

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio ~~43215~~ 43266-0315

October 10, 1986

Margaret Kessler, M.D.
7685 DeMar
Cincinnati, Ohio 45243

Dear Doctor Kessler:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Henry G. Cramblett, M.D., Hearing Member, State Medical Board; a certified copy of the Motions by the Medical Board, meeting in regular session on October 9, 1986, approving and confirming said Report and Recommendation as the Findings and Order of the State Medical Board.

You are hereby notified that you may appeal this Order to the Court of Common Pleas of the County in which your place of business is located, or the county in which you reside. If you are not a resident and have no place of business in this state, you may appeal to the Court of Common Pleas of Franklin County, Ohio.

To appeal as stated above, you must file a notice of appeal with the Board setting forth the Order appealed from, and the grounds of the appeal. You must also file a copy of such notice with the Court. Such notice of appeal shall be filed within fifteen (15) days after the date of mailing of this letter and in accordance with Section 119.12, Revised Code.

THE STATE MEDICAL BOARD OF OHIO


Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL NO. P 569 361 885
RETURN RECEIPT REQUESTED

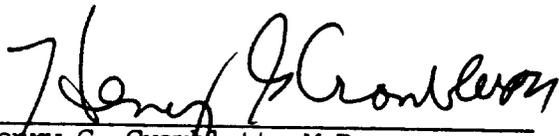
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CERTIFICATION

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 Henry G. Cramblett, M.D., Hearing Member, State Medical Board of Ohio; and the attached copy of the Motions by the State Medical Board, meeting in regular session on October 9, 1986, approving and confirming said Report and Recommendation as the Findings and Order of the State Medical Board, constitutes a true and complete copy of the Findings and Order of the State Medical Board in the matter of Margaret Kessler, 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 and in its behalf.

(SEAL)



Henry G. Cramblett, M.D.
Secretary

October 10, 1986

Date

STATE OF OHIO
THE STATE MEDICAL BOARD

REPORT AND RECOMMENDATION
IN THE MATTER OF MARGARET F. KESSLER, M.D.

The matter of Margaret F. Kessler, M.D., came before me, Henry G. Cramblett, M.D., Member of the State Medical Board of Ohio, on March 24, 1986.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Mode of Conduct

- A. During the course of these hearings, rules of evidence were relaxed and both the State and the Respondent were given great latitude in demonstrating the relevancy and materiality of testimony and exhibits offered, as well as in attempting to discredit testimony and evidence presented by the opposing party.

II. Basis for Hearing

- A. By letter of September 28, 1982 (State's Exhibit #1), the State Medical Board notified Margaret F. Kessler, M.D., that it proposed to deny her request for reinstatement of her license to practice medicine and surgery in the State of Ohio for one or more of the following reasons:
1. Pursuant to Section 4731.22(B)(10), Ohio Revised Code, conviction of a misdemeanor committed in the course of practice.
 2. Pursuant to Section 4731.22(B)(16), Ohio Revised Code, violation of Section 4731.34 and 4731.41, Ohio Revised Code, by prescribing without a license.
 3. Pursuant to Section 4731.22(B)(15), Ohio Revised Code, inability to practice according to acceptable and prevailing standards of care by reason of illness, excessive use of alcohol, excessive use of controlled substances, drugs, or chemicals, or as a result of a mental or physical condition.

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The State's charges arise from allegations that Margaret F. Kessler, M.D., practiced medicine and surgery and prescribed drugs to a patient after she had surrendered her license to practice medicine and surgery and her DEA certificate, and from allegations that as a result of a mental condition she was unable to practice according to acceptable and prevailing standards.

- B. By letter of October 9, 1982 to the State Medical Board, Margaret F. Kessler, M.D., requested a hearing on this matter. (State's Exhibit #2)
- C. By letter of October 15, 1982, the State Medical Board notified Margaret F. Kessler, M.D., that a hearing in this matter had been scheduled and continued pursuant to Section 119.09, Ohio Revised Code. (State's Exhibit #3)
- D. By letter of December 3, 1982, to the State Medical Board, William B. Singer, counsel for Margaret F. Kessler, M.D., requested a continuance of the hearing in this matter until Dr. Kessler had completed a treatment program at Ridgeview Institute. (State's Exhibit #4)
- E. By letter of December 7, 1982, the State Medical Board notified William B. Singer, Esq., Counsel for Margaret F. Kessler, M.D., that his request for a continuance had been granted. (State's Exhibit #5)
- F. By letter of June 8, 1983 the State Medical Board notified John J. Getgey, Jr., Esq., counsel for Margaret F. Kessler, M.D., that the hearing scheduled for June 20, 1983, in this matter had been cancelled and a new hearing date would not be set until so requested by counsel. (State's Exhibit #6)
- G. By letter of March 3, 1986, the State Medical Board notified Margaret F. Kessler, M.D., that a hearing had been scheduled in this matter for March 24, 1986. (State's Exhibit #7)

III. Appearance of Counsel

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Attorney General, by Yvette McGee, Assistant Attorney General.
- B. On behalf of the Respondent: Margaret F. Kessler, M.D., on her own behalf.

IV. Testimony Heard

- A. Presented by the State:
 - 1. Margaret F. Kessler, M.D.
 - 2. Monica Nicolas, M.D.

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B. Presented by the Respondent:

1. Margaret F. Kessler, M.D.

V. Exhibits Examined

In addition to the exhibits referred to above, the following were made a part of the record in this matter:

A. Presented by the State:

1. State's Exhibit #8, Voluntary surrender of license to practice medicine and surgery signed March 22, 1982 by Margaret F. Kessler, M.D. and witnessed by C.F. Young, Medical Board investigator, and two other individuals.
2. State's Exhibit #9, Voluntary surrender of controlled substances privileges as filed with the State Medical Board on March 29, 1982, having been obtained by the U.S. Drug Enforcement Administration on March 22, 1982.
3. State's Exhibit #10, Journal Entry of the Hamilton County Municipal Court noting a finding of guilty on a charge of practicing medicine without a license for Margaret Kessler.

B. Presented by Respondent:

1. Respondent's Exhibit A, Letter from Lucretia C. Hauss, dated July 21, 1983, to John Getgey, Jr., Esq., counsel for Margaret F. Kessler, M.D.
2. Respondent's Exhibit B, Letter of August 10, 1983, from Ethylne J. Babcock to John J. Getgey, Esq., counsel for Margaret F. Kessler, M.D.
3. Respondent's Exhibit C, Letter of January 16, 1984, from Gabriele Alberson to John J. Getgey, Esq., Counsel for Margaret F. Kessler, M.D.

C. Post-Hearing Exhibits

The record in this matter was held open until such time as the report of a psychiatric evaluation of Margaret F. Kessler, M.D., could be provided to the Board, and for the parties to submit closing arguments in this matter.

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The report of Ralph F. Henn, M.D., filed June 6, 1986, is hereby admitted and made a part of the record in this matter. The State of Ohio, through Yvette McGee, Assistant Attorney General, waived closing argument in this matter. Margaret F. Kessler, M.D., filed no closing argument or waiver within the time allowed. The record in this matter is hereby officially closed.

FINDINGS OF FACT

1. On March 22, 1982, Margaret F. Kessler, M.D., voluntarily surrendered her license to practice medicine and surgery in the State of Ohio.
2. On March 22, 1982, Margaret F. Kessler, M.D., voluntarily surrendered her privilege to prescribe controlled substances.
3. On May 20, 1982, Margaret F. Kessler, M.D., was found guilty on a plea of no contest to the charge of practicing medicine without a license in Hamilton County Municipal Court, Case #C-82-CRB-7479.
4. On at least one occasion after March 22, 1982, Margaret F. Kessler, M.D., did examine and prescribe for a patient in Ohio without holding a license to practice medicine in this State.
5. Margaret F. Kessler, M.D., was hospitalized at Rollman Psychiatric Institute from January 27, 1983 through March 18, 1983.
6. Margaret F. Kessler, M.D., has not been seen in person by a psychiatrist for over two and one-half years, but is currently taking Lithium Carbonate, 600 to 900 mg. per day and Tofinil, 100 mg.
7. Margaret F. Kessler, M.D., is not currently receiving any consistent out-patient psychiatric treatment.
8. In 1983 Margaret F. Kessler, M.D., was diagnosed as having major affective disorder, depressed, chronic alcoholism, in remission, and hysteria independent personality.
9. Pursuant to evaluation for the Board filed June 6, 1986, Ralph F. Henn, M.D., diagnosed Margaret F. Kessler, M.D., as having schizoaffective disorder, and concluded she is unable to practice medicine at this time.

CONCLUSIONS

This matter came on for hearing based on the request of Margaret F. Kessler, M.D., for restoration of her license to practice medicine and surgery in the State of Ohio. Dr. Kessler had voluntarily relinquished her license to practice medicine, and at this hearing presented no evidence which would lead the Board to conclude that she is currently able to practice in a manner consistent with the requirements of the Medical Practice Act in Ohio.

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Although Dr. Kessler has been diagnosed as having a major affective disorder by one physician and of having schizoaffective disorder by a second psychiatrist, she is not currently receiving any on-going out-patient treatment for this condition. She is being maintained on medication, but has not seen the prescribing physician for a number of years.

The report of Ralph F. Henn, M.D., states that, "In no way is she capable of returning to the active practice of medicine. This is not a borderline case. Dr. Kessler continues to manifest severe debilitating psychiatric symptoms."

While this Board has great concern for physicians unable to practice because of mental or physical conditions, it must have greater concern for the welfare of patients of such physicians. In a case such as this, where there is ample evidence that a physician has been and continues to be impaired, and there is no evidence of on-going psychiatric treatment or of the restoration of the capacity to practice medicine, this Board must not restore a license. Public safety must be our greatest concern.

Violation 1

The acts, conduct and omissions of Margaret F. Kessler, M.D., as contained Finding of Fact #3, constitute a violation of Section 4731.22(B)(10), Ohio Revised Code.

Violation 2

The acts, conduct, and omissions of Margaret F. Kessler, M.D., with regard to Finding of Fact #4, constitute a violation of Section 4731.22(B)(16), Ohio Revised Code, based upon her prescribing medication without a license in violation of Sections 4731.34 and 4731.41, Ohio Revised Code.

Violation 3

Margaret F. Kessler, M.D. is unable to practice according to acceptable and prevailing standards of care by reason of illness, excessive use of alcohol, excessive use of controlled substances, drugs or chemicals, or as a result of a mental or physical condition, in violation of Section 4731.22(B)(15), Ohio Revised Code.

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PROPOSED ORDER

It is hereby ORDERED that the request for reinstatement of her license to practice medicine and surgery in Ohio of Margaret F. Kessler, M.D., be denied.

Further, Dr. Kessler shall hereafter be ineligible to apply for renewal or reinstatement of her license.


Henry G. Cramplett, M.D.
Hearing Examiner
State Medical Board of Ohio

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OHIO
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EXCERPT FROM THE MINUTES OF OCTOBER 9, 1986

REPORT AND RECOMMENDATION IN THE MATTER OF MARGARET KESSLER, M.D.

Dr. Rauch asked if each member of the Board had received, read and considered the hearing record, the proposed findings and order, and any objections filed to the proposed findings and order in the matter of Margaret Kessler, M.D. A roll call was taken:

ROLL CALL:

Dr. Cramblett	- aye
Dr. Lancione	- aye
Dr. Barnes	- aye
Dr. Lovshin	- aye
Dr. Stephens	- aye
Dr. O'Day	- aye
Mr. Johnston	- aye

.....

Dr. Rauch and Dr. Buchan returned to the meeting at this time. Mr. Johnston asked if they had received, read and considered the hearing record, the proposed findings and order, and any objections filed to the proposed findings and order in the matter of Margaret Kessler, M.D. Dr. Rauch and Dr. Buchan indicated that they had.

DR. LANCIONE MOVED TO APPROVE AND CONFIRM DR. CRAMBLETT'S FINDINGS OF FACT AND CONCLUSIONS IN THE MATTER OF MARGARET KESSLER, M.D. DR. STEPHENS SECONDED THE MOTION. A ROLL CALL VOTE WAS TAKEN:

ROLL CALL VOTE:

Dr. Cramblett	- abstain
Dr. Lancione	- aye
Dr. Barnes	- aye
Dr. Buchan	- aye
Dr. Lovshin	- aye
Dr. Stephens	- aye
Dr. O'Day	- aye
Mr. Johnston	- abstain
Dr. Rauch	- aye

The motion carried.

DR. LANCIONE MOVED TO APPROVE AND CONFIRM DR. CRAMBLETT'S PROPOSED ORDER IN THE MATTER OF MARGARET KESSLER, M.D. DR. RAUCH SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE: Dr. Cramblett - abstain
Dr. Lancione - aye
Dr. Barnes - aye
Dr. Buchan - aye
Dr. Lovshin - aye
Dr. Stephens - aye
Dr. O'Day - aye
Mr. Johnston - abstain
Dr. Rauch - aye

The motion carried.

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43215

September 28, 1982

Margaret F. Kessler, M.D.
7685 Demar Road
Cincinnati, OH 45243

Dear Doctor Kessler:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio proposes to deny your September 9, 1982 request for the reinstatement of your license to practice medicine and surgery, under the provisions of Section 4731.22, Ohio Revised Code, for one or more of the following reasons.

Pursuant to Section 4731.22(B)(10), Ohio Revised Code, conviction of a misdemeanor committed in the course of practice is grounds to refuse to register or reinstate an applicant.

Pursuant to Section 4731.22(B)(16), Ohio Revised Code, prescribing without a license is in direct violation of Sections 4731.34 and 4731.41, and hence grounds to refuse to register or to reinstate an applicant.

Pursuant to Section 4731.22(B)(15), Ohio Revised Code, you are unable to practice according to acceptable and prevailing standards of care by reason of illness, excessive use of alcohol, excessive use of controlled substances, drugs or chemicals, or as a result of mental or physical condition.

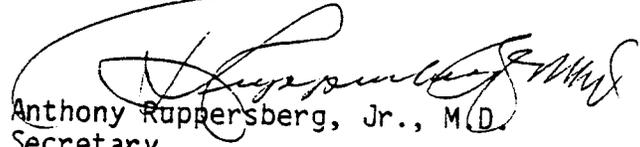
In accordance with Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing on this matter. If you wish to request a hearing, that request must be made within thirty (30) days after the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or 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 you fail to request a hearing within thirty (30) days after the time of mailing this notice, the State Medical Board will decide in your absence, and upon consideration of this matter, whether to deny your request for the reinstatement of your license to practice medicine and surgery in Ohio.

Copies of Sections 4731.22, 4731.34 and 4731.41, Ohio Revised Code, are enclosed for your information.

Very truly yours,


Anthony Ruppertsberg, Jr., M.D.
Secretary

AR:jmb

Enclosures:

CERTIFIED MAIL #P349 642 116
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Consent

VOLUNTARY SURRENDER OF LICENSE
TO PRACTICE MEDICINE AND SURGERY

3-01-12 04

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

I, Margaret Kessler, M.D., do hereby voluntarily, knowingly, and intelligently surrender my license to practice medicine and surgery, No. 017563, to the Ohio State Medical Board.

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

Signed this 22nd day of MARCH, 19 82 in the office of _____.

Margaret Kessler

Barney L. Kelen
WITNESS

Louis D. Bink
WITNESS

C. H. [Signature]

Sworn to and signed before me this 22nd day of MARCH, 19 82.

Notary Public