



State Medical Board of Ohio

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February 14, 2001

Dallas Dan Hessler, D.O.
2069 Shady Lane
Tucker, GA 30084

Dear Doctor Hessler:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Daniel Roberts, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 14, 2001, 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. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, MD
Anand G. Garg, M.D. *1/TAD*
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0022 4402 9345
RETURN RECEIPT REQUESTED

Cc: Paul Giorgianni, Esq.
CERTIFIED MAIL RECEIPT NO. 7000 0600 0022 4402 9338
RETURN RECEIPT REQUESTED

Mailed 2.28.01

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 14, 2001, 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 Dallas Dan Hessler, 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)

FEBRUARY 14, 2001
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

DALLAS DAN HESSLER, D.O.

*

ENTRY OF ORDER

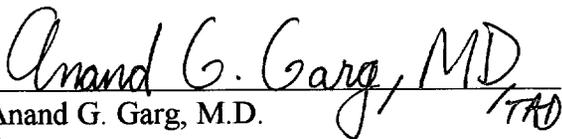
This matter came on for consideration before the State Medical Board of Ohio on February 14, 2001.

Upon the Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that Dallas Dan Hessler, D.O., be REPRIMANDED.

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

(SEAL)


Anand G. Garg, M.D.
Secretary

FEBRUARY 14, 2001
Date

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**REPORT AND RECOMMENDATION
IN THE MATTER OF DALLAS DAN HESSLER, D.O.**

The Matter of Dallas Dan Hessler, D.O., was heard by Daniel Roberts, Attorney Hearing Examiner for the State Medical Board of Ohio, on December 15, 2000.

INTRODUCTION

I. Basis for Hearing

A. By letter dated October 11, 2000, the State Medical Board of Ohio [Board] notified Dallas Dan Hessler, D.O., that it had proposed to determine whether to take disciplinary action against his certificate to practice osteopathic medicine and surgery in Ohio. The Board based its proposed action on the following allegations:

1. On or about March 9, 2000, the Colorado State Board of Medical Examiners [Colorado Board] approved a Stipulation and Final Agency Order which placed Dr. Hessler's license in an inactive status effective March 9, 2000. Dr. Hessler agreed that he would not, at anytime in the future, seek to transfer his license from inactive to active status. Dr. Hessler further agreed that he would not renew his license when it expired on May 31, 2000, and that he would not, at any time in the future, seek to transfer his license from lapsed to non-lapsed status.
2. By Decision dated April 21, 2000, the Osteopathic Medical Board of California [California Board] ordered that Dr. Hessler's application for a California Osteopathic Physician and Surgeon's Certificate be denied, effective May 22, 2000.

The California Board Decision and Order was based upon that Board's finding that Dr. Hessler had falsely and misleadingly answered "No" in response to the application question which asked if he was aware of any pending investigation or inquiry by any licensing agency, even though he knew that the Colorado Board was investigating two complaints that had been filed against him with regard to his Colorado practice.

STATE BOARD

EXHIBIT 1B

The Board alleged that the Colorado Board Stipulation and Final Agency Order and the California Board Decision and Order constitute “[a]ny of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual’s license to practice; acceptance of an individual’s license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;’ as that language is used in Section 4731.22(B)(22), Ohio Revised Code.”

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

- B. On October 23, 2000, Dr. Hessler filed a written hearing request. (State’s Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Hanz R. Wasserburger, Assistant Attorney General.
- B. On behalf of the Respondent: Paul Giorgianni, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Dallas Dan Hessler, D.O.

II. Exhibits Examined

- A. Presented by the State:

- 1. State’s Exhibits 1A-1J: Procedural exhibits.
- 2. State’s Exhibit 2: Certified copy of a March 9, 2000, Stipulation and Final Agency Order before the Colorado State Board of Medical Examiners, *In the Matter of the Disciplinary Proceeding Regarding the License to*

STATE BOARD
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*Practice Medicine in the State of Colorado of Dallas Dan Hessler, D.O.,
License No. 22700.*

3. State's Exhibits 3: Certified copy of a April 21, 2000, Decision and Order of the Osteopathic Medical Board of California, *In the Matter of the Statement of Issues against Dallas Dan Hessler, D.O.*

B. Presented by the Respondent:

Respondent's Exhibit A: Copy of a March 3, 2000, letter to the California Board from Dr. Hessler.

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. On December 9, 1999, an Inquiry Panel of the Colorado Board of Medical Examiners [Colorado Board] reviewed an investigation of Dallas Dan Hessler, D.O., and referred the matter to the Colorado Attorney General for the filing of a formal complaint. However, on March 9, 2000, the Colorado Board approved a Stipulation and Final Agency Order [Colorado Order] with Dr. Hessler, in lieu of formal disciplinary proceedings. (Hearing Transcript [Tr.] at 31, 34, 39; State's Exhibit [St. Ex.] 2)

Dr. Hessler and the Colorado Board agreed that Dr. Hessler's license would be placed on inactive status and that he would not renew it when it expired on May 31, 2001. They further agreed that Dr. Hessler would never seek to transfer his Colorado license to either non-lapsed or active status. Dr. Hessler and the Colorado Board also agreed that nothing in the Colorado Order would constitute a finding that Dr. Hessler had engaged in unprofessional conduct. (Tr. 38-39; St. Ex. 2)

2. On April 21, 2000, the Osteopathic Medical Board of California [California Board] adopted a Decision and Order [California Order] denying Dr. Hessler's application for a California Osteopathic Physician and Surgeon's Certificate. (Tr. 38; St. Ex. 3)

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The California Order was based on a default hearing at which Dr. Hessler did not appear in person or by representative. The California Board found that:

- During July and August 1998, the Colorado Board had received written complaints from Patient L.P. and from a physician concerning Dr. Hessler's treatment of L.P., as well as a written complaint from Patient R.C. concerning treatment he had received from an employee of Dr. Hessler's.
- Between September 1998 and February 1999 the Colorado Board and Dr. Hessler exchanged written information concerning the Colorado complaints.
- By letter dated February 26, 1999, the Colorado Board notified Dr. Hessler that it had forwarded the complaints against him to the Complaints and Investigations Section for formal investigation.
- On June 16, 1999, Dr. Hessler submitted an application for licensure in California which was received on June 21, 1999.

(St. Ex. 3)

The California Board further found that Dr. Hessler had responded "No" to question 18a on his California Application for Licensure. Question 18A asks "Are you aware of any pending investigation or inquiry by any hospital, public entity, licensing agency or other official relating to or connected with any license or privileges you hold or ever held regarding your professional conduct." (St. Ex. 3)

The California Board concluded that Dr. Hessler had "falsely and misleadingly marked 'No' in response to question number 18a while clearly aware of the ongoing Colorado Board investigations of the two complaints. [Dr. Hessler] knowingly made that false statement regarding facts he was required to reveal in the application." (St. Ex. 3)

3. Dr. Hessler testified at hearing that he is originally from Columbus, Ohio, and had attended Capital University and the Lutheran Theological Seminary before entering the Kirksville College of Osteopathic Medicine. Dr. Hessler completed post graduate training and an internship at Parkview Hospital in Toledo before entering practice in Grove City, Ohio. Dr. Hessler also testified that he had been on staff at Grant Hospital, Doctor's North Hospital, and Doctor's West Hospital. During his time in Columbus, Dr. Hessler began limiting his practice to neuromuscular skeletal medicine and family practice. He also served as a team physician for the Ohio State University and worked towards a Ph.D. in somatics. Dr. Hessler practiced in Ohio until 1994. Dr. Hessler is currently licensed in Georgia and Ohio. (Tr. 14-16, 47-48)

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Dr. Hessler testified that he and his wife separated in 1994 and the divorce was finalized in 1999. Dr. Hessler further testified that, due to the financial and emotional stress of the separation and divorce, he had elected to relocate to Colorado and opened a practice there in 1994. Dr. Hessler noted that his Colorado practice initially went well and was focused on neuromuscular skeletal medicine and pain management. However his practice had not been large enough to compete for business in this area as "HMOs came in." As a result he elected to close his Colorado practice and began working *locum tenens* in Colorado for Columbia Health Care in 1998. (Tr. 16-19)

Dr. Hessler testified that the divorce proceedings also led to his being forced to file bankruptcy and that financial pressures continue to the present. He noted that his bankruptcy was discharged in 1999; however, he still owes child support and tax debts which were not discharged in bankruptcy. (Tr. 19-20)

Dr. Hessler testified that he had been looking forward to the Ohio hearing. He elaborated that he wanted to explain what had led up to the Notice of Opportunity for Hearing. He explained that he had practiced in Ohio for many years without problems. Dr. Hessler testified that, except for the complaints at issue in this hearing, he had never had a complaint filed against him in twenty years of practice. (Tr. 32, 44-46)

4. At hearing, Dr. Hessler summarized the events which led to the Colorado complaints. He explained that the Colorado complaint concerning Patient L.P. had involved a situation in which he had been covering for another physician. He stated that the patient requested narcotics for lower back pain which he refused to prescribe because he had only seen her on one occasion. Dr. Hessler further stated that this patient's accusation that he had manipulated her lower back was false. (Tr. 21)

Dr. Hessler explained that Patient R.C. had complained that an office assistant had been rude to him and had not explained certain charges very well. Dr. Hessler stated that the complaint was not specific. He further stated that the complaining patient had been hospitalized for mental illness. (Tr. 20)

5. Dr. Hessler testified that he had been visiting a sick friend in California when he became aware of a job opening at California Pacific Medical Center for which he believed he was well suited. Dr. Hessler was offered the California position and decided in June 1999 to move to California. He explained that this job offer and friends in California were his only motivations for the move to California. (Tr 21-23)

Dr. Hessler testified that, at the time of his California application in June 1999, he had been aware of the pending Colorado complaints. Dr. Hessler affirmed at hearing in Ohio

STATE OF CALIFORNIA

201 JUN 10 P 3:42

that he should have answered "Yes" to question 18a on the California application. (Tr. 23-26, 34-37)

Dr. Hessler moved to California in October of 1999 and participated in orientation training at California Pacific Medical Center while awaiting a response to his California license application. After completing orientation he continued to return to Colorado to do *locum tenens* work. (Tr. 26-27)

Dr. Hessler testified that the California Board had notified him that there was a problem with his California application because of his negative answer to question 18a.

Dr. Hessler testified that he had then discussed this matter with Linda Bergman of the California Board and advised her that he had made a mistake and should have answered "Yes". Dr. Hessler testified that he had then written a letter of explanation, at Ms. Bergman's request, and forwarded it to the California Board. (Tr 24-26, 36-37)

6. At hearing, Dr. Hessler explained that most of his family is now located in Georgia and that he had obtained a Georgia license in the mid 1990's. In light of his financial situation and the uncertainty about his California license he elected give up on California and Colorado. He accepted a position in Atlanta and relocated to Georgia in December of 1999. Dr. Hessler is currently employed at Greater Atlanta Family Medicine and Amerimed Medical. Dr. Hessler testified that he has not yet come to a point where he is required to report the Colorado and California actions to the Georgia Board but will do so when his next Georgia renewal becomes due. (Tr. 27-29, 47-48)

On March 3, 2000, Dr. Hessler submitted to the California Board a written request to withdraw his application for licensure. Dr. Hessler explained that, at the time of the California hearing he had been living with relatives in Georgia and did not have the resources to contest the hearing. (Tr. 29-32, 37-38, 50-51; Respondents Exhibit A)

Dr. Hessler testified that he had not believed that Colorado or California licenses would be of any further use to him and that it was not worth spending the money that would have been required to defend them. Dr. Hessler testified that he had not expected the California or Colorado Orders to have an impact on his professional life or on licenses in other states. Dr. Hessler further testified that, had he known of the domino affect of the Colorado and California Orders, he would have fought both actions. (Tr. 39-41)

7. Dr. Hessler testified that he would like to maintain his Ohio license and is willing to cooperate with the Board. He explained that he values his Ohio license. However, he noted that he is very happy in Atlanta and has no present plans to leave Georgia. (Tr. 36-37, 49)

STATE BOARD

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FINDINGS OF FACT

1. On March 9, 2000, the Colorado State Board of Medical Examiners approved a Stipulation and Final Agency Order which placed the Colorado license of Dallas Dan Hessler, D.O., to practice osteopathic medicine and surgery in an inactive status effective March 9, 2000. Dr. Hessler agreed that he would not, at anytime in the future, seek to transfer his Colorado license from inactive to active status. Dr. Hessler further agreed that he would not renew his Colorado license when it expired on May 31, 2001, and that he would not, at any time in the future, seek to transfer his license from lapsed to non-lapsed status. The Notice of Opportunity for Hearing erroneously alleges May 31, 2000 as the expiration date of Dr. Hessler's Colorado license.
2. By Decision dated April 21, 2000, the Osteopathic Medical Board of California ordered that Dr. Hessler's application for a California Osteopathic Physician and Surgeon's Certificate be denied, effective May 22, 2000.

The California Board Decision was based upon that Board's finding that Dr. Hessler had falsely and misleadingly answered "No" in response to the application question which asked if he was aware of any pending investigation or inquiry by any licensing agency, even though he knew that the Colorado Board was investigating two complaints that had been filed against him with regard to his Colorado practice.

CONCLUSIONS OF LAW

1. The Colorado Board Stipulation and Final Agency Order, as described in Findings of Fact 1, constitutes "[a]ny of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;" as that language is used in Section 4731.22(B)(22), Ohio Revised Code.
2. The California Board Decision and Order, as described in Findings of Fact 2, constitutes "[a]ny of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or

reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,” as that language is used in Section 4731.22(B)(22), Ohio Revised Code.

* * * * *

At hearing, Counsel for Dallas Dan Hessler, D.O., argued that it would be inappropriate for the Board to impose any sanction for the conduct of Dr. Hessler. Nevertheless, the evidence presented at hearing and protection of the public clearly requires some sanction for the violations proven by the State as described in the Findings of Fact and Conclusions of Law. However, Counsel for the State indicated that the State was “comfortable with a relatively minor sanction.”

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Dallas Dan Hessler, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for a period of 1 year. Such suspension is **STAYED**, subject to the following **PROBATIONARY** terms, conditions, and limitations for a period of at least 3 years.
 - a. Dr. Hessler shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in the state in which he is practicing.
 - b. Dr. Hessler shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Hessler shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Hessler shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
 - c. In the event that Dr. Hessler should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Hessler must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

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- d. Dr. Hessler shall appear in person for interviews before the full Board or its designated representative during the third month following the month in which this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first personal appearance must occur during the fourth month following and upon his request for termination of the probationary period, or as otherwise requested by the Board.
- e. Dr. Hessler shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must also be received in the Board's offices on or before 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, unless otherwise determined by the Board.
- f. Dr. Hessler shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, should Dr. Hessler commence practice in Ohio, the Board may place his certificate under additional probationary terms, conditions, or limitations, including the following:
 - i. Dr. Hessler shall appear in person for interviews before the full Board or its designated representative during the first month that his next quarterly declarations under paragraph 1e of this order are due following his resumption of practice in Ohio. Subsequent personal appearances must occur every third month thereafter, and upon his request for termination of the probationary period, or as otherwise requested by the Board.

If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Hessler'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. Hessler shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

STATE BOARD

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- ii. If any declaration or report required by this Order is not received in the Board's offices on or before its due date, Dr. Hessler shall cease practicing medicine beginning the day following Dr. Hessler's receiving notice from the Board of non-receipt, either by writing, telephone, or by personal contact, until the declaration or report is received in the Board offices. Any practice during this time period shall be considered unlicensed practice of medicine in violation of Section 4731.41, 4731, Ohio Revised Code.
 - g. If Dr. Hessler 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.
 - h. If Dr. Hessler violates probation in any respect, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period.
 - i. Periods of time during which Dr. Hessler's certificate to practice osteopathic medicine and surgery is inactive due to nonpayment of renewal fees will not apply to the reduction of the probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
2. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Hessler's certificate will be fully restored.

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



Daniel Roberts
Attorney Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF FEBRUARY 14, 2001

REPORTS AND RECOMMENDATIONS

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

Dr. Bhati 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 William S. Bambrick, III, M.D.; Dallas Dan Hessler, D.O.; and Charles Raymond St. Aubyn. A roll call was taken:

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

Dr. Bhati 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. Egner	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

Dr. Bhati noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

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

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

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DALLAS DAN HESSLER, D.O.

Dr. Bhati directed the Board's attention to the matter of Dallas Dan Hessler, D.O. He advised that objections were filed to Hearing Examiner Roberts' Report and Recommendation and were previously distributed to Board members.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DALLAS DAN HESSLER, D.O. DR. TALMAGE SECONDED THE MOTION.

Dr. Bhati stated that he would now entertain discussion in the above matter.

Dr. Stienecker stated that he had several problems with this case. First of all, he believes that this was a low priority case that was kind of left in limbo by California and then dispensed with by Colorado with kind of a permanent, irrevocable, inactive status, and a kind of a "don't come back here and bother us again" report. The basis for the action was kind of flimsy: rudeness in one case and "failure to treat or cure" in another case. Moving to the Report and Recommendation, a suspension is recommended with conditions of probation. Looking through what the Board has, the only condition of probation he can find is that Dr. Hessler obey all state, federal and local laws. There's no corrective action of any type taken in this. This is a case that he would move to dismiss.

DR. STIENECKER MOVED TO DISMISS THE CASE AGAINST DR. HESSLER.

Dr. Steinbergh stated that she agrees with Dr. Stienecker and his assessment, except she does think that there were concerns about Dr. Hessler's California application, and there was an action against his Colorado license. Dr. Steinbergh stated that she was concerned, but not to the point where she would put Dr. Hessler on probation. She recommended a reprimand instead of a dismissal.

DR. EGNER SECONDED DR. STIENECKER'S MOTION.

Dr. Somani stated that he had the same feeling as Dr Stienecker. There's nothing in the case that stood out except that two patients complained about something that happens routinely in practice. There was nothing malicious about those two cases. Dr. Somani stated that he does not feel there is a need to do anything further.

Dr. Egner stated that she doesn't believe that there would be great benefit in anything the Board does in this case. She's not sure what the Board would be reprimanding Dr. Hessler for. She would agree with the dismissal.

Dr. Steinbergh stated that she feels that the Board had reason to investigate the case. That needs to be on the record and clear. She believes that it's probably time to stop this particular case and if dismissal is the appropriate way, she's for it. She continued that this does have, as Dr. Hessler argues, a domino effect. It keeps going on for him and the next thing that will happen is that he'll have to defend himself in Georgia. She doesn't know that there's reason to defend.

Dr. Talmage stated that he considered seconding Dr. Stienecker's motion, because Dr. Hessler has really gone through enough. He felt that because Dr. Hessler had answered the question incorrectly, at least a reprimand would be more appropriate, so there's something on the record that he did something wrong. He added that he's wavering back and forth between the two options. Dismissal kind of ends it right here. Dr. Hessler is not going to come back to Ohio anyway. If he does, the Board will license him anyway.

Dr. Steinbergh stated that he has a license.

Dr. Buchan stated that the California decision was based on the fact that Dr. Hessler admitted to answering "no" to the question whether any impending action had been taken against his license or any investigations. Based upon that he was denied licensure. Dr. Buchan believes a reprimand in this case is reasonable, based upon his reading of the case. He thought the complaints were vague and weak, but when he sees the California action and the basis upon which that action was taken, he would lean more toward reprimand than dismissal.

Dr. Steinbergh stated that another osteopathic medical board's denial of licensure is always an issue with her. She doesn't know if there's something more the Board doesn't know about.

Dr. Bhati stated that one issue here is Dr. Hessler's answers on an application. The second issue involves complaints by two patients, which don't really impress him that much. Dr. Bhati stated that when his own partner's patients call him and ask for narcotics, Dr. Bhati says "no." As far as rudeness is concerned, he's not quite sure of the degree of it. He's not very impressed with the whole complaint as such. It needed to be investigated and he's glad that it was investigated, but the question arises as to whether any action is needed. He's more on the side of dismissing this case.

Dr. Somani stated that the only reason to reprimand would be to put Dr. Hessler on notice that he should not have lied on the California application, but California has already denied him a license. Therefore Dr. Hessler knows the implication of that. The question in his mind is what more the Board will accomplish by reprimanding rather than dismissing.

Mr. Browning stated that his only question is, why would a guy in this circumstance give up the way he did and put his license in the status that it was in. Why would you do that?

Dr. Stienecker stated that he might not have been able to afford it.

Dr. Steinbergh stated that she believes he couldn't afford to defend it. According to his testimony, he didn't have a sense of what this was going to do, that it would snowball.

Dr. Talmage stated that from the list of things, he's a miserable person already.

Dr. Buchan asked how Dr. Stienecker would respond to the fact that Dr. Hessler did deny the Colorado action when applied for his California license. How does the Board ignore that transgression?

Dr. Steinbergh agreed, stating that people don't take that seriously. If the Board doesn't take it seriously, it promotes that type of problem.

Dr. Buchan stated that it snowballed, but Dr. Hessler basically was not forthright in California. For that reason, the dominoes started to fall.

Dr. Bhati suggested taking a vote on Dr. Stienecker's motion.

Dr. Buchan stated that he personally is moving towards reprimand.

Dr. Stienecker stated that he really doesn't have a reason that's going to convince Dr. Buchan that there's a practicality to this thing. He's already been denied a license in California. The rest of these things have been bootstrapped along. He has a practice in Georgia. As far as the citizens of this state are concerned, this is not a terrible problem. Had the cases that brought complaints come to the Ohio Board, this might, at most have been a QIP situation. This would not have even come to the Board. The Board is here bootstrapping a process which to Ohio, under its own priority system, is a non-situation.

Dr. Buchan stated that he appreciates that.

Dr. Stienecker stated that, despite the fact that two other states have seen fit to do something, on the merits of the case, Ohio really doesn't have a reason to censure this man.

Mr. Browning stated that it is inconsistent with the Board's general pattern if it moves in that direction. This Board routinely bootstrap on a variety of different levels, severe cases and minor ones. Basically,

that's what is being recommended. He agrees that a reprimand is enough, and that oftentimes this Board keeps things going that it probably should call an end to.

Dr. Steinbergh stated that she agrees with Mr. Browning in the sense of the case right before this one. The Board reprimanded. She believes that reprimanding Dr. Hessler is consistent with what the Board has done in similar cases in the past.

Ms. Sloan stated that she feels the same way only because, since she's been here and seen bootstrapping in action, this is something that the Board has done; that reprimand is something that would need to be done in this case also. The Board has done that consistently in the past.

A vote was taken on Dr. Stienecker's motion to dismiss:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- nay
	Mr. Browning	- nay
	Ms. Sloan	- nay
	Dr. Stienecker	- aye
	Dr. Steinbergh	- nay
	Dr. Bhati	- nay

The motion failed.

**DR. TALMAGE MOVED TO AMEND MR. ROBERTS' PROPOSED ORDER BY
SUBSTITUTING AN ORDER OF REPRIMAND. DR. STIENECKER SECONDED THE
MOTION.**

Dr. Stienecker asked what the Board is reprimanding Dr. Hessler for.

Dr. Buchan referred to Finding of Fact 2.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye

Ms. Sloan	- aye
Dr. Stienecker	- aye
Dr. Steinbergh	- aye
Dr. Bhati	- aye

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF DALLAS DAN HESSLER, D.O. DR. STIENECKER SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- 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/

October 11, 2000

Dallas Dan Hessler, D.O.
aka Dallas Dan von Hessler, D.O.
2069 Shady Lane
Tucker, Georgia 30084

Dear Doctor Hessler:

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, permanently 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 March 9, 2000, the Colorado State Board of Medical Examiners (hereinafter the "Colorado Board") approved a Stipulation and Final Agency Order which placed your license in an inactive status effective March 9, 2000. You agreed that you will not, at anytime in the future, seek to transfer your license from inactive to active status. You further agreed that you would not renew your license when it expires on May 31, 2000, and that you would not at any time in the future seek to transfer your license from lapsed to non-lapsed status. A copy of the Colorado Board Stipulation and Final Agency Order is attached hereto and incorporated herein.
- (2) On or about April 21, 2000, the Osteopathic Medical Board of California (hereinafter the "California Board") Decision adopted the Proposed Decision of the Administrative Law Judge, and ordered that your application for a California Osteopathic Physician and Surgeon's Certificate be denied, effective May 22, 2000.

The California Board Decision was based upon that Board's finding that you had falsely and misleadingly answered "no" in response to the application question which asked if you were aware of any pending investigation or inquiry by any licensing agency, even though you knew that the Colorado State Board of Medical Examiners was investigating two complaints that had been filed against you with regard to your Colorado practice. A copy of the California Board Decision is attached hereto and incorporated herein.

Mailed 10-12-00

Dallas Dan Hessler, D.O.
aka Dallas Dan von Hessler, D.O.
Page 2

The Colorado Board Stipulation and Final Agency Order as alleged in paragraph (1) above, constitutes “[a]ny of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual’s license to practice; acceptance of an individual’s license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;” as that language is used in Section 4731.22(B)(22), Ohio Revised Code.

Further, the California Board Decision as alleged in paragraph (2) above, constitutes “[a]ny of the following actions taken by the state agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual’s license to practice; acceptance of an individual’s license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;” as that language is used in Section 4731.22(B)(22), 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery or to reprimand or place you on probation.

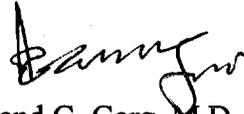
Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice

Dallas Dan Hessler, D.O.
aka Dallas Dan von Hessler, D.O.
Page 3

and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # Z 281 981 581
RETURN RECEIPT REQUESTED

P.O. Box 29040
Thornton, Colorado 80299-0040
CERTIFIED MAIL # Z 281 981 582
RETURN RECEIPT REQUESTED

481 Collingwood Street
San Francisco, California 94114-2810
CERTIFIED MAIL # Z 281 981 583
RETURN RECEIPT REQUESTED

246 Sycamore St., Suite 240
Decatur, GA 30030
CERTIFIED MAIL # Z 281 981 597
RETURN RECEIPT REQUESTED

BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF COLORADO

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF DALLAS DAN HESSLER, D.O., LICENSE NO. 22700,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel A ("Panel") of the Colorado State Board of Medical Examiners ("Board") and Dallas Dan Hessler, D.O. ("Respondent") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in the state of Colorado on October 11, 1979, and was issued license no. 22700 which Respondent has held continuously since that date.
2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.
3. On December 9, 1999, the Panel reviewed a report of investigation in case nos. 5199010170 and 5199010780. The Panel thereupon referred these cases to the Attorney General pursuant to § 12-36-118(4)(c)(IV), C.R.S.
4. It is the intent of the parties and the purpose of this Stipulation and Final Agency Order ("Order") to provide for a settlement of all matters set forth in case nos. 5199010170 and 5199010780, without the necessity of holding a formal disciplinary hearing. This Order constitutes the entire agreement between the parties, there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order.
5. Respondent understands that:
 - a. Respondent has the right to be represented by an attorney of the Respondent's choice and is so represented;
 - b. Respondent has the right to a formal disciplinary hearing pursuant to § 12-36-118(5), C.R.S.

c. By entering into this Order, Respondent is knowingly and voluntarily giving up the right to a hearing; and

d. Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence, and to cross-examine witnesses who would testify on behalf of the Panel.

6. Nothing in this agreement shall constitute a finding that Respondent has engaged in unprofessional conduct.

INACTIVE LICENSE

7. Upon the effective date of this agreement Respondent's license issued by the Board shall be placed in inactive status as described in § 12-36-137(1), C.R.S. Respondent agrees that he will not, at anytime in the future, seek to transfer his license from inactive to active status.

8. The license Respondent currently holds will expire on May 31, 2001. Respondent agrees not to renew this license after its expiration and the license will lapse as set forth in § 12-36-123(2), C.R.S. Respondent agrees that he will not, at anytime in the future, seek to transfer his license from lapsed to non-lapsed status.

9. Upon the effective date of this agreement, Respondent shall perform no act requiring a license to issued by the Board. Respondent may practice medicine outside of Colorado under the authority of a license issued by another state.

OTHER TERMS

10. The terms of this Order were mutually negotiated and determined.

11. Both parties acknowledge that they understand the legal consequences of this Order; both parties enter into this Order voluntarily; and both parties agree that no term or condition of this Order is unconscionable.

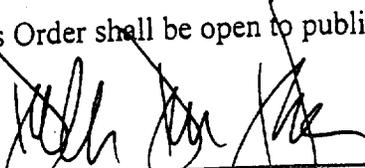
12. This Order and all its terms shall have the same force and effect as an order entered after a formal hearing pursuant to § 12-36-118(5)(g)(III), C.R.S. except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the Inquiry Panel as set forth in § 12-36-118(5)(g)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of § 12-36-117(1)(u), C.R.S.

13. Invalidation of any portion of this Order by judgment or court order shall in no way affect any other provision, which provision shall remain in full force and effect.

14. This Order shall be effective upon approval by the Panel and signature by a Panel member. Respondent acknowledges that the Panel may choose not to accept the terms of this

Order and that if the Order is not approved by the Panel and signed by a Panel member, it is void.

15. Upon becoming effective, this Order shall be open to public inspection and shall be reported as required by law.


DALLAS DAN HESSLER, D.O.

The foregoing was acknowledged before me this 21st day of January, 2000
by DALLAS DAN HESSLER, D.O.


NOTARY PUBLIC

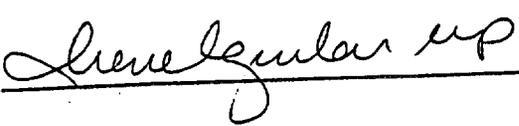
Notary Public, Fulton County, Georgia.
My Commission Expires April 5, 2002.

My commission expires

THE FOREGOING Stipulation and Final Agency Order is approved and effective this
9 day of MARCH, 2000.

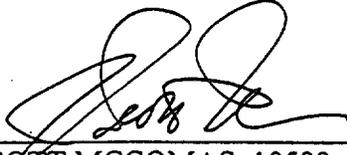
FOR THE COLORADO STATE BOARD OF
MEDICAL EXAMINERS

INQUIRY PANEL A



APPROVED AS TO FORM:

FOR THE RESPONDENT



J. SCOTT MCCOMAS, 10599
J. Scott McComas, P.C.
595 Canyon Boulevard
Boulder, Colorado 80302
Telephone: (303) 443-2000

FOR THE BOARD OF MEDICAL EXAMINERS

KEN SALAZAR
Attorney General



MATTHEW E. NORWOOD, 15181*
First Assistant Attorney General
Business and Licensing Section

Attorneys for the Colorado State
Board of Medical Examiners

1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: (303) 866-5287
FAX: (303) 866-5395
*Counsel of Record

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BEFORE THE
OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

DALLAS DAN HESSLER, D.O., a.k.a.
DALLAS DAN von HESSLER, D.O.
P.O. Box 29040
Thornton, Colorado 80299-0040

Respondent.

Case No. 99-17

OAH No. N2000010058

PROPOSED DECISION

On March 7, 2000, in Sacramento, California, Leonard L. Scott, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Janice K. Lachman, Deputy Attorney General, represented complainant.

Dallas Dan Hessler, D.O., also known as Dallas Dan von Hessler, D.O., respondent, timely filed a Notice of Appeal pursuant to Government Code section 11506. The matter was set for an evidentiary hearing. The Board gave notice of the date, time and place of the hearing, pursuant to Government Code sections 11505 and 11509. Respondent did not appear at the hearing, was not otherwise represented, and good cause was not established for that failure to appear. The matter was heard as a default, pursuant to Government Code section 11520.

Evidence was received, the record was closed and the matter was submitted.

FACTUAL FINDINGS

1. Linda J. Bergmann, Executive Director, Osteopathic Medical Board of California (Board), State of California, filed the Accusation against respondent. Bergmann acted in her official capacity.

2. On June 21, 1999, respondent submitted an application to the Board for an Osteopathic Physician and Surgeon's Certificate. Respondent signed the application under penalty of perjury and dated it June 16, 1999.

3. Respondent is licensed as an osteopathic physician and surgeon in the State of Colorado, with license number 22700. He is also licensed as an osteopathic physician and surgeon in the State of Ohio, with license number 46545.

4. On July 15, 1998, the Colorado Board of Medical Examiners (Colorado Board) received a written complaint regarding respondent's care and treatment of patient L.P. The complaint was sent by a physician who had been treating L.P. for lumbar disc disease.

On August 24, 1998, the Colorado Board received a written complaint, dated August 15, 1998, from patient L.P. regarding the care and treatment she received from respondent.

In a letter dated September 14, 1998, the Colorado Board sent respondent written notice of the complaint regarding his care and treatment of patient L.P. In the letter, the Colorado Board informed respondent of the complaint, requested a written response to the allegations and advised him that the complaint would be forwarded to an inquiry panel. The Colorado Board again sent respondent written notice of the complaint on October 14, 1998 in a letter with exactly the same wording as the September 14 letter. The letters were sent by certified mail and at least one was received by respondent as shown by the fact that he replied to the allegations in a letter dated October 23, 1998.

In a letter dated December 15, 1998, the Colorado Board notified respondent in writing that the inquiry panel had reviewed the available information regarding his care and treatment of patient L.P. and had tabled the matter pending receipt of his answers to three questions. The Colorado Board instructed respondent to reply to the questions within 30 days or subject himself to discipline. On January 7, 1999, the Colorado Board received respondent's written answers to the three questions.

5. On August 25, 1998, the Colorado Board received a written complaint, dated August 23, 1998, from patient R.C. regarding the care and treatment he received from an employee of respondent, a K.R., in respondent's office. K.R. called himself a "physician extender."

In a letter dated September 23, 1998, the Colorado Board sent respondent written notice of the complaint regarding his employee K.R.'s care and treatment of patient R.C. In

the letter, the Colorado Board informed respondent of the complaint, requested a written response to five specific questions regarding the allegations and advised him that the complaint would be forwarded to an inquiry panel. The letter was sent by certified mail and received by respondent as shown by the fact that he responded to the allegations in a letter dated November 11, 1998 and received by the Colorado Board on November 13, 1998.

In a letter dated December 16, 1998, the Colorado Board sent written notice to respondent that the inquiry panel had reviewed the available information regarding his employee K.R. and had tabled the matter pending receipt of respondent's answers to seven additional questions. The Colorado Board instructed respondent to reply to the questions within 30 days or subject himself to discipline. In a handwritten letter, respondent answered the questions posed in the Board's December 16, 1998 letter.

6. In a letter dated February 26, 1999, the Colorado Board notified respondent that the inquiry panel had forwarded the complaints of L.P. and R.C. to the Complaints and Investigations Section for formal investigation.

7. Respondent signed his June 16, 1999 application for an Osteopathic Physician and Surgeon's Certificate under penalty of perjury. While filling out the application, he checked "No" in response to question number 18a. Question number 18a, which is on page three of the application, asks:

"Are you aware of any pending investigation or inquiry by any hospital, public entity, licensing agency or official relating to or connected with any license or privileges you hold or ever held regarding your professional conduct."

Respondent falsely and misleadingly marked "No" in response to question number 18a while clearly aware of the ongoing Colorado Board investigations of the two complaints. Respondent knowingly made that false statement regarding facts he was required to reveal in the application.

8. The Board did not enter into evidence a certification of costs for the investigation and prosecution of this matter through the filing of Accusation.

LEGAL CONCLUSIONS

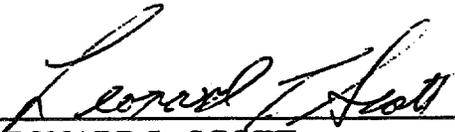
1. Cause for denial of respondent's application for an Osteopathic Physician and Surgeon's Certificate was established for violation of Business and Professions Code section 480, as found in Findings 2 and 4 through 7.

2. Cause for denial of respondent's application for an Osteopathic Physician and Surgeon's Certificate was established for violation of Business and Professions Code section 2221 and 2261, as found in Findings 2 and 4 through 7.

ORDER

The application of respondent Dallas Dan Hessler also known as Dallas Dan von Hessler for an Osteopathic Physician and Surgeon's Certificate is denied pursuant to Legal Conclusions 1 and 2, separately and for both of them.

Dated: April 4, 2000



LEONARD L. SCOTT
Administrative Law Judge
Office of Administrative Hearings