



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

August 16, 1996

Esther Elizabeth Reed, M.D.
46 Elm Street
Butler, Ohio 44822-0367

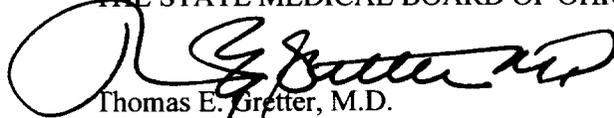
Dear Doctor Reed:

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 August 14, 1996, including Motions approving and confirming the Findings of Fact, and the Conclusions of Law 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, a copy of that Notice of Appeal with the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO


Thomas E. Gretter, M.D.
Secretary

TEG:em
Enclosures

CERTIFIED MAIL RECEIPT NO. P 152 983 635
RETURN RECEIPT REQUESTED

Mailed 8-27-96



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 14, 1996, including Motions approving and confirming the Findings of Fact, and the Conclusions of Law 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 Esther Elizabeth Reed, M.D., 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.

(SEAL)

A handwritten signature in black ink, appearing to read "T. E. Gretter, M.D.", written over a horizontal line.

Thomas E. Gretter, M.D.
Secretary

8/29/96

Date



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

ESTHER ELIZABETH REED, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 14th day of August, 1996.

Upon the Report and Recommendation of Sharon W. Murphy, Hearing Examiner, Medical Board, in this matter designated 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:

Esther Elizabeth Reed, M.D., is hereby REPRIMANDED.

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

Thomas E. Gretter, M.D.
Secretary

(SEAL)

8/19/96

Date

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**REPORT AND RECOMMENDATION
IN THE MATTER OF ESTHER ELIZABETH REED, M.D.**

The Matter of Esther Elizabeth Reed, M.D., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on June 27, 1996.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated April 17, 1996, the State Medical Board of Ohio [Board] notified Esther Elizabeth Reed, M.D., that it proposed to take disciplinary action against her certificate to practice medicine and surgery in Ohio based on one or more of the following allegations:

On or about June 4, 1992, Dr. Reed signed an application for renewal of her Ohio certificate to practice medicine and surgery. Dr. Reed certified that the information contained in the application was true and correct. The application asked the question, "At any time since signing your last application for renewal of your certificate have you . . . 4) Had any clinical privileges suspended, limited or revoked for reasons other than failure to maintain records or attend staff meetings?" Dr. Reed answered "No." Nevertheless, on or about March 18, 1992, the Peoples Hospital, Inc., in Mansfield, Ohio, had imposed a co-admitting requirement upon her clinical privileges based on quality of care issues.

The Board asserted that Dr. Reed's conduct constitutes "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board,' as that clause is used in Section 4731.22(A), Ohio Revised Code, [and] 'publishing a false, fraudulent, deceptive, or misleading statement,' as that clause is used in Section 4731.22(B)(5), Ohio Revised Code." In addition, the Board alleged that Dr. Reed's conduct constitutes "[t]he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice,' as that clause is used in Section 4731.22(B)(8), Ohio Revised Code."

In addition, the Board advised Dr. Reed of her right to request a hearing in this matter. (State's Exhibit 1).

- B. On May 11, 1996, Dr. Reed filed a written hearing request. (State's Exhibit 2).

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Patrick W. Beatty, Assistant Attorney General.
- B. On behalf of Respondent: Dr. Reed, having been apprised of her right to appear on her own behalf or to be represented by counsel, presented her contentions in writing.

EVIDENCE EXAMINED

I. Testimony Heard

No testimony was presented.

II. Exhibits Presented

In addition to State's Exhibits 1 and 2, noted above, the following exhibits were identified by the State and admitted into evidence:

1. State's Exhibit 3: Copy of a May 22, 1996, letter to Dr. Reed from the Board, notifying her that a hearing had been scheduled for May 29, 1996, but further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit 4: Copy of a May 22, 1996, letter to Dr. Reed from the Board, scheduling the hearing for June 28, 1996. (2 pp.)
3. State's Exhibit 5: Copy of a June 14, 1996, letter to the Board from Dr. Reed, setting forth her contentions.
4. State's Exhibit 6: Copy of Dr. Reed's application for renewal of her certificate to practice medicine and surgery in Ohio, signed June 4, 1992.
5. State's Exhibit 7: Certified copies of letters sent to Dr. Reed [and another physician] from Peoples Hospital on December 24, 1991, and March 18, 1992. (7 pp.)

SUMMARY OF THE EVIDENCE

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

1. By letter dated December 24, 1991, Joseph Damoff, President, People's Hospital, Inc., Mansfield, Ohio, advised Esther Elizabeth Reed, M.D., that the Medical Staff of Peoples Hospital had suspended her full admitting privileges. The decision was made "upon a belief that summary suspension [was] in the best interest of patient care in the Hospital," due to "quality of care issues." Nevertheless, the hospital did allow Dr. Reed to co-admit patients with another physician on the active medical staff of Peoples Hospital. The certified mail receipt was signed by Gladys Litt on December 27, 1991. (State's Exhibit [St. Ex.] 7 at 2-3).

Thereafter, by letter dated March 18, 1992, Mr. Damoff advised Dr. Reed that the Board of Trustees had accepted the recommendation of the Medical Staff Executive Committee that Dr. Reed be restricted to co-admitting privileges only. The letter further advised that because Dr. Reed had failed to request a hearing in the matter, the Board of Trustee's decision was final and the matter would be reported to the National Practitioner Data Bank. (St. Ex. 7 at 4).

2. In addition, by letter dated February 18, 1992, Dr. Reed was notified by the Peer Review Systems, Inc., [PRO], that the PRO had recommended to the Department of Health and Human Services [DHHS] that Dr. Reed be excluded from participation in Medicare and Medicaid programs. The PRO found that Dr. Reed had "violated [her] obligation to provide care of a quality that meets professionally recognized standards of health care" in the care of one patient. After a review of the PRO's claims, however, DHHS determined that the evidence did not support the PRO's findings. The case against Dr. Reed was dismissed with prejudice. (St. Ex. 2 at 4).
3. On June 4, 1992, Dr. Reed signed an application for renewal of her certificate to practice medicine and surgery in Ohio. On the application, Dr. Reed certified that the information contained therein was true and correct. Nevertheless, Dr. Reed responded negatively to the question:

At any time since signing your last application for renewal of your certificate have you . . .

- 4) Had any clinical privileges suspended, limited or revoked for reasons other than failure to maintain records or attend staff meetings? (St. Ex. 6).

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4. By letter dated May 11, 1996, Dr. Reed advised the Board that when she signed her application for renewal, she believed that she was correct in stating that she had not had any hospital privileges suspended or limited. Dr. Reed explained that she had not received the letter from Peoples Hospital dated December 27, 1991, because her housekeeper, Gladys Litt, had failed to give her the letter. Dr. Reed stated that Ms. Litt was suffering from Alzheimer's disease and later died in a nursing home. (St. Ex. 2 at 1). As counsel for the State noted at hearing, however, Gladys Litt continued to sign Dr. Reed's mail receipts until, at least, May 25, 1996. (St. Ex. 1; St. Ex. 4).

Moreover, on two occasions, Dr. Reed acknowledged that she received the March 18, 1992, letter advising that a co-admitting restriction had been placed on her privileges. In her May 1996 letter to the Board, Dr. Reed stated that when she received the March 1992 letter, she had been closing her office in preparation for retirement. She added that, because of her retirement, she was not "sufficiently interested to protest" the limitations. (St. Ex. 2 at 1). In addition, by letter dated June 14, 1996, Dr. Reed advised the Board that when she received the May 1992, letter from DHHS, she believed that the matter of her privileges had been resolved. Because she believed the matter had been resolved, Dr. Reed argued, she had honestly completed her renewal application in June 1992. (St. Ex. 5).

5. Dr. Reed stated that she closed her office and retired in April 1992 due to her own health problems. She stated that she is now seventy-nine years old and will never return to active practice. She hopes to retain her certificate to practice so that she can continue to attend monthly Richland County Medical Society meetings and other lectures. (St. Ex. 2 at 1). She also hopes to retain her license in order to prescribe her own medications "without bothering a colleague." (St. Ex. 5).

Finally, Dr. Reed described her retirement from practice. She stated that the village in which she lives celebrated "Dr. Reed Day" with parades, politicians' speeches, and school bands. She further stated that a park has been dedicated to her and her father. (St. Ex. 5).

FINDINGS OF FACT

1. By letter dated March 18, 1992, the Peoples Hospital, Inc., in Mansfield, Ohio, imposed a co-admitting requirement upon Dr. Elizabeth Reed's clinical privileges based on quality of care issues.
2. On June 4, 1992, Dr. Reed signed an application for renewal of her Ohio certificate to practice medicine and surgery. On the application, she certified that

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the information contained therein was true and correct. The application asked the question, "At any time since signing your last application for renewal of your certificate have you . . . 4) Had any clinical privileges suspended, limited or revoked for reasons other than failure to maintain records or attend staff meetings?" Dr. Reed answered "No."

3. Dr. Reed was aware that her admitting privileges at Peoples Hospital had been limited when she signed the renewal application on June 4, 1992.

CONCLUSIONS

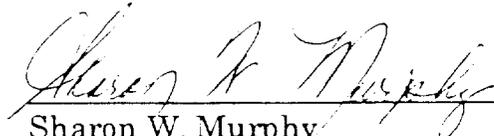
1. Dr. Reed's conduct, as described in Findings of Fact 1 and 2, constitutes "misrepresentation or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.
2. In addition, Dr. Reed's conduct, as set forth in Findings of Fact 1 and 2, constitutes "publishing a false, deceptive, [and] misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.
3. Finally, the evidence presented is insufficient to conclude that Dr. Reed's conduct constitutes "[t]he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Esther Elizabeth Reed, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of sixty (60) days.

This Order shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board of Ohio.


Sharon W. Murphy
Attorney Hearing Examiner



EXCERPT FROM THE DRAFT MINUTES OF AUGUST 14, 1996

REPORTS AND RECOMMENDATIONS

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

Dr. Stienecker 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: Robert L. Abdalla, M.T.; Matthew A. Polito, D.P.M.; Barbara A. Reed, M.D.; Esther Elizabeth Reed, M.D.; Joseph E. Rich, M.D.; and Anthony D. Zucco, D.O.

A roll call was taken:

ROLL CALL:	Mr. Albert	- nay
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Stienecker	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Stienecker	- aye

In accordance with the provision in Section 4731.22(C)(1), 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 this matter.

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

.....
REPORT AND RECOMMENDATION IN THE MATTER OF ESTHER ELIZABETH REED, M.D.

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

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ESTHER ELIZABETH REED, M.D. DR. GARG SECONDED THE MOTION.

Dr. Stienecker advised that Dr. Reed wishes to address the Board; however, she did not file a request to address the Board in a timely manner.

DR. BHATI MOVED TO ALLOW DR. REED TO ADDRESS THE BOARD. DR. GARG SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Reed indicated that she had no objection to the absence of a court reporter, and she understands that the Board's minutes are the official record of the Board.

Dr. Reed stated that her problem was the same as her sister's, the last case the Board decided. She retired right after that time, and so she didn't try to do anything about getting any changes at the hospital. She thought that the letter from Washington took care of the whole thing. She did not get that initial letter from the hospital at all. Her cleaning woman picks up her mail every day--they do not have home delivery in the village. The cleaning woman signed for it, and it apparently arrived two days after Christmas. Dr. Reed indicated that she believes it might have been thrown out with Christmas wrappings. She has several nieces who visited and lots of paper was thrown out. When she later found that she should have appealed the hospital board's decision, it was too late. Dr. Reed concluded by stating that, although she is retired, she would like to keep her license.

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

Mr. Beatty stated that this is a fairly clear case. Dr. Reed acknowledged in State's exhibit #2 that she was aware at the time she filled out her renewal application that her hospital privileges were limited. The correspondence from the Inspector General's office had nothing to do with the hospital privilege limitations. The Inspector General letter stated that she shouldn't be excluded from seeing Medicare patients. Mr. Beatty submitted the case for the Board's consideration.

DR. AGRESTA MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF ESTHER ELIZABETH REED, M.D., BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that Esther Elizabeth Reed, M.D., be and is hereby REPRIMANDED.

DR. STEINBERGH SECONDED THE MOTION.

Dr. Agresta stated that he is unsure what would be gained by taking Dr. Reed out of practice since she is no longer in practice and does not plan to return to practice.

A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

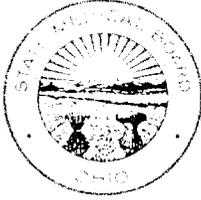
Dr. Reed indicated that she filled out the current renewal application the same way she filled out the one in question. She asked what she should do.

Dr. Stienecker stated that that can be taken care of, and that staff would assist her.

DR. GARG MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF ESTHER ELIZABETH REED, M.D. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.



STATE MEDICAL BOARD OF OHIO

17 South High Street, 17th Floor • Columbus, Ohio 43260-0315 • (614)466-3934

April 17, 1996

Esther Elizabeth Reed, M.D.
46 Elm Street
Butler, OH 44822-0367

Dear Doctor Reed:

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

- 1) On or about June 4, 1992, you signed the application for renewal of your Ohio certificate to practice medicine and surgery, certifying that the information provided on the application was true and correct in every respect. In response to the question, "At any time since signing your last application for renewal of your certificate have you . . . 4) Had any clinical privileges suspended, limited or revoked for reasons other than failure to maintain records or attend staff meetings?" you responded, "No."

In fact, on or about March 18, 1992, Peoples Hospital, Inc., in Mansfield, Ohio, imposed a co-admitting requirement upon your clinical privileges based on quality of care issues.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," 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 (1) above, individually and/or collectively, constitute "(t)he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

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April 17, 1996

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Thomas E. Gretter, M.D.
Secretary

TEG/bjm
Enclosures

CERTIFIED MAIL # P 152 983 364
RETURN RECEIPT REQUESTED

rev.2/15/95