

STATE OF OHIO  
THE STATE MEDICAL BOARD  
77 South High Street  
17th Floor  
Columbus, Ohio 43266-0315

(614)466-3934

April 13, 1990

William C. Downing, M.D.  
182 Mentor Avenue  
Painesville, Ohio 44077

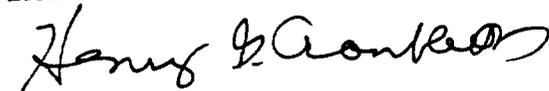
Dear Doctor Downing:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on April 11, 1990, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

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

THE STATE MEDICAL BOARD OF OHIO



Henry G. Cramblett, M.D.  
Secretary

HGC:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 746 514 723  
RETURN RECEIPT REQUESTED

Mailed

April 16, 1990

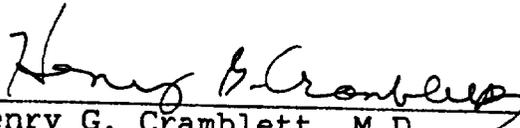
STATE OF OHIO  
STATE MEDICAL BOARD

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 Wanita J. Sage, Attorney Hearing Examiner, State Medical Board; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on April 11, 1990, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of William C. Downing, 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)

  
\_\_\_\_\_  
Henry G. Cramblett, M.D.  
Secretary

4/13/90

\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

★

★

WILLIAM C. DOWNING, M.D.

★

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 11th day of April, 1990.

Upon the Report and Recommendation of Wanita J. Sage, Attorney 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 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 for the above date.

It is hereby ORDERED:

1. That the certificate of William C. Downing, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than thirty (30) days.
2. The Board shall not consider reinstatement of Dr. Downing's certificate to practice unless and until all the following minimum requirements are met:
  - a. Dr. Downing shall submit an application for reinstatement accompanied by all appropriate fees.
  - b. On or before December 31, 1990, or as otherwise directed by the Board, Dr. Downing shall provide documentation acceptable to the Board of satisfactory completion of 57.5 credit hours of Category I C.M.E., in addition to the 22.5 hours (including 8.5 hours earned in September and November, 1989) for which he has already provided satisfactory documentation, during the period from January 1, 1987, to December 31, 1990.

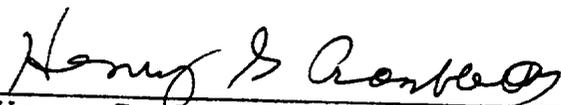
William C. Downing, M.D.

In addition, Dr. Downing shall submit a log of at least 120 hours of Category II Continuing Medical Education completed by him during the period from January 1, 1987, to December 31, 1990. It shall be Dr. Downing's responsibility to work with appropriate Board staff to ascertain what is satisfactory documentation and to obtain the same.

- c. Dr. Downing shall supply documentation acceptable to the Board of satisfactory completion of 100 hours of approved Continuing Medical Education, at least 40 hours of which shall be in Category I, for each complete biennium, if any, during which his certificate remains suspended after the 1989-1990 biennium.
  - d. In the event that Dr. Downing has not been engaged in the active practice of medicine or surgery for a period of more than two (2) years prior to his application for reinstatement, Dr. Downing shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess his clinical competency.
3. Subsequent to the reinstatement of his certificate, Dr. Downing shall remain on probation for three (3) additional full biennial registration period. During this probationary period, Dr. Downing shall submit documentation acceptable to the Board of satisfactory completion of the requisite hours of Continuing Medical Education.
  4. Upon successful completion of probation, Dr. Downing's certificate will be fully restored.

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

(SEAL)

  
Henry G. Cramblett, M.D.  
Secretary

4/13/90  
Date

**REPORT AND RECOMMENDATION  
IN THE MATTER OF WILLIAM C. DOWNING, M.D.**

The Matter of William C. Downing, M.D., came on for hearing before me, Wanita J. Sage, Esq., Hearing Examiner for the State Medical Board of Ohio, on February 8, 1990.

**INTRODUCTION AND SUMMARY OF EVIDENCE**

**I. Basis for Hearing**

A. By letter of December 6, 1989 (State's Exhibit #1), the State Medical Board notified William C. Downing, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board alleged that, although Dr. Downing had certified on his renewal application for the current registration period that he had completed the requisite hours of Continuing Medical Education (C.M.E.) for the 1987-1988 biennium, as required by Section 4731.281, Ohio Revised Code, he had failed to provide documentation of Category I C.M.E. credits as requested by a February 14, 1989, letter from the State Medical Board. Dr. Downing had responded to the Board's letter by submitting a log listing 40 hours of Category I credits, but had provided no documentation of those credits. In fact, the seminars he listed provided only 8 hours of Category I credit in 1987, and 6 hours in 1988. Although Dr. Downing had again been requested to document his Category I C.M.E., he had submitted no such documentation with his written response. The Board alleged that Dr. Downing's failure to respond as requested established that he had not completed the requisite hours of C.M.E. and/or that he had failed to keep detailed records of C.M.E. taken. Consequently, Dr. Downing's acts and omissions were alleged to constitute:

1. "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;
2. "Publishing a false, fraudulent, deceptive, or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code; and/or
3. "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this Chapter or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(20), Ohio Revised Code (Section 4731.22(B)(16) prior to March 17, 1987), to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.

Dr. Downing was advised of his right to request a hearing in this Matter.

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- B. By letter received by the State Medical Board on December 20, 1989 (State's Exhibit #3), Dr. Downing requested a hearing.

II. Appearances

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by John C. Dowling, Assistant Attorney General
- B. Dr. Downing, having been duly advised of his right to representation, appeared on his own behalf without counsel.

III. Testimony Heard

- A. Presented by the State
1. Debra L. Jones, Chief of C.M.E., Records and Renewal, State Medical Board
  2. William C. Downing, M.D., as on cross-examination
- B. Dr. Downing testified on his own behalf and was provided the opportunity to cross-examine the State's witness.

IV. Exhibits Examined

In addition to those noted above, the following exhibits were identified and admitted into evidence in this Matter:

- A. Presented by the State
1. State's Exhibit #2: Certified mail receipt and return card showing service of State's Exhibit #1 on December 11, 1989.
  2. State's Exhibit #4: December 22, 1989, letter to Dr. Downing from the State Medical Board advising that a hearing initially set for January 3, 1990, was postponed pursuant to Section 119.09, Ohio Revised Code.
  3. State's Exhibit #5: January 5, 1990, letter to Dr. Downing from the State Medical Board scheduling the hearing for February 8, 1990.
  4. State's Exhibit #6: Dr. Downing's renewal application for the 1989-1990 biennial registration period, showing his certification of completion of C.M.E. credits for the last biennium.

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5. State's Exhibit #7: February 14, 1989, letter to Dr. Downing from the State Medical Board notifying him that it would be necessary for him to complete a log of his Continuing Medical Education and to provide the Board with documentation that he had actually attended 40 hours of Category I credits.
6. State's Exhibit #8: Copy of C.M.E. log submitted by Dr. Downing and received by the State Medical Board on March 17, 1989, with notations added by State Medical Board staff (see Tr. at 12-13).
7. State's Exhibit #9: March 30, 1989, letter to Dr. Downing from the State Medical Board acknowledging receipt of his C.M.E. log, advising him of his failure to attach documentation for the 40 credit hours of Category I C.M.E., and requesting his submission of documentation as soon as possible.
8. State's Exhibit #10: April 20, 1989, letter to the State Medical Board from Dr. Downing explaining his current activities as County Coroner and indicating that available C.M.E. activities were not germane to his activities and could interfere with his job.

B. Presented by the Respondent

1. Respondent's Exhibit A: Certification from the Lake County Medical Society of Dr. Downing's attendance at a November 1, 1989, symposium entitled "Looking Toward 1990: Issues of Importance" for 4 Category I credit hours.
2. Respondent's Exhibit B: Certification from the Cleveland Clinic Foundation of Dr. Downing's attendance at a September 20, 1989, program entitled "Medicine in the 90's" for 4.5 Category I credit hours.

FINDINGS OF FACT

1. In applying for renewal of his Ohio license for the 1989-1990 biennial registration period, William C. Downing, M.D., certified under penalty of the loss of his right to practice medicine and surgery in the State of Ohio, that he had completed the requisite hours of Continuing Medical Education (C.M.E.) during the last biennium.

This fact is established by State's Exhibit #6.

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2. Pursuant to a C.M.E. audit, the State Medical Board notified Dr. Downing by letter of February 14, 1989, that it would be necessary for him to complete a log of his C.M.E. for the 1987-1988 biennium, and to provide acceptable documentation that he had actually attended 40 hours of Category I credits. On March 17, 1989, the State Medical Board received from Dr. Downing a log indicating that he had completed 40 hours of Category I C.M.E. for the 1987-1988 biennium by attending Ohio State Coroners Association seminars. However, Dr. Downing failed to submit documentation of those credits.

These facts are established by the testimony of Debra Jones (Tr. at 9-11) and by State's Exhibits #7 and #8.

3. By letter of March 30, 1989, the State Medical Board notified Dr. Downing that it had received his log form, but that it would be necessary for him to provide documentation of the 40 credit hours of Category I C.M.E. Dr. Downing responded by telephone call on April 6 and by letter dated April 20, 1989, indicating that it was difficult for him to find C.M.E. activities related to his position as Lake County Coroner. At no time did he submit documentation verifying any of the 40 hours of Category I C.M.E. credit he had claimed.

These facts are established by the testimony of Debra Jones (Tr. at 11-14) and by State's Exhibits #9 and #10.

4. On June 5, 1989, the State Medical Board contacted the Ohio State Coroners Association by telephone. That Association verified that Dr. Downing had attended seminars in 1987 and 1988; however, he had received only 8 hours of Category I credit in 1987 and 6 hours of Category I credit in 1988, for a total of 14 hours.

These facts are established by the testimony of Debra Jones (Tr. 12-13) and by State's Exhibit #8.

5. At hearing, Dr. Downing admitted that he had failed to complete the requisite hours of C.M.E. for the 1987-1988 biennial registration period. He claimed that he had never received any documentation from the Ohio State Coroners Association with regard to C.M.E. credits, but had assumed that the seminars he had attended would provide sufficient Category I credits. He also indicated that he had mistakenly believed his C.M.E. requirements to have changed upon his retirement from private practice; as full-time Coroner for Lake County, he no longer dealt with "living patients." Dr. Downing was unable to recall whether or not he had received a C.M.E. booklet from the State Medical Board when he renewed his medical license after his retirement from private practice.

These facts are established by the testimony of Dr. Downing (Tr. at 15-20) and by State's Exhibit #10.

6. Dr. Downing has taken steps toward making up his C.M.E. deficiency of 26 Category I credit hours for the 1987-1988 biennial registration period. In September, 1989, he earned 4.5 hours of Category I credit by attending a program sponsored by the Cleveland Clinic Foundation. In November, 1989, he earned 4 hours of Category I credit by attending a program sponsored by the Lake County Medical Society. He plans to attend additional programs in the near future.

These facts are established by the testimony of Dr. Downing (Tr. at 15-20) and by Respondent's Exhibits A and B.

#### CONCLUSIONS

Section 4731.281, Ohio Revised Code, and Rule 4731-10-03, Ohio Administrative Code, require a practitioner to meet and to certify his completion of the requisite hours of C.M.E. as a condition for license renewal. Section 4731.281, Ohio Revised Code, and Rule 4731-10-08(A)(1), Ohio Administrative Code, authorize the Board to conduct random audits to verify practitioners' completion of C.M.E. requirements, and require licensees whose applications are selected for audit to submit "additional documentation of compliance with C.M.E. requirements as the Board may require." Rule 4731-10-08(A)(2), Ohio Administrative Code, requires applicants for licensure renewal to keep detailed records of C.M.E. hours taken.

Contrary to his certification on his renewal card, Dr. Downing admittedly failed to complete and to document the requisite hours of Category I C.M.E. for the 1987-1988 biennial registration period, as required by Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code. In fact, Dr. Downing had a deficiency of 26 hours of Category I C.M.E. for that biennium. He claimed that his misrepresentation about completion of C.M.E. had occurred because of his misunderstanding about both C.M.E. requirements and the number of hours he had earned. However, as a licensed physician, Dr. Downing is responsible for knowing and complying with the requirements of laws governing his profession. Whether or not intentional, his certification of completion on his renewal card was a misrepresentation of fact, for which he must bear responsibility.

The acts, conduct, and/or omissions of Dr. Downing, as set forth in Findings of Fact #1 through #5, above, constitute:

1. "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;
2. "Publishing a false, fraudulent, deceptive, or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code; and

3. "Violating or attempting to violate, directly or indirectly,...any provisions of this chapter or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, (Section 4731.22(B)(16) prior to March 17, 1987), to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of William C. Downing, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than thirty (30) days.
2. The Board shall not consider reinstatement of Dr. Downing's certificate to practice unless and until all the following minimum requirements are met:
  - a. Dr. Downing shall submit an application for reinstatement accompanied by all appropriate fees.
  - b. On or before December 31, 1990, or as otherwise directed by the Board, Dr. Downing shall provide documentation acceptable to the Board of satisfactory completion of 57.5 credit hours of Category I C.M.E., in addition to the 22.5 hours (including 8.5 hours earned in September and November, 1989) for which he has already provided satisfactory documentation, during the period from January 1, 1987, to December 31, 1990. In addition, Dr. Downing shall submit a log of at least 120 hours of Category II Continuing Medical Education completed by him during the period from January 1, 1987, to December 31, 1990. It shall be Dr. Downing's responsibility to work with appropriate Board staff to ascertain what is satisfactory documentation and to obtain the same.
  - c. Dr. Downing shall supply documentation acceptable to the Board of satisfactory completion of 100 hours of approved Continuing Medical Education, at least 40 hours of which shall be in Category I, for each complete biennium, if any, during which his certificate remains suspended after the 1989-1990 biennium.
  - d. In the event that Dr. Downing has not been engaged in the active practice of medicine or surgery for a period of more than two (2) years prior to his application for reinstatement, Dr. Downing shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess his clinical competency.

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OF OHIO

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3. Subsequent to the reinstatement of his certificate, Dr. Downing shall remain on probation for three (3) additional full biennial registration periods. During this probationary period, Dr. Downing shall submit documentation acceptable to the Board of satisfactory completion of the requisite hours of Continuing Medical Education.
4. Upon successful completion of probation, Dr. Downing's certificate will be fully restored.

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

*Wanita J. Sage*  
\_\_\_\_\_  
Wanita J. Sage  
Attorney Hearing Examiner

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OF OHIO

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EXCERPT FROM THE MINUTES OF APRIL 11, 1990

REPORTS AND RECOMMENDATIONS

Dr. Kaplansky advised that the Findings and Orders appearing on this day's agenda are those in the matters of Pablo Pons, M.D.; Eugene J. Coles, M.D.; Bruce Dawson, M.D.; Clarence B. Alston, M.D.; and William C. Downing, M.D.

Dr. Kaplansky asked if 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 Pablo Pons, M.D.; Eugene J. Coles, M.D.; Bruce Dawson, M.D.; Clarence B. Alston, M.D.; and William C. Downing, M.D.

ROLL CALL:	Dr. Cramblett	- aye
	Dr. O'Day	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Dr. Ross	- aye
	Mr. Albert	- aye
	Dr. Daniels	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye
	Dr. Kaplansky	- aye

.....

Mr. Dowling and all Enforcement Coordinators left the meeting at this time.

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REPORT AND RECOMMENDATION IN THE MATTER OF WILLIAM C. DOWNING, M.D.

Dr. Kaplansky 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. O'DAY MOVED TO APPROVE AND CONFIRM MS. SAGE'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF WILLIAM C. DOWNING, M.D. DR. GRETTER SECONDED THE MOTION.

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A roll call vote was taken on Dr. O'Day's motion:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. O'Day	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye

EXCERPT FROM THE MINUTES OF APRIL 11, 1990  
IN THE MATTER OF WILLIAM C. DOWNING, M.D.  
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Mr. Jost	- aye
Dr. Ross	- aye
Mr. Albert	- aye
Dr. Daniels	- aye
Ms. Rolfes	- aye

The motion carried.

STATE OF OHIO  
THE STATE MEDICAL BOARD  
77 SOUTH HIGH STREET  
17TH FLOOR  
COLUMBUS OH 43215

December 6, 1989

William C. Downing, M.D.  
150 Mentor Avenue  
Painesville, OH 44077

Dear Doctor Downing:

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) In applying for registration of your certificate to practice medicine or surgery for the current registration period, you certified that you had completed during the last registration period (January 1, 1987 through December 31, 1988) the requisite hours of Continuing Medical Education (CME), as required by Section 4731.281, Ohio Revised Code.
- (2) By letter dated February 14, 1989, and sent by certified mail you were notified by the State Medical Board that you are required to complete a log listing your CME for the 1987-1988 registration period, and to provide documentation that you had actually completed at least 40 hours of Category I CME credits. You responded by submitting a log, received in the Board offices on or about March 17, 1989, listing 40 hours of Category I credits. You failed to provide documentation of those credits. In fact, the seminars you listed provided you only eight (8) hours in 1987 and six (6) hours in 1988. By letter dated March 30, 1989, you were again advised to submit documentation of 40 hours of Category I CME. Your response, by letter dated April 20, 1989, neither alleged or documented any additional hours of approved credits.

- (3) Your response, or lack thereof, to the notices as detailed in the above Paragraph (2) establish that you did not complete the requisite hours of Continuing Medical Education, and/or that you failed to keep detailed records of CME taken.

The acts and/or omissions as alleged in the above paragraph (1), 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, such acts and/or omissions as alleged in the above paragraph (1), and your listing of 40 hours of Category I credits as alleged in the above paragraph (2), 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, such acts as alleged in the above paragraphs (1) through (3), individually and/or collectively, constitute "(v)iolating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, (Section 4731.22(B)(16), Ohio Revised Code, prior to March 17, 1987) to wit: Section 4731.281, Ohio Revised Code, and Rule 4731-10-03 and Rule 4731-10-08, Ohio Administrative 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, that 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.

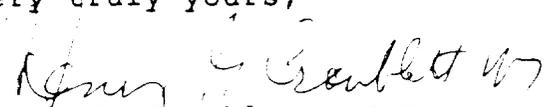
You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence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

William C. Downing, M.D.  
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Copies of the applicable sections are enclosed for your information.

Very truly yours,

  
Henry G. Gramblett, M.D.  
Secretary

HGC:jmb

Enclosures:

CERTIFIED MAIL #P 746 510 110  
RETURN RECEIPT REQUESTED