



State Medical Board of Ohio

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July 11, 2001

Philip A. Starr, D.O.
1870 Chester Avenue
Warren, OH 44481

Dear Doctor Starr:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 11, 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 must be taken to the Franklin County Court of Common Pleas.

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

THE STATE MEDICAL BOARD OF OHIO

A handwritten signature in cursive script, appearing to read "Anand G. Garg".

Anand G. Garg, M.D.
Secretary

AGG: jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7099 3220 0009 3046 0840
RETURN RECEIPT REQUESTED

Cc: Douglas E. Graff, Esq.
CERTIFIED MAIL RECEIPT NO. 7099 3220 0009 3046 0857
RETURN RECEIPT REQUESTED

Mailed 7-31-01

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 11, 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 Philip A. Starr, D.O., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.



Anand G. Garg, M.D.
Secretary

(SEAL)

JULY 11, 2001

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

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PHILIP A. STARR, D.O.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on July 11, 2001.

Upon the Report and Recommendation of Sharon W. Murphy, 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. **APPLICATION GRANTED; PROBATIONARY TERMS AND CONDITIONS:** The application of Philip A. Starr, D.O., for a certificate to practice osteopathic medicine and surgery in the State of Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements, and subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three (3) years:
 - a. **Obey Laws in Ohio:** Dr. Starr shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine in Ohio.
 - b. **Appearances:** Dr. Starr shall appear in person for interviews before the full Board or its designated representative during 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 personal appearance must occur during the fourth month following. Subsequent personal appearances must occur every third month thereafter, upon Dr. Starr's request for termination of the probationary period, and/or as otherwise requested by the Board.

If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally

scheduled. Although the Board will normally give him written notification of scheduled appearances, it is Dr. Starr'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. Starr shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

- c. **Quarterly Declarations:** Dr. Starr 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.
- d. **Controlled Substances Log:** Dr. Starr shall keep a log of all controlled substances purchased, prescribed, dispensed, or administered. Such log shall be submitted in the format approved by the Board thirty days prior to Dr. Starr's personal appearances before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Starr shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.

Dr. Starr shall not seek the Board's approval for a change in this provision for a minimum of one (1) year from the effective date of the Order.

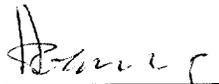
- e. **Professional Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Starr shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
- f. **Drug Enforcement Administration Exam:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Starr shall take and pass an examination to be administered by the Board or its designee related to the content of the DEA Physician's Manual, which manual may be obtained from the offices of the State Medical Board. In the event that Dr. Starr fails this examination, Dr. Starr must wait one (1) month between re-examinations.
- g. **Absence from Ohio:** In the event that Dr. Starr should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Starr 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.

- h. **Violation of Probation; Discretionary Sanction Imposed:** If Dr. Starr 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. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Starr's certificate will be fully restored.
3. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Starr shall provide a copy of this Order by certified mail to all employers or entities with which he is under contract to provide health care services or is receiving training, and the Chief of Staff at each hospital where Dr. Starr has privileges or appointments. Further, Dr. Starr shall provide a copy of this Order by certified mail to all employers or entities with which he applies or contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Starr applies for or obtains privileges or appointments. Further, Dr. Starr shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
4. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Starr 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. Starr 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. Starr shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon mailing of notification of approval by the Board.

(SEAL)



Anand G. Garg, M.D.
Secretary

JULY 11, 2001
Date

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**REPORT AND RECOMMENDATION
IN THE MATTER OF PHILIP A. STARR, D.O.**

The Matter of Philip A. Starr, D.O., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on May 2, 2001.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated March 14, 2001, the State Medical Board of Ohio [Board] notified Philip A. Starr, D.O., that it had proposed to take disciplinary action against or to refuse to register or reinstate his certificate to practice osteopathic medicine and surgery in Ohio. The Board based its proposed action on the following allegations:
1. On or about November 4, 1999, Dr. Starr submitted an application for a license to practice osteopathic medicine and surgery to the Board. The application is currently pending.
 2. a. Dr. Starr was on active duty in the United States Navy from 1995 through November 1998. His privileges to diagnose and treat patients were suspended on or about November 18, 1997. His privileges remained suspended until he resigned his commission in or about October 1998. The grounds for the suspension of Dr. Starr's privileges were allegations of drug abuse and allegations that he had prescribed, sold, administered, or provided Schedule II substances for use by himself or a family member without prior waiver of policy.
 - b. Dr. Starr received a Punitive Letter of Reprimand from the United States Marine Corps on or about January 6, 1998, based on Dr. Starr's having pled guilty to and been found guilty of the following:
 - One violation of Article 92 of the Uniform Code of Military Justice [UCMJ], to wit: failing to ensure that the Two-Person Integrity requirements were met for handling, accounting for, maintaining storage and security of, and destruction of narcotics;
 - Multiple violations of Article 107 of the UCMJ, to wit: signing false DOD Prescriptions for Schedule II narcotics with intent to deceive and knowing that the documents were false; and

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- One violation of Article 108 of the UCMJ, to wit: disposing of approximately one hundred and fifty Percocet tablets without proper authority.
- c. Dr. Starr admitted during an investigatory deposition that the acts underlying his guilty pleas and findings of guilt included his falsifying documents to reflect purported prescriptions for Percocet with the intent to deceive. Further, at the time Dr. Starr created the false prescriptions, he had anticipated that he would be questioned about missing narcotics.

The Board further alleged that Dr. Starr's conduct, as alleged in paragraphs 2.b. and 2.c., above, constitutes:

- “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,’ as that clause is used in Section 4731.22(B)(5), Ohio Revised Code”;
- “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,’ as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.31, Ohio Revised Code, Forgery”;
- “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,’ as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.42, Ohio Revised Code, Tampering with records”; and
- “failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code.”

In addition, the Board alleged that Dr. Starr's conduct, as alleged in paragraph 2.a., above, constitutes “[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice,’ as that clause is used in Section 4731.22(B)(24), Ohio Revised Code.”

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

- B. On March 21, 2001, Douglas E. Graff, Esq., submitted a written hearing request on behalf of Dr. Starr. (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: Douglas E. Graff, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State

Philip A. Starr, D.O., as if upon cross-examination

- B. Presented by the Respondent

- 1. George W. Cole Jr., M.D.
- 2. Philip A. Starr, D.O.
- 3. Timothy Craig McGlone, M.D.
- 4. Capt. David Van Symm

II. Exhibits Examined

- A. Presented by the State

- 1. State's Exhibits 1A-1J: Procedural exhibits.
- 2. State's Exhibits 2 through 4: Copies of documents pertaining to Dr. Starr maintained by the United States Marine Corps.

- B. Presented by the Respondent

- 1. Respondent's Exhibit A: Curriculum vitae of George W. Cole Jr., M.D.
- 2. Respondent's Exhibit B: Curriculum vitae of Dr. Starr.

PHILIP A. STARR
M.D.
COLUMBUS, OHIO

3. Respondent's Exhibits C, E, and F: Copies of documents pertaining to Dr. Starr maintained by the United States Marine Corps.
4. Respondent's Exhibit D: Copy of Dr. Starr's December 1997 urine drug screen results.
5. Respondent's Exhibit G: Copy of Dr. Starr's certificate of completion of a Family Practice Residency Program at the Ohio University College of Osteopathic Medicine and St. Joseph Health Center in August 2000.
6. Respondent's Exhibit H: Copy of a May 5, 2000, letter to Dr. Starr from the American Osteopathic Board of Family Physicians advising that Dr. Starr had successfully completed the written examination and that he would be board eligible for certification in family practice upon completion of his residency training program.
7. Respondent's Exhibits I and J: Letters written in support of Dr. Starr. (Note: the State did not have an opportunity to cross-examine the authors of these letters).

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. Philip A. Starr III, D.O., graduated from the Ohio University College of Osteopathic Medicine in Athens, Ohio, in 1995. After graduation, Dr. Starr was obligated to serve two years in the United States Navy. Therefore, from 1995 through 1996, Dr. Starr participated in a Family Practice Specialty Tract Internship at the Tripler Army Medical Center in Honolulu, Hawaii. Dr. Starr served two additional years, and was discharged from the Navy in November 1998. (Hearing Transcript [Tr.] at 32, 64; Respondent's Exhibit [Resp. Ex.] B; Resp. Ex. F).

After his discharge from the Navy, Dr. Starr participated in a family practice residency program through the Youngstown Osteopathic Hospital in Youngstown, Ohio. After completing six months of residency training, Dr. Starr was appointed chief resident. When the Youngstown Osteopathic Hospital closed in early 2000, the residency program moved to St. Joseph Health Center in Warren, Ohio. Dr. Starr completed that program in August 2000. (Tr. at 61, 99-101; Resp. Ex. G).

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Dr. Starr has passed the certifying examination offered by American Osteopathic Board of Family Physicians. The American Osteopathic Board of Family Physicians will meet in September 2001 and, at that time, will determine whether to certify Dr. Starr. (Tr. at 102-103; Resp. Ex. H).

Dr. Starr was licensed in Hawaii, but has let that license lapse. He stated that no actions have been taken against his Hawaii certificate. Dr. Starr is not licensed in any state at this time. (Tr. at 106). Dr. Starr resides in Warren, Ohio. He is not currently employed. Dr. Starr testified that he hopes to practice family medicine in Youngstown, Ohio. (Tr. at 31, 60-61).

2. At hearing, the parties stipulated that, on or about November 4, 1999, Dr. Starr submitted an application for a license to practice osteopathic medicine and surgery in Ohio. The application is currently pending. (Tr. at 144-145).
3. Regarding a series of events that took place in September and October 1997, Dr. Starr testified as follows:
 - In June 1997, Dr. Starr was a Navy lieutenant assigned to a Marine Corps battalion on Okinawa. Dr. Starr was serving as the medical officer for an infantry battalion, and was the physician for approximately 975 officers and enlisted personnel. During the month of September 1997, the battalion was sent on a five-week training exercise to Pohang, South Korea. The battalion went with the idea that they were preparing for war. Dr. Starr was the only American physician for approximately 300 miles. This was his first deployment. (Tr. at 33-35, 37-40, 65-68).
 - Prior to leaving for Korea, the battalion purchased controlled substance medications from the Okinawa base pharmacy. The controlled substances were to be used, if needed, during the deployment to Korea. Upon return to Korea, the controlled substances were to be destroyed. The controlled substances were maintained in a narcotics lockbox that contained two bottles of Percocet, 100 tablets each; one bottle of Tylenol #3, 100 tablets; and syringes containing injectable Valium, Demerol, and morphine. (Tr. at 34-35, 37-40).

When handling narcotics and other controlled substances, the battalion was supposed to follow a "Two-Person Integrity" policy. The policy required that two persons be responsible for the battalion's controlled substances: a physician and a narcotics custodian. The narcotics custodian acted as a pharmacist, and maintained control of the narcotics lockbox. To obtain a controlled substance from the narcotics lockbox, the physician wrote a prescription for the desired controlled substance. The physician presented the prescription to the narcotics custodian. The narcotics custodian unlocked the narcotics lockbox, and gave the controlled substance to the physician. Upon return to base, the unused drugs would be destroyed in the presence of a team

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consisting of the narcotics custodian, a representative from the battalion office, and a member of the medical team. (Tr. at 46-47, 69).

- When Dr. Starr's battalion deployed to Korea, Lieutenant Johnson, the motor pool transport officer, was assigned to be the battalion's narcotics custodian. Under the Two-Person Integrity policy, Dr. Starr and Lieutenant Johnson were responsible for the controlled substances. Accordingly, for the first one or two weeks of the battalion's deployment to Korea, Lieutenant Johnson maintained possession of the narcotics lockbox. (Tr. at 34-36, 68-69).

During that time, an incident occurred during which Dr. Starr needed to administer an injection of Valium to a corpsman who was suffering from back spasms. Dr. Starr could not find Lieutenant Johnson, who was elsewhere doing motor transport work. Dr. Starr could not get the medication the corpsman needed. When Dr. Starr later located Lieutenant Johnson and told Lieutenant Johnson of his frustration, Lieutenant Johnson explained that Dr. Starr could have gotten the medication from the narcotics lockbox himself. (Tr. at 71).

During the second week of the deployment, Lieutenant Johnson was sent back to Okinawa. The battalion was not assigned another narcotics custodian. For the duration of the deployment, Dr. Starr worked without a narcotics custodian. Therefore, Dr. Starr took and maintained possession of the narcotics lockbox. (Tr. at 34-36, 71-73).

- The deployment to Korea terminated in early October. At that time, Dr. Starr's executive officer was aware that Dr. Starr continued to have possession of the narcotics lockbox. Upon return to Okinawa, Dr. Starr placed the narcotics lockbox in a locked dresser drawer in his apartment. (Tr. at 38, 75-77).

The battalion returned to Okinawa on Thursday evening, and was given leave until Tuesday morning. Dr. Starr spent most of his leave time with his girlfriend and her family. (Tr. at 38, 75-77).

On Sunday evening, Dr. Starr went back to his apartment at 10:00 or 11:00 p.m. Dr. Starr decided to destroy the controlled substances in the narcotics lockbox. Dr. Starr stated that members of the battalion had previously joked about the time when they would dispose of the narcotics. Dr. Starr recalled joking that they would "stand around the toilet and salute them as [they] flush[ed] them down." With this in mind, Dr. Starr decided to dispose of the controlled substances himself. He thought that he would be helping the battalion by performing a task that needed to be done. Accordingly, with no other witnesses, Dr. Starr started pouring Percocet tablets into the toilet. Overall, Dr. Starr poured approximately one hundred fifty tablets of Percocet into a toilet and flushed it. (Tr. at 34-36, 38, 78-79).

After Dr. Starr disposed of the first portion of the narcotics, he realized that there should probably more “checks and balances” for the disposal of narcotics. Dr. Starr realized that he had made a serious mistake and “got scared.” It occurred to Dr. Starr that, by disposing of the controlled substances without a witness, no one could attest to the fact that he had not taken the medications himself. He also thought that if he had disposed of the morphine, Demerol, and Valium, he would be left with empty syringes, which he knew better than to discard in a garbage can. Dr. Starr stated that he left his apartment and searched the hall for someone to assist him, but he found no one. (Tr. at 38, 40, 44, 80-81, 110-111).

Dr. Starr explained that he had made the decision to destroy the controlled substances knowing that “everybody knew I had the narcotics and nobody really batted an eye about it so that I didn’t realize it was as wrong as it turned out to be.” (Tr. at 44).

- Dr. Starr stated that he had not been trained on the Two-Person Integrity policy for the handling of narcotics. He further stated that he had mistakenly assumed that those around him would advise him of the proper procedures and “keep [him] out of trouble.” Dr. Starr testified that no one had discussed the narcotic destruction procedure with him. Moreover, although that there was a section in the manual that addressed the procedure, Dr. Starr had not reviewed it. Nevertheless, Dr. Starr acknowledged that it had been his responsibility to know the proper procedure for the disposal of controlled substances. (Tr. at 43-44, 79-80, 109-110).
- Dr. Starr did not report his act to any superior officer. (Tr. at 37).
- On Monday morning, Dr. Starr spoke with his senior enlisted corpsman, Chief Forsberg. Chief Forsberg was responsible for the administrative processes of the Battalion Aid Station, which included keeping track of the battalion’s controlled substances. (Tr. at 41-42, 81).

Dr. Starr panicked. He did not tell Chief Forsberg what he had done. Instead, Dr. Starr asked Chief Forsberg, “in a roundabout way,” what the procedure was for disposal of controlled substances. Chief Forsberg responded “with a tirade” and stated, “either the narcotics better be in the box, or prescriptions covering the narcotics, or heads will roll in this battalion starting with the battalion executive officers.” (Tr. at 36-37, 42-43).

Dr. Starr had not yet indicated to Chief Forsberg that there were missing narcotics and that there were no prescriptions to cover missing narcotics. Dr. Starr acknowledged that Chief Forsberg had reacted rather strongly to such a simple question. Dr. Starr explained Chief Forsberg’s reaction by stating that Chief Forsberg had been hostile

toward the Marine Corps and may have thought Dr. Starr was questioning Chief Forsberg's conduct. (Tr. at 82-84).

Dr. Starr returned to his apartment and wrote six false prescriptions to account for the missing one hundred fifty tablets of Percocet. Dr. Starr wrote the prescriptions in the names of marines and sailors in the battalion. Dr. Starr wrote the prescriptions because he feared what Chief Forsberg would do to him and to other members of the battalion. The only person Dr. Starr intended to deceive when he wrote the prescriptions was Chief Forsberg. (Tr. at 45-47, 51, 85, 109).

- The following week, Lieutenant Johnson, the narcotics custodian, contacted Dr. Starr and took possession of narcotics lockbox from Dr. Starr. Dr. Starr did not submit the prescriptions when he relinquished the narcotics box to Lieutenant Johnson. Lieutenant Johnson took the lockbox to the battalion headquarters to dispose of the controlled substances. (Tr. at 45-46).

When Dr. Starr gave the narcotics lockbox to Lieutenant Johnson, Dr. Starr did not advise Lieutenant Johnson of the missing Percocet despite the fact that Dr. Starr knew that Lieutenant Johnson would discover the discrepancy. Dr. Starr explained that he had believed that if Lieutenant Johnson had had any questions, Lieutenant Johnson would come to him. (Tr. at 49-51).

- Lieutenant Johnson, Chief Forsberg, the battalion commander, the battalion executive officer, and some administrative officers were present when the lock box was opened. When they found that the Percocet was missing, they called Dr. Starr to the battalion headquarters. Dr. Starr stated that "accusations were flying." Dr. Starr asked Chief Forsberg to leave the room so that Dr. Starr could explain to the others what had happened. Dr. Starr had been afraid to tell the truth in front of Chief Forsberg because Chief Forsberg "was in an uproar" and was making accusations against Dr. Starr. Chief Forsberg refused to leave the room. Dr. Starr panicked and, instead of telling the truth, stated that he had prescriptions to cover the missing Percocet. (Tr. at 51-53, 86-87).

Dr. Starr went back to his apartment to retrieve the false prescriptions. He presented the prescriptions to the group and stated that they were authentic. Nevertheless, members of the battalion checked the prescriptions against the medical records of the personnel in whose name the prescriptions had been written and discovered that the prescriptions were false. (Tr. at 51-53).

- Dr. Starr had believed that the matter would be resolved within his battalion. Nevertheless, Chief Forsberg went outside his chain of command to report Dr. Starr's actions. (Tr. at 88-89).

In October 1997, Dr. Starr's military medical privileges were put in "abeyance" while the incident was investigated. Dr. Starr explained that an abeyance is a thirty-day, non-punitive suspension of privileges. Nevertheless, because the investigation was not completed within thirty days, his privileges were suspended in November 1997. (Tr. at 53-54).

During the investigation, Dr. Starr was asked to provide a urine specimen for a toxicology screening. Dr. Starr did so, and the results were negative. Moreover, Dr. Starr was sent for a psychiatric evaluation. (Tr. at 91-94; Resp. Ex. D).

4. On October 13, 1997, Major Richard C. Dowler issued a report to the Commanding Officer of the 4th Marine Division, the subject of which was the "Preliminary Inquiry into the Misuse or Mishandling of 2nd Battalion 3rd Marines' Bulk Controlled Substances." The report advised that a preliminary investigation had taken place regarding Dr. Starr's mishandling of controlled substances and writing false prescriptions. The report further advised that information discovered during the preliminary investigation suggested the following:

[The suspect had been] self-prescribing the narcotics Demerol and Percaset [sic]. It is apparent that the custodial/prescriber relationship for chain of custody of controlled substances was compromised. The suspect had sole possession of the Bulk Controlled Substances from approximately 8 Sep 97 to 9 Oct 97. Discrepancies with documentation and accountability of the narcotics Demerol and Percaset are numerous. The suspect admits to recently taking Percaset from a previous prescription received months earlier for a fractured elbow, and destroying approximately 150 tabs of Percaset from the 2/3 narcotics box upon return from deployment. (Note: These type [sic] of narcotics are suppose [sic] to be destroyed after deployment, however the proper procedures are not clear at this time.) The suspect admits to forging prescriptions to patients for the Percaset destroyed, and to making mistakes on amount of Demerol prescribed on at least one prescription. The suspect admits to receiving the drug Phenegrin [sic] (an anti-nausea non-narcotic given for a vomiting condition), not Demerol, while on deployment. The suspect admits to jokingly making his corpsman think they gave him Demerol when the Phenegrin was administered.

(Resp. Ex. C) (emphasis in original). Finally, the report recommended further investigation. (Resp. Ex. C).

5. On November 18, 1997, the Commanding General of the 3rd Marine Division issued a "Notice of Privilege Suspension and Advice of Rights" [Notice] to Dr. Starr. The Notice advised as follows:
 - a. On October 9, 1997, the command had received an allegation that Dr. Starr "[had] possibly committed an act of misconduct and/or [had] been impaired."

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- b. Based on the allegations, Dr. Starr's medical staff privileges had been "placed in abeyance pending further review."
- c. At the time of the Notice, the abeyance was terminated, and Dr. Starr's medical staff privileges were "placed in suspension pending completion of the investigation and Peer Review Panel Hearing."
- d. The Notice listed the grounds for suspension as "the abrogation of professional responsibility through:
 - "a. Prescribing, selling, administering, or providing Schedule II substances for use by the practitioner or a family member of the practitioner without prior wavier [sic] of policy.
 - "b. Drug abuse."

(State's Exhibit [St. Ex.] 2).

- 6. After further investigation, Dr. Starr was charged with violating the Uniform Code of Military Justice [UCMJ], Article 92, Article 107, and Article 108. On December 31, 1997, Dr. Starr appeared at a hearing before Brigadier General Humble and other military officers for nonjudicial punishment proceedings. At that time, Dr. Starr entered guilty pleas to a number of charges and not guilty pleas to others. Moreover, military officers who had worked with Dr. Starr provided very positive testimony on his behalf. (St. Ex. 3; Resp. Ex. E at 23-33, 39).

Among the allegations of which Dr. Starr was found to be guilty were the following:

- a. Between September 1, 1997, and October 9, 1997, Dr. Starr had been "derelict in the performance of [his] duties in that he willfully, negligently, or by culpable inefficiency:
 - "1) failed to ensure that Two-Person Integrity [TPI] requirements were met on the handling of narcotics;
 - "2) failed to properly maintain prescriptions, running inventory sheets, Medical Record entries, and Receipt of Custody documents;
 - "3) failed to maintain proper storage and security for narcotics; * * * [and]
 - "5) failed to follow proper procedures for the destruction of narcotics."

- b. Dr. Starr, "with intent to deceive," knowingly signed seven false prescriptions for Percocet written in the names of sailors or marines; and two false prescriptions for Demerol written in the names of sailors.
- c. Dr. Starr improperly disposed of one hundred fifty Percocet by flushing them down a toilet.

(St. Ex. 3).

7. Among the specifications of which Dr. Starr was found to be not guilty were the following:

- a. Dr. Starr "failed to follow proper medical procedures by prescribing medication for himself."
- b. Dr. Starr, "with intent to deceive," knowingly signed one false prescription for Valium written in the name of another individual; one false prescription for morphine written in the name of a marine; one false prescriptions for Percocet written in the name of a marine; and two false prescriptions for Demerol written in the names of marines.

(St. Ex. 3).

8. On January 6, 1998, the Commanding General, 3rd Marine Division, issued a "Punitive Letter of Reprimand" [Letter] to Dr. Starr. The Letter advised that Dr. Starr had pled guilty to and been found guilty of the following:

- a. One violation of Article 92 of the Uniform Code of Military Justice [UCMJ], to wit: failing to ensure that the Two-Person Integrity requirements were met for handling, accounting for, maintaining storage and security of, and destruction of narcotics;
- b. Multiple violations of Article 107 of the UCMJ, to wit: signing false DOD Prescriptions for Schedule II narcotics with intent to deceive and knowing that the documents were totally false; and
- c. One violation of Article 108 of the UCMJ, to wit: disposing of approximately one hundred fifty Percocet pills without proper authority.

The Letter also advised Dr. Starr as follows:

By your actions, you not only violated the Uniform Code of Justice, but you betrayed the trust placed in you as a Naval Officer. The highest degree of fidelity and professionalism is expected of all Naval Officers. Your conduct is

inexcusable for any officer. Your conduct not only detracts from your personal reputation, but diminished the standing and respect of every Naval Officer for all who became aware of your conduct.

(St. Ex. 4).

9. On January 30, 1998, the Commanding General, 3rd Marine Division, issued a report to the Commandant of the Marine Corps, the subject of which was the "Report of Nonjudicial Punishment in the Case of Lieutenant Philip A. Starr * * *." The report advised, among other things, that Dr. Starr had accepted the nonjudicial punishment and did not wish to exercise his right to trial by court-martial. The punishment imposed was a punitive letter of reprimand and a forfeiture of \$2,548.00 pay. (Resp. Ex. E at 2). Finally, the report recommended that Dr. Starr "be required to show cause for retention in the Navy at a Board of Inquiry." (Resp. Ex. E at 3).
10. On October 29, 1998, the Chief of Naval Personnel issued a report to the Secretary of the Navy. The report advised that Dr. Starr had been "recommended for a General discharge by the Show Cause Authority." The separation code was "JKQ - Misconduct-commission of a serious offense)." Dr. Starr was discharged from the Navy on November 5, 1998, with a general discharge under honorable conditions. (Resp. Ex. F). Dr. Starr's medical staff privileges remained suspended until his discharge from the Navy. (Tr. at 58).
11. George W. Cole Jr., M.D., testified at hearing via teleconference on behalf of Dr. Starr. Dr. Cole testified that he had attended medical school at Yale University in New Haven, Connecticut. Thereafter, he entered active Navy duty. Dr. Cole completed a general surgery internship at the National Naval Medical Center, Bethesda, Maryland, in 1995. Dr. Cole served in the Navy for the next five years, during which time he came to know Dr. Starr. Currently, Dr. Cole is participating in a general surgery residency at Baylor College of Medicine in Houston, Texas. (Tr. at 10-12; Resp. Ex. A).

Dr. Cole testified that he first met Dr. Starr during the summer of 1996, while stationed at Kanoeha Bay, Hawaii. Dr. Cole further testified that he had served on the Peer Review Panel that reviewed Dr. Starr's case. Dr. Cole testified that the Peer Review Panel had consisted of five members: three lieutenants, one lieutenant commander, and one captain. Dr. Cole stated that the goal of the Peer Review Panel had been to determine whether Dr. Starr was "clinically competent to perform his job as a physician." (Tr. at 13-14).

Dr. Cole testified that, after reviewing the incident, the Peer Review Panel found that Dr. Starr had been unable to properly account for the narcotics under his control and, to cover that inaccuracy, had falsified documents. The Peer Review Panel also found that, although Dr. Starr had been competent in his clinical duties and responsibilities, he had made "a gross error of misjudgment" in record keeping. In addition, the Peer Review

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Panel found that the suspension already served by Dr. Starr and the fines he had been required to pay had been sufficient punishment for his conduct. The Peer Review Panel recommended immediate reinstatement of Dr. Starr's military medical privileges. Nevertheless, the commanding general did not uphold the Peer Review Panel's recommendation. (Tr. at 15, 23-24, 26-27).

Dr. Cole testified that the Peer Review Panel also investigated allegations of Dr. Starr's drug use. The Peer Review Panel found that there had been no evidence of improper drug use by Dr. Starr. (Tr. at 16-17, 31). Dr. Cole also testified that the Peer Review Panel had investigated the possibility that Dr. Starr had been selling or giving away the drugs. Dr. Cole stated that no evidence had been found to support that allegation. (Tr. at 21-23).

12. Timothy Craig McGlone, M.D., testified at hearing on behalf of Dr. Starr. Dr. McGlone testified that he practices family medicine at Adena Medical Center in Chillicothe, Ohio. (Tr. at 119-120). Dr. McGlone stated that he met Dr. Starr in 1987, while attending college at Youngstown State University. Dr. McGlone further stated that he has remained close to Dr. Starr since that time. Dr. McGlone testified that he trusts Dr. Starr's clinical and personal judgment. (Tr. at 120-122).
13. Captain David Van Symm, Jr., testified at hearing on behalf of Dr. Starr. Capt. Symm testified that he is an acquisition contractor of equipment for the Marine Corps. He further testified that he had served active duty for eleven years as an infantry officer. (Tr. at 123-124).

Capt. Symm testified that he has known Dr. Starr since July 1996 when Capt. Symm took command of Dr. Starr's company. Capt. Symm explained that Dr. Starr, a Navy lieutenant, had been assigned to Capt. Symm's Marine Corps battalion because the Marine Corps does not recruit physicians. Therefore, the Navy provides the Marine Corps any needed medical support. (Tr. at 125-126).

Capt. Symm testified that he had been a part of the deployment to Korea in September 1997. Capt. Symm further stated that, after the battalion was deployed to Korea, more than 800 service people relied on Dr. Starr's medical judgment. Moreover, Capt. Symm stated that Dr. Starr was always accessible to them. (Tr. at 127-128).

Capt. Symm further testified that he was familiar with Chief Forsberg. Capt. Symm stated that Chief Forsberg had seemed "disgruntled" during the deployment to Korea. Capt. Symm stated that, when his corpsmen had medical needs, they usually chose to approach Dr. Starr, rather than Chief Forsberg, because they did not have a good working relationship or rapport with Chief Forsberg. (Tr. at 130-131).

Capt. Symm stated that he is aware of Dr. Starr's conduct regarding the disposing of Percocet and the writing of false prescriptions. Capt. Symm inferred that some of

Dr. Starr's problems may have resulted from the military command's failure to follow procedures properly. Moreover, Capt. Symm testified that, despite Dr. Starr's wrongdoing, Capt. Symm would trust Dr. Starr's judgment. Additionally, Capt. Symm stated that he would continue to trust Dr. Starr to care for corpsmen serving under Capt. Symm's command. (Tr. at 133-134, 138-140).

14. Dr. Starr submitted a letter of support from David R. Delliquadri, D.O., Past Regional Assistant Dean at the Ohio College of Osteopathic Medicine and Past Family Practice Residency Director at Youngstown Osteopathic Hospital. Dr. Delliquadri testified that he had been a mentor and colleague of Dr. Starr during the seven years of Dr. Starr's medical training. Dr. Delliquadri stated that, during Dr. Starr's residency training, Dr. Starr:

had an unblemished record. He displayed the highest moral standards and ethical conduct and excelled in his academic education as one of the most outstanding residents I have trained in the last 20 years. Dr. Starr received nothing but glowing recommendations throughout each one of his rotations throughout all medical disciplines, and he was a rising Starr in our medical training. * * *

I personally feel that Dr. Starr will be a welcome addition to the Youngstown medical community in that he has proven to be a caring, academically sound, ethical, and well trained physician. I finally note that Dr. Starr's integrity is beyond reproach. I would be proud to have Dr. Starr as a partner in my current medical practice without reservations.

(Resp. Exs. I).

15. Dr. Starr submitted an undated memorandum from Lieutenant Colonel John R. Bates to the Commanding General, Marine Corps Base Hawaii. In the memorandum, Lieutenant Colonel Bates stated as follows: "Because I know [Dr. Starr's] heart and have observed his medical competence, I feel that we are wasting a great talent every day he does not practice medicine." (Resp. Ex. J).
16. Dr. Starr testified at hearing that he had made serious mistakes, first, in not being familiar with the policy for disposal of controlled substances and, second, for lying about his actions. He further stated that he had "absolutely" deserved the punishment he received. (Tr. at 58). Dr. Starr testified that he has learned from his mistakes and declared that he will never make a similar mistake in the future. (Tr. at 105).

During a hearing before Brigadier General Humble and other officers, Dr. Starr made the following statement:

I freely admit that I made several mistakes in handling of the battalion narcotics, and I bear full responsibility. I made these mistakes out of ignorance with no malice intended. I don't feel that my lack of knowledge is an excuse for what I did, only an explanation.

My entire life has been in pursuit of a medical career. Other than my family, there's nothing more important to me. It is for this reason that, when threatened with the prospect of losing this, I panicked, and I did something that I quickly realized to be very foolish. I am truly sorry for this, and I've never done anything this stupid in my life nor will I ever again. I've relearned a few valuable lessons: that perfection is not an option and that living up to the truth may not be the easiest thing, but it is certainly the best thing.

(Resp. Ex. E at 27).

FINDINGS OF FACT

1. On or about November 4, 1999, Philip A. Starr, D.O., submitted an application for a license to practice osteopathic medicine and surgery to the Board. The application is currently pending.
2. a. Dr. Starr was on active duty in the United States Navy from 1995 through November 1998. His privileges to diagnose and treat patients were suspended on or about November 18, 1997. His privileges remained suspended until he resigned his commission in November 1998. The grounds for the suspension of Dr. Starr's privileges were allegations of drug abuse and allegations that he had prescribed, sold, administered, or provided Schedule II substances for use by himself or a family member without prior waiver of policy.

Following an investigation, however, a Peer Review Panel found that there was no evidence of improper drug use by Dr. Starr. Moreover, there was no evidence to support the allegation that Dr. Starr had been selling or giving away controlled substances. Finally, there was no evidence that Dr. Starr or a family member was using the controlled substances.

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department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as that clause is used in Section 4731.22(B)(24), Ohio Revised Code.

5. The evidence does not support a conclusion that Dr. Starr's conduct, as described in Findings of Fact 2.b. and 2.c., constitutes a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, Ohio Revised Code.

* * * * *

Four years ago, Dr. Starr utilized extremely poor judgment in his decisions to improperly dispose of controlled substances and then to falsify prescriptions to cover for his mistake. His conduct constituted serious violations of military code and criminal law.

Evidence presented at hearing, however, demonstrated a number of mitigating factors. First, there was no evidence that Dr. Starr was abusing drugs or using them for illicit purposes. Second, the events took place during Dr. Starr's first military deployment. Third, there was testimony that military procedures developed for maintaining proper control of controlled substances were not followed during the deployment to Korea. For example, the narcotics custodian was sent back to Okinawa and no other narcotics custodian was assigned to Dr. Starr battalion. Moreover, in a report to the Commanding Officer of the 4th Marine Division, Major Richard C. Dower acknowledged that the proper procedure for disposal of narcotics was not clear at the time Dr. Starr improperly disposed of the Percocet. Finally, although the reasoning does not excuse his inappropriate conduct, Dr. Starr testified that he had written the false prescriptions, in part, because of his concern for members of his battalion who may have suffered because of his mistakes.

Most significantly, however, Dr. Starr expressed sincere remorse and acknowledged the gravity of his misconduct. In addition, Dr. Starr has not denied responsibility for his actions. Finally, David R. Delliquadri, D.O., the director of Dr. Starr's recently completed residency program, believes Dr. Starr to be a person of good moral character, good professional judgment, excellent skills, and high professional ethics. The evidence supports a conclusion that Dr. Starr should be offered an opportunity to practice osteopathic medicine in this State.

PROPOSED ORDER

It is hereby ORDERED that:

1. **APPLICATION GRANTED; PROBATIONARY TERMS AND CONDITIONS:** The application of Philip A. Starr, D.O., for a certificate to practice osteopathic medicine and surgery in the State of Ohio is GRANTED, provided that he otherwise meets all statutory

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and regulatory requirements, and subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:

- a. **Obey Laws in Ohio:** Dr. Starr shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine in Ohio.
- b. **Appearances:** Dr. Starr shall appear in person for interviews before the full Board or its designated representative during 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 personal appearance must occur during the fourth month following. Subsequent personal appearances must occur every third month thereafter, upon Dr. Starr's request for termination of the probationary period, and/or as otherwise requested by the Board.

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

- s. **Quarterly Declarations:** Dr. Starr 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.
- d. **Refrain from Practice; Practice Plan; Monitoring Physician:** Upon reinstatement, Dr. Starr shall refrain from practicing osteopathic medicine and surgery until he submits to the Board and receives the Board's approval for a plan of practice in Ohio which, unless otherwise determined the Board, shall be limited to a supervised structured environment in which Dr. Starr's activities will be directly supervised and overseen by a monitoring physician approved in advance by the Board. At the time he submits the plan of practice, Dr. Starr shall also submit for the Board's prior approval the name of a monitoring physician. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Starr and who is engaged in the same or similar practice specialty.

Philip A. Starr

February 19, 2008

The monitoring physician shall monitor Dr. Starr and his medical practice, and shall review Dr. Starr's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board. Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Starr and his medical practice, and on the review of Dr. Starr's patient charts. Dr. Starr shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Starr's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Starr must immediately so notify the Board in writing. In addition, Dr. Starr shall make arrangements acceptable to the Board for another monitoring physician as soon as practicable. Dr. Starr shall further ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

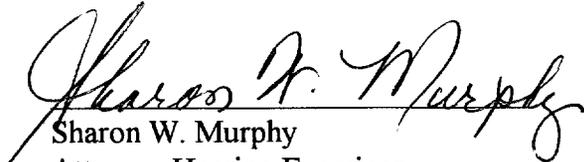
Dr. Starr shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

- f. **Professional Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Starr shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
 - g. **Absence from Ohio:** In the event that Dr. Starr should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Starr 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.
 - h. **Violation of Probation; Discretionary Sanction Imposed:** If Dr. Starr 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. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Starr's certificate will be fully restored.

3. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Starr shall provide a copy of this Order by certified mail to all employers or entities with which he is under contract to provide health care services or is receiving training, and the Chief of Staff at each hospital where Dr. Starr has privileges or appointments. Further, Dr. Starr shall provide a copy of this Order by certified mail to all employers or entities with which he applies or contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Starr applies for or obtains privileges or appointments. Further, Dr. Starr shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

4. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Starr 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. Starr 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. Starr shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon mailing of notification of approval by the Board.


Sharon W. Murphy
Attorney Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JULY 11, 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 matter of Gregory X. Boehm, M.D., and Philip A. Starr, D.O. 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.

.....

PHILIP A. STARR, D.O.

Dr. Bhati directed the Board's attention to the matter of Philip A. Starr, D.O. He advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

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

Mr. Graff noted that no objections were filed to the Report and Recommendation. He thanked Hearing Examiner Murphy for her kind and thoughtful opinion in this matter. Mr. Graff at this time introduced Dr. Starr to the Board.

Dr. Starr thanked the Board for the opportunity to speak, and he apologized to the Board for taking up its time. He admitted that he made mistakes, and added that he is sorry for them. He reacted very stupidly at the time of the incident, and he feels he's learned a valuable lesson from that. This is not something he would ever want to go through again, and knowing that, he knows that he will never find himself in a situation of doing something this stupid ever again.

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

Mr. Wasserburger stated that the Attorney General is supportive of the Report and Recommendation filed by the Hearing Examiner.

DR. SOMANI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF PHILIP A. STARR, D.O. DR. STEINBERGH SECONDED THE MOTION.

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

DR. STIENECKER MOVED TO DELETE PARAGRAPH 1.d. OF THE PROPOSED ORDER,

AND SUBSTITUTE IN ITS PLACE A REQUIREMENT THAT, FOR THE PROBATIONARY PERIOD, DR. STARR KEEP A DRUG LOG OF ALL PRESCRIBED CONTROLLED SUBSTANCES. DR. BUCHAN SECONDED THE MOTION.

Dr. Stienecker noted that paragraph 1.d. speaks about monitoring upon reinstatement. This isn't a reinstatement case, but an initial licensure case.

Dr. Steinbergh suggested that a D.E.A examination would be appropriate in this case, along with the professional ethics course. She asked whether Dr. Stienecker would agree to accept this as a friendly amendment.

Dr. Stienecker stated that he does not agree to that.

Dr. Steinbergh stated that there is a tremendous question of professional ethics in this case. Dr. Starr lied. This is a huge moral issue. It's very sad, because this is a young physician, that his judgment allowed him to do this. The real question in her mind is to say that he is sure that he would never do something stupid like this again is questionable. This was an issue of lying. Dr. Starr is a physician, he took an oath, and he essentially broke that oath by lying. To her, this is much more serious than simply the destruction of the medications under which circumstances you were uncertain how to handle those medications. Certainly his training should have allowed that he would have questioned that or have been concerned about that. Dr. Steinbergh stated that a course in professional ethics is appropriate, and, although she agrees with requiring a drug log, she also feels, perhaps, that a D.E.A. exam would be appropriate to be certain that Dr. Starr understands the handling of medications.

Dr. Egner stated that the Board must either totally believe that Dr. Starr did something incredibly stupid, or not believe any of it.

Dr Steinbergh stated that it's hard to believe.

Dr. Egner agreed that it is a hard story to believe. Dr. Starr graduated from medical school, went right into the Navy, had one year of training, then went on deployment. Dr. Egner stated that she believes Dr. Starr. She thinks that he was incredibly stupid. She thinks it came from his youth and his inexperience, with one year of training before he was placed in a situation that really no one in a traditional residency program is placed in after their first year. She does believe that he will never do this again. Dr. Egner stated that she would be amenable to nothing terribly more severe than the Proposed Order.

Dr. Stienecker thanked Dr. Egner for her remarks. Dr. Stienecker stated that Dr. Starr was under a set of circumstances where a mistake made in the military can be so damaging and have such severe consequences, that he thinks that the lying was a matter of desperation under the circumstances. When he realized that situation, the thing evolved. Dr. Stienecker stated that he fully believes everything Dr. Starr said, and added that he can commiserate with his situation.

Dr. Talmage stated that it's not an excuse, but when you're with a battalion, a combat team, there's an

esprit de corps that perhaps pushes you to do things to help your fellow soldiers that are not always in the best interest, particularly of your own ethics. You're confronted with two sets of ethics, one of which is "we're a team, we work together, we protect each other on the field and off." The other is an ethic to fill out paperwork totally honestly and properly. Dr. Talmage stated that Dr. Starr went too far one way, and that was to protect and help his comrades. Dr. Talmage stated that he believes Dr. Starr, and believes that he learned his lesson and will not do this again. There is probably less incentive to do it in a civilian setting anyway.

Dr. Somani stated that, listening to both sides, he's still concerned that, on the one hand the Board is accepting what Dr. Starr said he did at face value. Dr. Somani stated that he was surprised at how stupid one can be to simply destroy the medication. There is nothing in there to simply turn the lockbox back. There was nothing missing, so there was no problem with doing that. What was the incentive for Dr. Starr to open the lockbox up and pour all of these tablets down the toilet? That's when one begins to wonder whether this is really an act of stupidity. Dr. Somani stated that he finds that hard to believe. Dr. Somani continued that Dr. Starr's next mistake was writing forged prescriptions and then telling lies, knowing that all of these things would be discovered. How can one believe that a person who is intelligent, goes through medical school, and is well-trained in the Navy, can end up doing all of these sequential, stupid things? It's hard to believe. Dr. Somani stated that he believes that Dr. Starr will be getting away with all of that through the recommendation. He agreed with Dr. Steinbergh that Dr. Starr also needs to learn about the proper rules and ethics of controlled substances. That's not asking too much. Dr. Somani stated that Dr. Starr is getting off easy, even if he's required to take the D.E.A. course. He urged Dr. Stienecker to accept that as part of his amendment.

DR STIENECKER AT THIS TIME STATED THAT HE WILL ACCEPT REQUIRING THE D.E.A. COURSE AS PART OF HIS AMENDMENT. DR. BUCHAN, AS SECOND, AGREED. A vote was taken on Dr. Stienecker'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. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

The motion carried.

DR. STIENECKER MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF

PHILIP A. STARR, D.O. DR. SOMANI SECONDED THE MOTION.

Dr. Steinbergh stated that she thinks that Dr. Starr does need to understand that this Board has, in fact, denied licensure in this state to physicians who have lied.

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. Garg	- abstain

Mr. Graff asked how long Dr. Starr has to take the D.E.A. examination. He noted that he has six months in which to take the ethics course.

Dr. Stienecker stated that he would think that Dr. Starr could pass the D.E.A. within the six-month period.

Dr Steinbergh agreed that it could be done in the same time period.

Dr. Egner asked whether the Board ever considers in cases such as this that it would be beneficial to the doctor and to the medical community that part of the Order also be to give talks to residency programs or some community service. She believes that there is a place for that. She added that it's not that she's really into public humiliation, but if what Dr. Starr says is true, it would ring true to many young residents to hear someone say, "I got myself into the most incredible situation because I didn't think, I didn't think of the consequences." Dr. Egner stated that the Board talks about trying to inform other physicians, and she believes that the Board does have an avenue to do this.

Dr. Bhati stated that some medical schools right now have some ethics courses.

Dr. Steinbergh stated that she agreed with Dr. Egner. She doesn't want to hold up the vote, but this is an experience that, thankfully, not too many young physicians come up against. If this is the act of a young person who simply didn't know his way and made a wrong decision and it's never going to happen again, that will be wonderful. But why not go out and speak out to your younger colleagues who may in the future be exposed to something like this and the challenge of maintaining your personal integrity in decisions like this.

The vote continued:	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

The motion carried.



State Medical Board of Ohio

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March 14, 2001

Philip Andrew Starr, D.O.
1870 Chester Ave.
Warren, OH 44481

Dear Doctor Starr:

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 November 4, 1999, you submitted an application for a license to practice osteopathic medicine and surgery to the State Medical Board of Ohio (hereinafter "License Application"). The License Application is currently pending.
- (2)
 - (a) You were on active duty in the United States Navy from 1995 through November 1998. Your privileges to diagnose and treat patients were suspended on or about November 18, 1997. Your privileges remained suspended until you resigned your commission from the United States Navy in or about October 1998. The grounds for the suspension of your privileges were that you prescribed, sold, administered, or provided Schedule II substances for use by you or a family member without prior waiver of policy and allegations of drug abuse.
 - (b) You received a Punitive Letter of Reprimand from the United States Marine Corps on or about January 6, 1998, based on your having pled guilty to and been found guilty of the following:
 - i. one violation of Article 92 of the Uniform Code of Military Justice (hereinafter "UCMJ"), to wit: failing to ensure that the Two-Person Integrity requirements were met for handling, accounting for, maintaining storage and security of, and destruction of narcotics;
 - ii. multiple violations of Article 107 of the UCMJ, to wit: signing false DOD Prescriptions for Schedule II narcotics with intent to deceive and knowing that the documents were totally false; and
 - iii. one violation of Article 108 of the UCMJ, to wit: disposing of approximately one hundred and fifty (150) Percocet pills without proper authority.

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- (c) Further, you admitted during an investigatory deposition that the acts underlying your guilty pleas and findings of guilt included your falsifying documents to reflect purported prescriptions for Percocet when in fact you knew those documents were false at the time you created them and that you created those documents with the intent to deceive. Further, at the time you created those false documents, you anticipated that you would be questioned about missing narcotics.

Your acts, conduct, and/or omissions as alleged in paragraph (2)(b) and (2)(c) above, individually and/or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2)(b) and (2)(c) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.31, Ohio Revised Code, Forgery.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2)(b) and (2)(c) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.42, Ohio Revised Code, Tampering with records.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2)(a) above, individually and/or collectively, constitute “[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice,” as that clause is used in Section 4731.22(B)(24), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2)(b) and (2)(c) above, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Section 4731.08, 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, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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 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/dpk

Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 5178
RETURN RECEIPT REQUESTED

cc: Doug Graff, Esq.
604 East Rich Street
Suite 2100
Columbus, OH 43215-5468

CERTIFIED MAIL # 7000 0600 0024 5140 5185
RETURN RECEIPT REQUESTED