas City College of Osteopathy and Surgery. The record contains no information concerning Dr. McCracken's post-graduate medical education. Moreover, information concerning Dr. McCracken's board certification status is conflicting. A U.S. Army document indicated that Dr. McCracken was board-certified in emergency medicine by the American Osteopathic Board of Surgery; however, Dr. McCracken indicated in a statement to the National Practitioner Data Bank that he was board-eligible through the American Osteopathic Board of Emergency Medicine. (St. Ex. 2, p. 56; St. Ex. 8, p. 21)

*Arizona Board Action*

2. In its December 30, 1997, Findings of Fact, Conclusions of Law and Board Order concerning Dr. McCracken, the Arizona Board of Osteopathic Examiners in Medicine and Surgery [Arizona Board] made the following Findings of Fact:
  2. On May 31, 1996, the Board open [sic] Complaint No. 2043 M based upon receiving a Notice of Malpractice Settlement involving a medical malpractice suit between patient T.M. and [Dr. McCracken]. The Complaint/medical malpractice suit was filed in the Superior Court for the State of Arizona, Maricopa County, alleging that [Dr. McCracken] failed to diagnose or suspect the possibility that Plaintiff had a bowel obstruction. This resulted in a delay in diagnosis and appropriate surgical treatment from August 4, 1993, to August 10, 1993, and caused significant injury to the Plaintiff.
  3. On December 13, 1997, [Dr. McCracken] appeared before the Board at the Informal Interview and testified that he had treated the patient properly and that the patient did not go to the Emergency Room as requested. [Dr. McCracken] also stated that he had followed up with the patient by telephone.

(State's Exhibit [St. Ex.] 7)

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Based upon these findings, the Arizona Board concluded that Dr. McCracken's "action in not following up with the patient in a timely manner for acute abdominal pain" had violated Arizona law and constituted "practice which falls below the community standard" and "practice which endangers patient's health." The Arizona Board further concluded that these violations constituted "unprofessional conduct." The Arizona Board issued a Letter of Concern and placed Dr. McCracken on probation for a period of two years. Under the terms of his probation, Dr. McCracken was required, among other things, to obtain a minimum of 20 hours of continuing medical education credit in the area of treating acute abdominal pain. These continuing medical education credits were to be obtained in addition to the minimum statutory requirement for continuing medical education. (St. Ex. 7)

3. Among the documents included as Dr. McCracken's written arguments and contentions was an October 8, 1997, letter to "Melissa" at "QUEST" written by Jay A. Fradkin, Esq. This letter concerns a patient [Patient TM], whose care formed the basis for the Arizona Board action against Dr. McCracken. The letter stated that Dr. McCracken saw Patient TM at the emergency room at Luke AFB Hospital on April 4, 1993. When Patient TM presented to the emergency room at 12:10 p.m.:

[His] subjective history included a complaint of left lower quadrant abdominal pain developing on or about July 30, 1993, and nausea and vomiting on three occasions over the [previous] 24 hours. Additionally, [Patient TM] reported having had a small bowel movement on the morning of August 4, 1993. [Patient TM's] abdominal pain was described as intermittent and having moved to the epigastrium region within the [previous] 72 hours.

The letter further stated that Patient TM had a history of deep vein thrombosis treated with Coumadin, had had an umbrella filter placed in his inferior vena cava to treat deep vein thrombosis, smoked 1 pack of cigarettes per day, and drank two or three beers per day. (St. Ex. 2, p. 6)

Moreover, the letter stated that, upon Dr. McCracken's examining the patient:

Dr. McCracken noted palpable tenderness in the epigastric and left lower quadrant of the abdomen. He also noted abdominal distention with no abdominal percussional or rebound tenderness. Bowel sounds were within normal limits.

Dr. McCracken ordered a CBC, SMC-7, amylase, urinalysis with culture and sensitivity, flat and upright abdominal x-rays and orthostatic vital signs. Dr. McCracken also ordered Reglan 10 mg and Phenergan 25 mg IM.

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After a review and analysis of the above diagnostic studies, Dr. McCracken diagnosed [Patient TM] with enteritis. [Patient TM] was instructed to take clear liquids only for the next 24 hours, Dulcolax, 2 tablets daily, Reglan 10 mg 4x/day, and to follow up with his primary care provider or the Emergency Room as directed. [Patient TM] was discharged home at 3:00 p.m., August 4, 1993, with a referral to the Family Practice Clinic. His condition upon release was noted to be improved.

(St. Ex. 2, p. 6-7)

Attorney Fradkin's letter further stated that:

- a. On August 6, 1993, Dr. McCracken reviewed the radiologist's August 5, 1993, interpretation of the August 4, 1993, x-rays (and noted that Dr. McCracken had not worked on August 5, 1993). The radiologist had reported "a moderately dilated loop of bowel in the epigastrium, probably transverse colon" and further reported that "early mechanical obstruction should be considered." Dr. McCracken called Patient TM "immediately" and informed the patient of this result. Patient TM told Dr. McCracken that he was feeling "slightly better." Based on this conversation, Dr. McCracken referred Patient TM for a "72 hour" internal medicine clinic consultation." Dr. McCracken provided the internist with a consultation form that included a history of Patient TM's illness and Dr. McCracken's provisional diagnoses of enteritis and possible obstruction.
- b. On August 9, 1993, the internist reviewed the material provided by Dr. McCracken, approved the consultation, and telephoned Patient TM. An appointment was scheduled for August 10, 1993.
- c. On August 10, 1993, Patient TM was examined by the internist who diagnosed a bowel obstruction. That day, a surgeon performed a left hemicolectomy and colostomy on Patient TM. "Findings in surgery were consistent with grossly obstructing sigmoid colon carcinoma, at the mid-lower sigmoid colon. There was no evidence of perforation or peritonitis. A subsequent pathological report revealed that the sigmoid colon specimen contained ruptured diverticulum."

(St. Ex. 2, p. 7)

Attorney Fradkin's letter argued that Dr. McCracken had met the applicable standard of care and that his treatment of Patient TM was appropriate and reasonable under the circumstances. (St. Ex. 2, pp. 7-9)

Report and Recommendation

In the Matter of John W. McCracken Jr., D.O.

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4. On or about September 22, 1995, Patient TM filed a medical malpractice lawsuit against NES Government Services, Inc., et al. This lawsuit was settled by agreement dated May 28, 1996. (St. Ex. 2, pp. 10-20)

*Department of Defense [DOD] Action*

5. On or about December 12, 1997, the Dwight David Eisenhower Army Medical Center, Fort Gordon, Georgia [Eisenhower Army Medical Center], notified Dr. McCracken as follows:

[The author of the letter has] reviewed the record of the Hearing Committee that convened at [Dr. McCracken's] request on November 17, 1997, and the recommendations of the full Credentials Committee to whom the Hearing Committee's record was presented on December 8, 1997.

Based on the findings of a pattern of substandard care by [Dr. McCracken] when the care involves seriously ill patients, [Dr. McCracken's] clinical privileges at Eisenhower Army Medical Center have been restricted to avoid [Dr. McCracken's] being solely responsible for the care of seriously ill patients and [to avoid his] supervising housestaff and PA's in caring for seriously ill patients. Also, [Dr. McCracken's] privileges have been limited to care provided to low or moderately ill patients seen in a clinic or a FAST TRACK Emergency Department setting. Therefore, [Dr. McCracken] is released from working as a contract Emergency Department physician.

(St. Ex. 8, p. 5)

According to an Eisenhower Army Medical center memorandum concerning dated December 11, 1997, concerning Dr. McCracken, the Credentials Committee had found "evidence of insufficient attention to detail in the care of potentially seriously ill patients. This evidence existed both when the patients were seen directly by [Dr. McCracken] and when patients were seen by those he supervised in the Emergency Department." Moreover, the Credentials Committee had found "[a] pattern of substandard care in [Dr. McCracken's] care of seriously ill patients, [and a] pattern of a lack of adequate supervision of both housestaff and physician extenders by the provider." (St. Ex. 8, p. 7)

6. An Eisenhower Army Medical Center memorandum dated September 16, 1997, which reported the results of a quality improvement investigation concerning Dr. McCracken,

included the following information regarding Dr. McCracken's treatment of several patients:

a. "[Patient 1]

"Summary: This 62 year old female with a history of heartburn, COPD, and multiple cardiac risk factors presented to the Emergency Department with the chief complaint of chest pain and left arm pain. Vital signs, EKG, cxr, and labs were unremarkable. She was given a GI cocktail but her response is not documented. She was then discharged home with the diagnosis of 'Atypical chest pain, probable GERD' with follow-up scheduled for 1000 the following day in the FCC. She presented to University Hospital the next day and was diagnosed with an acute anterior MI.

"Discussion: History given was strongly suggestive of unstable angina. Although she has a history of 'heartburn,' this was not her typical location of pain (documented on consult). A second EKG (without any chest pain if it was ever relieved) done prior to discharge may have been helpful. Also, trace lower extremity edema and basilar crackles were noted on exam. These finding [sic] could be early signs of CHF. This patient was misdiagnosed and should have been admitted to the hospital for unstable angina and possibly to rule out an MI. Her multiple cardiac risk factors should only increase the index of suspicion. At minimum a consultant should have been requested for evaluation in the Emergency Department that afternoon.

"Conclusion: Standard of Care was definitely not met."

b. "[Patient 2]

"Summary: This 82 year old woman with NIDDM and arthritis presented to the Emergency Department complaining of worsening weakness and nausea. She had been seen 2 days prior in the ED, diagnosed with a UTI, and started on Septra DS. She was afebrile and physical exam was unremarkable. WBC was not elevated and urinalysis was positive for blood and moderate bacteria. Retrocardiac infiltrate was seen on CXR. She was diagnosed with Urosepsis, NIDDM, and pneumonia. She received IV antibiotics and was discharged home on oral antibiotics. At some point during ER course she became tachypneic and an ABG revealed alkalosis consistent with acute hyperventilation.

"Discussion: Elderly patients with complicating medical problems such as diabetes should generally be admitted for failure of outpatient treatment or

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for serious diagnoses such as urosepsis, especially if there is a second diagnosis such as pneumonia. Discharge home would not be inappropriate for someone who has a UTI or complicated UTI and is well-appearing. This patient apparently looked very well and wanted to go home.

“Conclusion: Standard of care was not met if the true diagnoses were pneumonia and urosepsis.”

c. “[Patient 3]

“Summary: This is a 75 year old male with a history of HTN and CAD presenting to the ED with the history of left arm numbness and left flank pain for one day. He had a CABG in 1993 but denied chest pain on this visit. EKG was unchanged from a previous one in 6/97 and labs were noncontributory. He was discharged with the diagnosis of prolonged reversible ischemic neurological deficit vs TIA, probable lumbar musculoskeletal pain and cardiac arrhythmia.

“Discussion: Patients with TIA’s or PRIND should be admitted for investigation and possible treatment (anticoagulation or antiplatelet therapy). A patient may be discharged home in there is an isolated TIA history, symptoms have been completely resolved, carotids have already been evaluated for stenosis, and there is no evidence of cardioembolic source of the TIA or the need for anticoagulation. A head CT should also be done on all patients presenting with focal neurologic deficits of a suspected central cause.

“Conclusion: Standard of care was not met in this case.”

d. “[Patient 4]

“This is a 75 year old male discharged from DDEAMC earlier in the day. He was 2 weeks status post hemicolecotomy and cardiac cath. He presented with fatigue, vomiting (1 episode), and diarrhea. On initial VS the patient was hypotensive with a BP of 81/51. An IV, 1 liter bolus, and labs were ordered. This patient remained hypotensive throughout the ED course (5 hr) and was at times noted to be ‘slow to respond’ (558) and ‘disoriented occasionally, falls asleep easily, easily arousable’ (nursing note). He was eventually admitted to the SICU.

“Discussion: The patient was hypotensive during the entire ED course. This may very well have been the cause of the altered mental status. The physician should have been more aggressive with fluid resuscitation.

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“Conclusion: Standard of care was not met in this case.” 1999 JUL 12 P 3:00

e. “[Patient 5] on 8/16/97

“Patient presented with angioedema of the lip on several medicines including an antihypertensive. CHCS medicine profile reveal [sic] that the patient is on an ACE inhibitor which may be the cause of her angioedema.”

f. “[Patient 6] on 8/10/97

“Female patient presenting with the chief complaint of LLQ pain. Discharge diagnoses were abdominal pain and dysmenorrhea. No pelvic exam was documented in the chart.”

g. “[Patient 7] on 8/10/97

“Adult patient with history of cancer 4 days after chemotherapy presented with chief complaint of fever. There was no source uncovered in history and physical. This was not worked up and there wasn’t a clear reason documented why this wouldn’t be needed.”

h. “[Patient 8] on 8/24/97

“20 month old female presenting with fever of unknown origin for second visit within 48 hours. Temperature in the ED was 104.5. CBC and BCX were done but no urinalysis was obtained on either visit.”

i. “[Patient 9] on 8/30/97

“Patient who is a contact lens wearer was diagnosed with a corneal abrasion and patched.”

(St. Ex. 8, pp. 25-27)

7. Among the documents submitted by Dr. McCracken at the present hearing, Dr. McCracken included written descriptions of his treatment of each of the patients noted in the September 16, 1997, investigative report as described above. Dr. McCracken’s

explanation concerning each of these nine patients is as follows 1999 JUL 12 P 3:00

a. Concerning Patient 1, Dr. McCracken submitted the following:

“[The patient] is a 62 year old female who presented to the Emergency Department at EAMC on 7/16/97 with complaints of intermittent chest pain for 4 days with some left arm pain for 1-2 days. As I recall the pain would only occur if the patient would lie down and would abate within 5-15’ when assuming the upright position. It was described as a choking feeling. On presentation to the emergency department the patient was pain free. The patient was on several medications including Trental, Clonidine, K-Dur, Oscal, Premarin, Humabid and three inhalers including Prevental, Atrovent and Azmacort. She denied nausea, vomiting, diaphoresis or increased shortness of breath in association with her complaints. There was a history of heartburn, coronary artery disease, hypertension and hyperlipidemia. She had been sleeping on three pillows for over two years. There had been no change in the history of shortness of breath associated with her COPD.

“Examination revealed a cooperative and alert caucasian female in no acute distress. Vital signs revealed B/P 148/80; P-85; R-21 and T. 97.2. EENT revealed no significant abnormalities. Auscultation of the lungs revealed slightly diminished breath sounds with occasional scattered crackles in the bases. Heart tones were normal and without arrhythmia or murmur. The abdomen was soft and without palpable mass or tenderness. Minimal edema was noted in the lower extremities. Blood work including, CBC, Chem-10, PT, PTT and CK revealed no significant abnormalities. The EKG revealed no acute injury pattern and was essentially unchanged from previous ones. The chest x-ray was unchanged from previous ones viewed and revealed no acute cardiopulmonary changes. The oxygen saturation was 99%.

“The patient was given a GI cocktail with some decline in her symptom complex. She was in the E.D. for 3-4 hrs. On discharge she was placed on Pepcid, 20 mg. BID. It was recommended she eat no food within 3-4 hrs. before going to bed. She was to elevate the head of the bed at night when sleeping and continue her current medications. She was scheduled for a follow up at 1000 hrs. 7/17/97 in Family Practice Clinic with Dr. Zarenchak. She was requested to return to the E.D. in the event of worsening chest pain or shortness of breath.

“Diagnosis on Discharge: 1. Atypical chest pain. 2. Probable GERD.

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"It was felt further testing could be provided 7/17/97 predicated on the clinical picture and response to therapeutic measures initiated. It had also been recommended that she stop smoking."

(St. Ex. 2, p. 44)

b. Concerning Patient 2, Dr. McCracken submitted the following:

"This 82 year old female presented to the ER with reduced appetite and nausea X 2 days. She denied vomiting, diarrhea or dysuria. She had been seen 2 days earlier and diagnosed with UTI and treated with Septra DS BID. Other meds included Glucator, Ecotrin, PNV and Estrogen. She presented to the ER at 1310 hrs. and was seen by the resident at 1545 hrs with the attending at the time Dr. Daylida. I did not come on until 1900 hrs. (6 July, 97) Vital signs were B/P 108/69, HR 85, R. 18, and temp. 96.2 on admission to the ER.

"Exam revealed a female in no acute distress. Blood and urine C&S were done. An ABG and chest x-ray were also done. She reportedly became tachypneic on or about 1710 hrs. The pulse ox was 98. The ABG revealed the following pH 7.55/24/100/21.1/98.2. The chest x-ray reportedly revealed a retrocardiac infiltrate. She was given 400 mg of Cipro IVP and started on Augmentin 500 mg BID. She was to be followed by IMC in 72 hrs. She also received one liter of N/S. It was felt that the nausea could be due to the Septra therapy. Auscultation of the lungs on admission to the ER was normal and reportedly revealed fine crackles (bibasilar) at 1710 hrs. Bladder catheterization at 2030 hrs revealed 800 ml of urine. Patient discharged at 2056 hrs. with vital signs B/P 131/57, P. 81, and R. 20. She was discharged with family.

"Outpatient management of this patient with follow up within 72 hrs. was felt to be appropriate. An adequate support base at home enhanced this approach."

(St. Ex. 2, p. 45)

c. Concerning Patient 3, Dr. McCracken submitted the following:

"This 75 year old male was seen by me 15 July 97 at 0835 hrs. regarding a complaint of numbness in the left arm extending from the fingers to the shoulder which began on or about 2000 hrs. 14 July 97. The symptoms had lessened but were still present. He denied pain except in the right flank which began about the same time. The patient had been seen and admitted to the hospital in June 97 with chest pain and left arm numbness. The patient was on several meds. including Dilacor XL 180 mg. daily, Nitropatch daily ASA grs. 5 BID, EnalApril 5 mg. (1/2 daily) and NTG prn. Past surgical history 3 vessel CABG-1993, left nephrectomy

and hemorrhoidectomy. He had previously smoked for over 50 yrs. But had not smoked the last 4 yrs. He had previously experienced numbness in the left upper extremity in 1995. There was a history of PVD. The carotid doppler study in 1993 was normal and revealed a small plaque in the right ICA at the bifurcation. A previous head CT scan on or about 1995 revealed atrophy without mass lesion.

“Objective - the patient was alert and oriented X 3. Cranial nerve 2-12 was normal. Cataracts were noted bilaterally. The DTR's were 1+ in the lower extremities and 1-2+ in the upper extremities. Motor and sensory function was normal aside from hypesthesia in the left arm. There was tenderness to palpation in the right CVA. There were no pathological reflexes illicited [sic]. The abdomen was soft. Vital signs revealed B/P 164/79, HR 80 and irregular and R. 24. The CBC was normal as was the CK, PT, PTT and INR. The Chem 10 revealed BS-117, BUN-26, Creat-1.7; Na 134, K.-4.2, Cl-110, HCO<sub>2</sub> -22, Ca-9.2, Mg -2.0, and P-2.2. The EKG revealed NSR with PVC, LVH with QRS widening and PAC-no change from 6/97 EKG. Auscultation of the carotids revealed no bruits.

“I spoke with Dr. Caffory at 1010 hrs. regarding this patient. He recommended increasing the ASA to 2 BID and to continue the other meds. He also recommended that the patient follow with Dr. Balline at 1345 hrs. 16 July 97. It is to be noted the PCXR revealed no acute changes and the dip U/A was negative.

“Diagnosis - PRIND vs TIA, Cardiac arrhythmia, Probable lumbar musculoskeletal pain. It is to be noted that the patient was feeling better on discharge and the left arm tingling had abated.”

(St. Ex. 2, p. 46)

- d. Concerning Patient 4, Dr. McCracken submitted the following:

“This 75 year old male presented to the ER 6 July 97 with complaints of fatigue, vomiting, and diarrhea. He was initially seen by the intern at 2054 hrs. He had been discharged from the hospital on or about 1200 hrs. that date. He had undergone a right hemicolectomy incident to adenocarcinoma of the cecum 1 July 97. He had previously had a mild MI with cardiac cath., angioplasty and stent placement 1-2 weeks before the abdominal surgery. He had eaten solids on 5 July and AM 6 July 97. He developed the nausea and vomiting X 1 on or about 1300 hrs. 16 [sic] July with diarrhea on several occasions since that time. He denied fever, chills or chest pain. He was on several meds. including Atrovent and Albuterol MDI's; Benazopril, ASA, Isordil, Famotidine, Colace and Iron sulfate. Vital signs on ER arrival B/P-81/51, HR 112, R. 32 and temp. 95.5. The pulse ox 99. Blood work was drawn and an IV of normal saline initiated. I learned later that they were having difficulty starting the IV.

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“Objectively - Evaluation by intern revealed a male in no acute distress. He was alert and oriented X 4 although slow to respond at times. The capillary refill was under 2 sec...[sic] The lungs were clear to auscultation and the CV exam revealed RRR without murmur. Abdominal findings revealed mild tenderness to palpation in the area of the recent surgery and reduced bowel sounds. Rectal exam was heme negative as determined by the intern. The AAS x-rays revealed air fluid levels on the upright film. I was not appraised of difficulty in obtaining IV access until later. Had I known so a central line would have been placed.

“I spoke with the surgical resident later who told me the patient wanted to go home on 6 July 97. I got the feeling there was some question whether to discharge the patient or not. The tachycardia did resolve with IV fluids although the B/P remained under 100/60 most of the time. I was told later a 22 gage cath [sic] had been placed. The ABG at 0100 hrs. revealed PH 7.43/37/93/20.8 with O2 sat of 97. The WBC was 22,400. Urine output at 0045 hrs. was 5 ml. and concentrated. Records revealed the IV was started at 2110 hrs. with a 22 gage cath in the left forearm. The B/P and pulse did respond to the saline bolus with the B/P rising to a max of 101/61 at 2300 hrs. The rectal exam by the SOD on or about 2345 hrs. was positive for heme.

“The reported altered mental status could be from many things including the vomiting and diarrhea. The patient had undergone several procedures over the previous 2-3 weeks. Communication was obviously a problem in this case.

“Diagnosis - Hypovolemia secondary to vomiting and diarrhea. Status post colon resection with ileus.

“Disposition - Admission to SICU.”

(St. Ex. 2, p. 47)

- e. Concerning Patient 5, Dr. McCracken submitted the following, which is labeled “Chart #27 10 Aug 97”:

“This 35 year old female was evaluated by the P.A. and was not seen by me. The patient presented with left lower quadrant abdominal pain intermittent X 24 hrs. She stated that she had experienced the same pain every month during menses X 1 year. She denied nausea, vomiting or diarrhea. She stated she was unable to walk secondary to the pain and increased flow. She was scheduled for F.P. appt. 15 Aug. 97 for evaluation.

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“Objectively vital signs B/P 131/88, HR 85, R. 18, temp. 98.4. Lungs - CTA  
abdomen soft and bowel sounds were normal. There was no evidence of  
abdominal mass, guarding or rebound tenderness. The dip U/A revealed large  
blood; 1+ protein and negative UHCG.

“Diagnosis - Abdominal pain / dysmenorrhea.

“Plan Naprosyn BID. Follow up with FPC as scheduled.

“With the above it is my feeling a pelvic exam was not indicated at the time.”

(St. Ex. 2, p. 48)

- f. Concerning the Patient 6, Dr. McCracken submitted the following, which is labeled  
“Chart #78 16 Aug. 97”:

“This 65 year old female presented to the ER. with complaint of upper lip swelling  
on or about 1800 hrs that date. The patient was on several meds. including  
Premarin, HCTZ, Pepcid, and Maalox. She claimed that she had not taken any BP  
meds. X 2 weeks. She had started topical Ammonium Lactate and Bacitracin  
ointment on 15 Aug. 97. ENT exam was normal aside from right sided upper lip  
swelling. The lungs were clear and the abdomen was soft. She was given  
Solumedrol, Tagamet and Benadryl IVP. Vital signs on arrival to the ER was [sic]  
B/P 161/93, P. 71, R. 22. and temp. 98. Recheck vital signs at 2000 hrs. B/P  
129/63, P. 57, R. [sic]

“Discharge meds. Hydroxyzine 25 mg. TID-QID, Prednisone 40 mg. daily X 5  
and Tylenol for pain. Follow up with PCP the following week. Discontinue  
topical therapy to lip.

“Diagnosis - Angioedema-lip-NOS.”

(St. Ex. 2, p. 49)

- g. Concerning Patient 7, Dr. McCracken submitted the following, which is labeled  
“Chart #49 10 Aug. 97”:

“This 63 year old male presented to the hospital as a referral from Ft. Jackson  
incident to fever for a few days. Review of the ER. record revealed a history of  
lung cancer with initiation of Chemo Therapy 7 Aug. 97 in the clinic here at  
EAMC (Dr. Chaplin). Seen in ER at Ft. Jackson 8 & 9 Aug. 97 regarding fever.  
Started on Augmentin 250 mg TID 8 Aug. 97. Other meds. included Cardura  
4 mg. BID and Motrin 800 mg BID. X-rays of the chest and sinuses accompanied

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the patient. Records revealed the patient had a non small cell lung carcinoma. The sinus x-rays appeared normal to me and the chest x-ray revealed a right upper lobe (hilar) lesion. The patient had recently been scheduled for a CBC and bone scan 15 Aug. 97.

“Objectively the patient was alert and oriented X 3. ENT findings were normal and auscultation of the lungs revealed no significant abnormalities. The abdomen was soft and bowel sounds were normal. The neck was supple. Vital signs were noted and revealed B/P 148/81; pulse 102 respiration 18 and temp. 98, which later rose to 100.2. The pulse ox was 97.

“I spoke with Dr. Avery (Oncology on call). at 1816 hrs. regarding the above. He recommended the patient call Oncology 11 Aug. 97 for follow up with Dr. Gupta. Other recommendations included Naprosyn 500 mg. BID and increasing the Augmentin to 875 mg. BID. It was also recommended to return to ER if problems arose.

“Diagnosis on discharge 1. Lung cancer 2. Febrile disorder N.O.S.”

(St. Ex. 2, p. 50)

- h. Concerning Patient 8, Dr. McCracken submitted the following, which is labeled “Chart #46 24 Aug. 97”:

“This 20 month old female was brought to the ER with reported fever X 4 days plus anorexia. She had been seen in the ER 2 days earlier and diagnosed with viral syndrome. I do not know the results of the tests done that date. I cannot explain why a urinalysis with C&S was not done. The patient was seen by the resident. The ER record reveals the blood work and x-rays to be normal. My routine in all children with this history is to include a U/A with C&S.”

(St. Ex. 2, p. 51)

- i. Concerning Patient 9, Dr. McCracken submitted the following, which is labeled “Chart #54 31 Aug. 97”:

“This 16 year old male was seen by the intern or resident on or about 1728 hrs. with complaints of left eye irritation with associated left eye pain and photophobia [sic] X 24 hrs. He denied blurry vision and exudate but had experienced tearing. He had also noted left eyelid edema. He had reportedly left his contact lens in over three days. After removing the contact lens 30 Aug. 97 the symptoms as elicited were resolving. He denied fever and chills.

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“Exam revealed a cooperative and alert male in no acute distress. Vital signs were normal. The pupils were equal and reactive to light and accommodation. There was left eyelid edema. Flourescein stain of the left eye revealed a positive uptake of dye in the lateral aspect of the left cornea. The slit lamp exam was negative and revealed no flare or wheal. The neck was supple and there was absence of adenopathy. The sclera was clear with slight conjunctival hyperemia. VA-OU-20/100 uncorrected. The patient had arrived in the ED without glasses or contacts.

“Diagnosis - Corneal abrasion-OS

“Plan - Eye ointment plus pressure patch to left eye. Apply eye ointment TID. He was requested to return to ED if symptoms worsened.

“I did not see this patient and was not appraised of him. I would have recommended ER recheck in 24 hrs. with restraining of left eye to assure resolution of the problem. Obviously the eye contacts should not be worn until the process has resolved. I would not have used the eye patch.”

(St. Ex. 2, p. 52)

### FINDINGS OF FACT

The evidence presented at hearing supported the following allegations regarding John W. McCracken Jr., D.O., made by the Board in its March 10, 1999, notice of opportunity for hearing:

1. On or about December 30, 1997, the Arizona Board of Osteopathic Examiners in Medicine and Surgery [Arizona Board] entered its Findings of Fact, Conclusions of Law and Board Order. In that document, the Arizona Board concluded that Dr. McCracken's conduct in not following up with a patient in a timely manner for acute abdominal pain fell below the community standard and endangered the patient's health, and thus constituted unprofessional conduct.

As a result, the Arizona Board placed Dr. McCracken on probationary status for a period of two years. The terms and conditions of Dr. McCracken's probation included, but were not limited to, a minimum of 20 hours of Continuing Medical Education [CME] credit in the area of treating acute abdominal pain, in addition to the statutorily required CME.

2. On or about December 12, 1997, the Dwight David Eisenhower Army Medical Center, Fort Gordon, Georgia [Eisenhower Army Medical Center], notified Dr. McCracken that his clinical privileges were restricted and that he was released from working as a contract

Emergency Department physician, based upon a pattern of substandard care in treating seriously ill patients. 1999 JUL 12 P 3 01

The Eisenhower Army Medical Center restrictions provided that Dr. McCracken would not be solely responsible for care of seriously ill patients, nor would he be responsible for supervising house staff and physician assistants when caring for seriously ill patients. Further, Dr. McCracken's privileges were limited to providing care to mildly or moderately ill patients.

### CONCLUSIONS OF LAW

1. As set forth in Findings of Fact 1, above, the December 30, 1997, Findings of Fact, Conclusions of Law and Board Order of the Arizona Board concerning John W. McCracken Jr., D.O., constitutes "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.
2. As set forth in Findings of Fact 2, above, the Eisenhower U.S. Army Medical Center restrictions concerning Dr. McCracken constitute "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the department of defense, or the veterans administration of the United States, for any act or acts that would also constitute a violation of this chapter," as that clause is used in Section 4731.22(B)(24), Ohio Revised Code, to wit: Section 4731.22(B)(6), Ohio Revised Code.

### PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of John W. McCracken Jr., 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 five years:
  - a. Dr. McCracken shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
  - b. Dr. McCracken shall obey all federal, state, and local laws, and all rules governing the practice of medicine in the state in which he is practicing.

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- c. Dr. McCracken 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, and upon his request for termination of the probationary period, or as otherwise requested by the Board.
- d. Dr. McCracken 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. McCracken shall notify the Board of any action in any state taken against a certificate to practice held by Dr. McCracken in that state. Moreover, Dr. McCracken shall provide acceptable documentation verifying the other state board's actions.
- f. Dr. McCracken shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, prior to commencing practice in Ohio, the Board may require that Dr. McCracken comply with additional terms, conditions, or limitations, including the following:
  - i. Prior to commencement of practice in Ohio, Dr. McCracken shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. McCracken's activities will be directly supervised and overseen by a monitoring physician approved by the Board. The monitoring physician shall monitor Dr. McCracken and his patient charts. The chart review may be done on a random basis, with the number of charts reviewed to be determined by the Board. The monitoring physician shall provide the Board with reports on Dr. McCracken's progress and status and on the status of his patient charts on a quarterly basis. All monitoring physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. McCracken's quarterly declaration. It is Dr. McCracken's responsibility to ensure that the reports are timely submitted.

Dr. McCracken shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

In the event that the approved monitoring physician becomes unable or unwilling to serve, Dr. McCracken shall immediately notify the Board in writing and shall make arrangements for another monitoring physician as soon as practicable. Dr. McCracken shall refrain from practicing until such supervision is in place, unless otherwise determined by the Board. Dr. McCracken shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

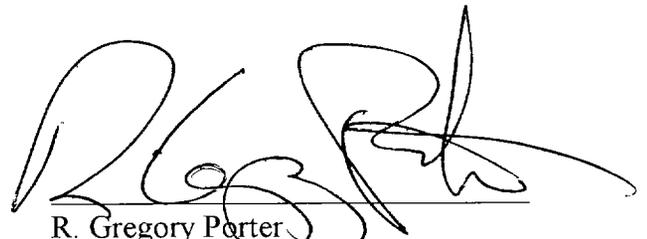
- ii. Prior to commencement of practice in Ohio, Dr. McCracken shall provide written documentation acceptable to the Board verifying that Dr. McCracken otherwise holds a full and unrestricted license to practice medicine and surgery in all other states in which he is licensed at the time of application.
- iii. In the event that Dr. McCracken has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to commencement of practice in Ohio, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.
- iv. Dr. McCracken 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 Dr. McCracken's 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 Dr. McCracken written notification of scheduled appearances, it is Dr. McCracken'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. McCracken shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- v. Within thirty days of commencing practice in Ohio, Dr. McCracken 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. McCracken has privileges or appointments. Further, Dr. McCracken 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. McCracken applies for or obtains privileges or appointments.

- g. If Dr. McCracken 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, up to and including the permanent revocation of his certificate.
2. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. McCracken's certificate will be fully restored.

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



R. Gregory Porter  
Attorney Hearing Examiner

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# State Medical Board of Ohio

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## EXCERPT FROM THE DRAFT MINUTES OF AUGUST 11, 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 Carl G. Godshall, D.O.; John W. McCracken, Jr., D.O.; Sharadchandra Patel, M.D.; Saris E. Segarra, M.D.; and Azim Shaikh, M.D.? A roll call was taken:

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

.....

JOHN W. MCCRACKEN, JR., D.O.

Dr. Steinbergh directed the Board's attention to the matter of John W. McCracken, Jr., D.O. She advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

Dr. Steinbergh continued that the last page of Dr. McCracken's objections is an April 26, 1999 letter from Arizona's Board of Osteopathic Examiners to Dr. McCracken. This document was proffered by Dr. McCracken at his hearing after the hearing examiner denied its admission to the record. The inclusion of this document with the objections is being construed as a request to admit additional evidence. Dr. Steinbergh asked whether the Assistant Attorney General wish to respond.

Mr. McGovern stated that the document attached to the objections was something that Dr. McCracken attempted to admit at the hearing. The State objected to its relevance based upon the fact that it is a letter relating to a complaint that was dismissed by the Arizona Board, however, it is not the same complaint that resulted in the December 30, 1997 Findings of Fact, Conclusions of Law and Board Order that related to Ohio's notice of opportunity for hearing. The State argued that the letter was irrelevant, and the Hearing Examiner agreed and simply proffered it.

Dr. Steinbergh asked whether there was a motion to accept the April 26, 1999 letter into the record.

**DR. SOMANI MOVED TO ACCEPT THE LETTER. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- nay
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye

Dr. Stienecker	- nay
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Buchan	- aye
Dr. Steinbergh	- nay

The motion carried.

Dr. Steinbergh stated that the Board would accept the letter into the record.

**DR. TALMAGE MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JOHN W. MCCRACKEN, JR., D.O. DR. SOMANI SECONDED THE MOTION.**

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

Dr. Stienecker stated that in going over this case, he found that part of Dr. McCracken's problem arose from the U.S. military at Eisenhower Army Medical Center being unhappy with his performance of duty. He stated that past cases the Board has seen has led him to believe that sometimes the military puts square pegs in round holes and that sometimes greater expectations are made of people than they are able to perform. However, in reading through the incidents of medical care that were documented, very likely the care was below minimal standards at times in this case, and he is very much in concurrence with the Order as written.

Dr. Somani stated that he reviewed the case and there is no question that the Board cannot second guess the decision by Dr. McCracken's peers at Eisenhower Army Medical Center. They are the ones who had complete access to the charts, which were thoroughly reviewed by them. They came up with the recommendation that the quality of care being given in the emergency room was not appropriate based upon their standards. Dr. Somani stated that there is no question in his mind that the Army reviewed the data, made the recommendation, and limited Dr. McCracken's privileges. The Arizona Board, based upon the Army recommendations also took an action, and now Ohio is asked to piggy back based upon what happened there.

Dr. Somani stated that his only question was that the Arizona Board put Dr. McCracken on probation and asked him to undergo additional training. Mr. Porter's recommendation goes beyond what Arizona required. For example, failure to conform to minimal standards of care normally carries a minimum three-year probation. Yet, the recommendation in this case is that he be placed on probation for five years. Dr. Somani stated that, in view of what Arizona did, three years' probation would be more appropriate for Dr. McCracken.

**DR. SOMANI MOVED TO AMEND THE PROPOSED ORDER BY CHANGING THE**

**PROBATIONARY PERIOD FROM FIVE YEARS TO THREE YEARS. DR. AGRESTA  
SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- nay
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Mr. Browning	- aye
	Ms. Noble	- nay
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Somani stated that the recommendation is now appropriate, but he would like to see Dr. McCracken get additional training.

**DR. TALMAGE MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED  
FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF  
JOHN W. MCCRACKEN, JR., D.O. DR. STIENECKER SECONDED THE MOTION. A vote was  
taken:**

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- nay
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Mr. Browning	- aye
	Ms. Noble	- nay
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

The motion carried.



# State Medical Board of Ohio

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

March 10, 1999

John W. McCracken, Jr., D.O.  
7817 N. Via Laguna Niguel  
Tucson, AZ 85743

Dear Doctor McCracken:

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 December 30, 1997, the Arizona Board of Osteopathic Examiners in Medicine and Surgery (hereinafter "Arizona Board") entered its Findings of Fact, Conclusions of Law and Board Order, concluding that your action in not following up with a patient in a timely manner for acute abdominal pain fell below the community standard and endangered the patient's health, and thus constituted unprofessional conduct.

As a result, the Arizona Board placed you on probationary status for a period of two (2) years. The terms and conditions of your probation include, but are not limited to, a minimum of twenty (20) hours of Continuing Medical Education (CME) credit in the area of treating acute abdominal pain, in addition to the statutorily required CME. A copy of the Arizona Board Findings of Fact, Conclusions of Law and Board Order is attached hereto and fully incorporated herein.

- (2) On or about December 12, 1997, the Eisenhower U.S. Army Medical Center, Fort Gordon, Georgia (hereinafter Eisenhower Army Medical Center), notified you that your clinical privileges were restricted and that you were released from working as a contract Emergency Department physician, based upon your pattern of substandard care in treating seriously ill patients.

The Eisenhower Army Medical Center restrictions provided that you would not be solely responsible for care of seriously ill patients, nor would you be responsible for supervising house staff and physicians' assistants when caring for seriously ill patients. Further, your privileges were limited to providing care to low or moderately ill patients. A copy of the December 12, 1997 notification is attached hereto and fully incorporated herein.

*Mailed 3/11/99*

The Arizona Board Findings of Fact, Conclusions of Law and Board Order, as alleged in paragraph (1) above, constitute “[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees,” as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Further, the Eisenhower U.S. Army Medical Center restrictions, as alleged in paragraph (2) above, constitute “[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the department of defense, or the veterans administration of the United States, for any act or acts that would also constitute a violation of this chapter,” as that clause is used in Section 4731.22(B)(24), Ohio Revised Code, to wit: Section 4731.22(B)(6), Ohio Revised Code.

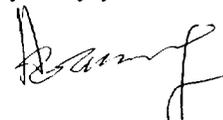
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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

CERTIFIED MAIL # Z 233 895 052  
RETURN RECEIPT REQUESTED

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS  
IN MEDICINE AND SURGERY

In the Matter of:	)	Board Case No. 2043 M
	)	
JOHN MCCRACKEN, D.O.	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW AND
Holder of License No. 0977 for the	)	BOARD ORDER
Practice of Osteopathic Medicine and	)	
Surgery in the State of Arizona.	)	
<hr/>		

OHIO STATE MEDICAL BOARD

FEB 22 1999

INTRODUCTION

This matter came before the Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") for final consideration and decision at the Board's public meeting held on December 13, 1997. Pursuant to its statutory authority at A.R.S. § 32-1855(E), the Board held an Informal Interview on December 13, 1997. During the course of these proceedings, John McCracken, D.O. (hereinafter "Respondent") was present.

Based upon Respondent's testimony and documentary evidence submitted to the Board, the board issues the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent is the holder of License No. 0977 authorizing him to engage in the practice of osteopathic medicine in the State of Arizona.
2. On May 31, 1996 the Board open Complaint No. 2043 M based upon receiving a Notice of Malpractice Settlement involving a medical malpractice suit between patient T.M. and Respondent. The Complaint/medical malpractice suit was filed in the Superior Court for the State of Arizona, Maricopa County, alleging that Respondent failed to diagnose or suspect the possibility that Plaintiff had a bowel obstruction. This resulted in a delay in diagnosis and appropriate surgical treatment from August 4, 1993 to August 10, 1993 and caused significant injuries to the plaintiff.
3. On December 13, 1997 Respondent appeared before the Board at the Informal Interview and testified that he had treated the patient properly and that the patient did not go to the Emergency Room as requested. Respondent also stated that he had followed up with the patient by telephone.

CONCLUSIONS OF LAW

1. This matter is within the jurisdiction of the Arizona Board of osteopathic Examiners in medicine and Surgery pursuant to A.R.S. § 32-1801 et seq. and the regulations promulgated thereunder.

2. Respondent's action in not following up with the patient in a timely manner for acute abdominal pain violates A.R.S. § 32-1854(6), practice which falls below the community standard and A.R.S. § 32-1854(40), practice which endangers patient's health.

3. Respondent's acts in violating A.R.S. § 32-1854, which acts constitute unprofessional conduct, constitute grounds under which the Board may impose disciplinary action against Respondent pursuant to A.R.S. § 32-1855(E).

### ORDER

IT IS HEREBY ORDERED that a Letter of Concern is issued and the following disciplinary action is taken against John McCracken, D.O. as follows:

1. Dr. McCracken is placed on probationary status for a period of two (2) years and ordered to comply with the following terms and conditions of probation:

(a) Commencing from the date of issuance of this Order, Dr. McCracken shall obtain a minimum of 20 hours of continuing medical education credit in the areas of treating acute abdominal pain. Respondent shall submit to the Board's Executive Director documentation confirming his attendance and completion of the education program approved by the Board; and, this requirement for continuing medical education shall be in addition to the minimum statutory requirement for renewal of Board license as specified at A.R.S. § 32-1825(B).

(b) Respondent shall pay all costs arising from the Board's investigation, informal interview hearings and continuing monitoring of the requirements of this Order and, payment of the costs shall be completed within ten days of receipt of the amount issued by the Board.

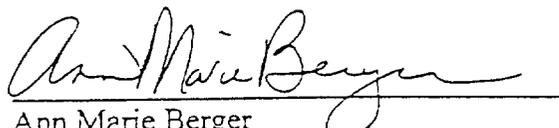
2. Failure to comply with the terms of this Order shall constitute an act of unprofessional conduct in accordance with A.R.S. §32-1854.26 "Violation of a formal order, probation or a stipulation issued by the board under this chapter."

ENTERED and effective this 30<sup>th</sup> day of December, 1997.

OHIO STATE MEDICAL BOARD

FEB 22 1998

ARIZONA BOARD OF OSTEOPATHIC  
EXAMINERS IN MEDICINE AND SURGERY

  
Ann Marie Berger  
Executive Director

Copy mailed by U.S. certified mail  
(return receipt requested) this 30<sup>th</sup>  
day of December, 1997 to:

John McCracken, D.O.  
2551 W. Old Glory Dr.  
Tucson AZ 85741

Copy mailed this 30<sup>th</sup> day of  
December, 1997 to:

Blair Driggs  
Assistant Attorney General  
CIV/LES  
1275 W. Washington  
Phoenix AZ 85007

Blair Driggs

**OHIO STATE MEDICAL BOARD**

FEB 22 1999



DEPARTMENT OF THE ARMY  
HEADQUARTERS DWIGHT DAVID EISENHOWER ARMY MEDICAL CENTER  
FORT GORDON, GEORGIA 30905-5688

December 12, 1997

Quality Management

OHIO STATE MEDICAL BOARD

John W. McCracken, Jr., D.O.  
2551 W. Old Glory Drive  
Tucson, Arizona 85741

FEB 25 1998

Dear Dr. McCracken,

I have reviewed the record of the Hearing Committee that convened at your request on November 17, 1997 and the recommendations of the full Credentials Committee to whom the Hearing Committee's record was presented on December 8, 1997.

Based on the findings of a pattern of substandard care by you when the care involves seriously ill patients, your clinical privileges at Eisenhower Army Medical Center have been restricted to avoid your being solely responsible for the care of seriously ill patients and your supervising housestaff and PA's in caring for seriously ill patients. Also, your privileges have been limited to care provided to low or moderately ill patients seen in a clinic or a FAST TRACK Emergency Department setting. Therefore, you are released from working as a contract Emergency Department physician.

Pursuant to paragraph 4-9e(1), Army Regulation 40-68, a copy of the findings and recommendations of the Hearing Committee is attached.

You have ten (10) duty days (extendable in writing by the Commander for good cause) to submit a request for reconsideration to the Eisenhower Army Medical Center Commander. If you should request reconsideration, you must identify errors of fact or procedure that form the basis of your request. A failure to request reconsideration will be deemed a waiver of your appeal rights. Waiver of appeal rights and may result in a report to the National Practitioner Data Bank, per paragraph 4-13f, which has already been sent to you.

Atch

[Redacted signature area]

Quality Assurance Document  
10 USC 1102, Unauthorized  
Disclosure carries \$3000 Fine

TRUE CERTIFIED COPIES

BY 