STATE OF OHIO
THE STATE MEDICAL BOARD OF OHIO
65 SOUTH FRONT STREET
SUITE 510
COLUMBUS, OHIO 43266-0315

February 12, 1988

Reuben Richardson, M.D.
411 Pendery Avenue
Cincinnati, Ohio 45215

Dear Doctor Richardson:

Please find enclosed a certified copy of the Entry of Order; the Report and Recommendation of Mark E. Kouns, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on February 10, 1988, including Motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting a substitute Order.

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

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas 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

Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL NO. P 158 073 962
RETURN RECEIPT REQUESTED

Mailed 2/18/88

STATE MEDICAL BOARD OF OHIO

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 Mark E. Kouns, Attorney Hearing Examiner, State Medical Board of Ohio; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on February 10, 1988, including Motions approving the Findings of Fact and Conclusions of the Hearing Examiner and adopting a substitute Order, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Reuben Richardson, 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

February 12, 1988
Date

STATE OF OHIO
THE STATE MEDICAL BOARD OF OHIO
65SOUTH FRONT STREET
SUITE 510
COLUMBUS, OHIO 43266-0315

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

REUBEN RICHARDSON, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 10th day of February, 1988.

Upon the Report and Recommendation of Mark E. Kouns, Attorney Hearing Examiner, State Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which is attached hereto and incorporated herein, and upon 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 for the 10th day of February, 1988.

It is hereby ORDERED:

That the license of Reuben Richardson, M.D., to practice medicine and surgery in the State of Ohio be and the same is hereby REVOKED.

This Order shall become effective immediately.

(SEAL)

Henry G. Cramblett, M.D.
Secretary

February 12, 1988
Date

REPORT AND RECOMMENDATION
IN THE MATTER OF REUBEN RICHARDSON, M.D.

The Matter of Reuben Richardson, M.D., (hereinafter referred to as the Respondent) came on for hearing before me, Mark E. Kouns, Attorney Hearing Examiner for the State Medical Board of Ohio, (hereinafter referred to as the Board) on the 15th day of December, 1987, pursuant to the provisions of Chapters 4731. and 119., of the Ohio Revised Code.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Mode of Conduct

During the course of the hearing, the Rules of Evidence were relaxed so as to afford both the State and the Respondent wide latitude in the offering of evidence as well as inquiring of the witnesses through both direct and cross-examination.

II. Basis for Hearing

By letter of August 12, 1987, the Board notified Respondent that it proposed to determine whether or not to take certain disciplinary action against him with regard to his certificate to practice medicine and surgery in Ohio based upon allegations of misconduct in the purchase of excessive quantities of Schedule II controlled substances, and thereafter, selling, prescribing, giving away or administering the same during calendar years 1976 through 1985, contrary to and in violation of Sections 4731.22(B)(2), 4731.22(B)(3) and 4731.22(B)(6) of the Ohio Revised Code.

III. Appearance of Counsel

A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General of Ohio, by Christopher Culley, Esq., Assistant Attorney General.

B. On behalf of the Respondent: Reuben Richardson, M.D., pro se.

IV. Testimony Heard

A. Presented by the State

1. William J. Schmidt, Assistant to the Director, State Medical Board of Ohio

2. Reuben Richardson, M.D., Respondent, called as upon cross-examination

B. Presented by the Respondent

1. Reuben Richardson, M.D.

V. Exhibits Offered, Admitted and Considered

A. Presented by the State

1. State's Exhibit #1: A copy of the August 12, 1987 citation letter from the Board to the Respondent advising Respondent of the allegations against him, of the Board's intention to consider the same, and of his right to request a hearing pursuant to Chapter 119. of the Ohio Revised Code.

2. State's Exhibit #2: A copy of an August 15, 1987, letter from Respondent to the Board wherein Respondent requests a hearing under Chapter 119. of the Ohio Revised Code.

3. State's Exhibit #3: A copy of an August 20, 1987, letter from the Board's Case Control Officer to Respondent advising Respondent that his hearing originally set for Friday, August 28, 1987 at 1:30 P.M., had been postponed to a date to be determined and announced in the future.

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4. State's Exhibit #4: A copy of a September 1, 1987 letter from the Attorney Hearing Examiner to Respondent advising Respondent that his hearing had been scheduled for Monday, December 14, 1987 at 10:00 A.M. in the offices of the Board.

5. State's Exhibit #5: A copy of a Motion For Continuance filed by counsel for the State on November 16, 1987, with a Memorandum In Support attached thereto, requesting that the hearing scheduled for December 14, 1987 be continued.

6. State's Exhibit #6: A copy of a Journal Entry and Order signed by the Attorney Hearing Examiner and filed December 1, 1987, ordering the matter be rescheduled for hearing to Tuesday, December 15, 1987 at 10:00 A.M. in the offices of the Board.

7. State's Exhibit #7-A: Copies of Drug Enforcement Administration Forms 222 (Official Order Form for Schedule I and II Controlled Substances) the individual numbers of the specific forms constituting the exhibit being D18207638 through D18207644, inclusive, and D18207646.

8. State's Exhibit #7-B: Copies of Drug Enforcement Administration Forms 222 (Official Order Form for Schedule I and II Controlled Substances) the individual numbers of the specific forms consituting the exhibit being D35006099; D35006098; D35006101 through D35006111, inclusive; D35006113 and D35006114.

9. State's Exhibit #7-C: Copies of Drug Enforcement Administration Forms 222 (Official Order Form for Schedule I and II Controlled Substances) the individual numbers of the specific forms constituting the exhibit being E13306722; E13306727 through E13306732, inclusive; and E13306735 through E13306738, inclusive.

10. State's Exhibit #7-D: Copies of Drug Enforcement Administration Forms 222 (Official Order Form for Schedule I and II Controlled Substances) the individual numbers of the specific forms constituting the exhibit being F01203469 through F01203471, inclusive; J09213979; F01203473 through F01203479, inclusive; F01203481 through F01203484, inclusive and F0123486.

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11. State's Exhibit #7-E: Copies of Drug Enforcement Administration Forms 222 (Official Order Form for Schedule I and II Controlled Substances) the individual numbers of the specific forms constituting the exhibit being AR2786107; F20608152; F20808154; and F20808155 through F20808165, inclusive.

12. State's Exhibit #7-F: Copies of Drug Enforcement Administration Forms 222 (Official Order Form for Schedule I and II Controlled Substances) the individual numbers of the specific forms constituting the exhibit being J09213959 through J09213968, inclusive; J09213970 through J09213973, inclusive; J09213975 through J09213978, inclusive; and F01203485.

13. State's Exhibit #7-G: Copies of Drug Enforcement Administration Forms 222 (Official Order Form for Schedule I and II Controlled Substances) the individual numbers of the specific forms constituting the exhibit being L00203074 through L00203088, inclusive; and L00203092 through L00203094, inclusive.

14. State's Exhibit #7-H: Copies of Drug Enforcement Administration Forms 222 (Official Order Form for Schedule I and II Controlled Substances) the individual numbers of the specific forms constituting the exhibit being N29905361; N29905370 through N29905376, inclusive; N29905356 through N29905358, inclusive; and N29905360 through N29905363, inclusive.

15. State's Exhibit #8-A: The working notes of William J. Schmidt, Assistant to the Director of the Board, used to prepare State's Exhibit #1, which notes contain a year by year breakdown of the Schedule II controlled substances purchased by Respondent.

16. State's Exhibit #8-B: The working notes of William J. Schmidt, Assistant to the Director of the Board, containing a breakdown of the Schedule II controlled substances purchased by Respondent on a drug by drug basis.

17. State's Exhibit #8-C: The working notes of William J. Schmidt, Assistant to the Director of the Board, containing a breakdown of the Schedule II controlled substances purchased by Respondent on a year by year basis.

18. State's Exhibit #9-A: Copies of the patient records of Patient-A.

19. State's Exhibit #9-B: Copies of the patient records of Patient-B.

20. State's Exhibit #9-C: Copies of the patient records of Patient-C.

21. State's Exhibit #9-D: Copies of the patient records of Patient-D.

22. State's Exhibit #10: Copies of pages #233, 233a, 233b, and 234 taken from Facts and Comparisons containing a discussion on the subject of amphetamines.

23. State's Exhibit #11: Copies of pages #268, and 269 taken from Facts and Comparisons containing a discussion on the subject of Methylphenidate HCI.

B. Presented by the Respondent

1. Respondent's Exhibit A: A copy of a Subpoena To Testify Before Grand Jury issued October 30, 1986 by the United States District Court for the Southern District of Ohio to the Respondent, commanding him to appear on November 20, 1986, at 9:30 A.M. and bring with him all patient records for the period from January 1, 1980 through September 9, 1985.

2. Respondent's Exhibit B: A copy of a letter dated October 30, 1986 from Ann Marie Tracey, Assistant U.S. Attorney to the Respondent advising Respondent that he could comply with the commands of the subpoena set forth in Respondent's Exhibit A by delivering the requested patient records to the Special Agent serving the subpoena.

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3. Respondent's Exhibit C: (A composite exhibit consisting of numerous documents). A copy of a letter dated September 9, 1985, from the Regionald Enforcement Narcotics Unit to Respondent requesting that Respondent make his records in stock of controlled substances available for inspection and inventorying, with a copy of a Search Warrant and Inventory attached thereto.

V. Other Matters

At hearing both the Respondent and Counsel for the State consented to the Attorney Hearing Examiner referring to and considering the information contained in the "1988 Edition" of the Physician's Desk Reference (PDR) and the "1979 Edition" of Goodman and Gilman's The Pharmacological Basis of Therapeutics. (Tr. at page 87, line 4 through page 89, line 3). Further, the Respondent specifically directed the Attorney Hearing Examiner's attention to pages 496 to 499 of Goodman and Gilman's Pharmacological Basis of Therapeutics, 1979 edition. (Transcript at page 87, line 13 and 14)

Subsequent to the close of the hearing record, the Attorney Hearing Examiner attempted to obtain the cited editions of both texts.

A review of the information set forth in the Preface To The Sixth Edition of Goodman and Gilman's The Pharmacological Basis of Therapeutics (Copyright 1980) reveals that the latest copyrighted edition of said text prior to the Sixth Edition (1980) was one copyrighted in 1975. The Attorney Hearing Examiner, being unable to discover the existence of the "1979 edition" of Goodman and Gilman's The Pharmacological Basis of Therapeutics, proceeded to examine the [illegible] edition of said text, which edition was co[illegible]ted in 1975.

A[illegible] of the information contained at pages 496 through 499 of the fifth edition revealed that said pages contained a discussion of amphetamines and methamphetamines (said substances being of the type listed in State's Exhibit #1). The Respondent in his testimony at page 77, line 13 through line 23 of the transcript cited Goodman and Gilman's text as authority for the proposition that some individuals who had developed a tolerance for amphetamines had taken as high as 1700 mg. without any side effects. A review of the text of the fifth edition at page 499 cooroborates the exact dosage amount cited by the Respondent in his testimony.

The [illegible] cited consistencies between the Respondent's testimony with reference to portions of Goodman and Gilman's The Pharmacological Basis of Therapeutics and the actual text found by the Attorney Hearing Examiner upon review of the fifth edition resulted in the Attorney Hearing Examiner concluding that the Respondent in citing and testifying with reference to Goodman and Gilman's The Pharmacological Basis of Therapeutics was referring to the fifth edition. Accordingly, the Attorney Hearing Examiner consulted and considered the fifth edition of said text in adjudicating the subject case.

With regard to the "1988" Edition of the Physician's Desk Reference (PDR) a search for the same made subsequent to the close of the hearing record revealed that the most current edition in print was the 1987 Edition (41st edition). Accordingly, the Attorney Hearing Examiner reviewed and considered the 1987 (41st) edition of the Physician's Desk Reference (PDR) in adjudicating the subject case.

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FINDINGS OF FACT

1. The Board has jurisdiction over both the subject matter and the Respondent in the instant proceeding.

   (This fact is established by reference to State's Exhibits #1 and #2, together with the stipulation between Counsel for the State and the Respondent set forth at page 15, line 14 through line 21 of the transcript).

2. Respondent was first licensed to practice medicine and surgery in the State of Ohio in 1953. Respondent was engaged solely in the private practice of medicine with an emphasis on pediatrics and bariatrics from 1957 through February, 1986, at which time Respondent retired from the active practice of medicine. Respondent has continued to retain hospital privileges since February, 1986 and has continued to render advice and second opinions to a few friends. Respondent has also worked as a volunteer for Health Watch.

   (These facts are established by the testimony of Respondent at page 37, line 6 through line 13; at page 37, line 21 through page 38, line 11; and at page 39, line 9 through page 40, line 7 of the transcript).

3. Respondent surrendered his Drug Enforcement Administration Controlled Substances Certificate in September, 1985, following a visit to his office by law enforcement officials. Respondent did not renew his D.E.A. certificate in April, 1986, choosing rather to let the same expire. Respondent has not used, order or written prescriptions for controlled substances since September, 1985.

   (These facts are established by the testimony of Respondent at page 38, line 12 through page 39, line 8 of the transcript).

4. During the period from 1976 through 1985, 80% of Respondent's practice was devoted to the treatment of bariatric (obese) patients and 20% of Respondent's practice was devoted to the treatment of pediatric patients. During the same period Respondent saw at least 100 bariatric patients a day, five days per week. Further, on a slow month during said period Respondent would have 2,000 bariatrics patients visit his office.

   (These facts are established by the testimony of Respondent at page 40, line 14 through page 41, line 9 and at page 42, line 15 through page 43, line 10 of the transcript).

5. The volume of Respondent's practice grew to such a degree that on the date the law enforcement officials visited Respondent's office (September 9, 1985), Respondent had set up a card table in the patio adjacent to his office in order to facilitate the registering of new patients, assigning to each a time for a subsequent appointment.

   (This fact is established by the testimony of Respondent at page 47, line 25 through page 49, line 5 of the transcript).

6. Respondent was unable to recall the exact amount of time he spent with each of his patients. Most of the time, unless a patient had a complaint, an ailment or personal problem, that patient was seen by Respondent together with numerous other patients as a group.

   (These facts are established by the testimony of Respondent at page 49, line 15 through page 50, line 5 of the transcript).

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7. The volume of bariatric patients seen by Respondent was so great that their movement through his office resembled people "...running in a circle...", going from being weighed to having their blood pressures taken, to finally being seen. Unless a patient advised the receptionist that they (the patient) had a real problem or needed or a private consultation then said patient was brought in with a group of other patients to see the Respondent.

   (These facts are established by the testimony of Respondent at page 47, line 18 through line 24, inclusive, and at page 56, line 2 through line 18, inclusive, of the transcript).

8. Respondent did not review the blood pressure readings of <u>each</u> bariatric patient prior to dispensing Schedule II amphetamines to said patient. Rather, Respondent relied upon the nurse or medical assistant to call to his attention to any abnormal blood pressure readings.

   (These facts are established by the testimony of Respondent at page 45, line 21 through page 51, line 20, inclusive of the transcript).

9. Respondent dispensed controlled substances by removing them from the labelled bottles in which they were received from the manufacturer and repackaging them into smaller "coded" boxes for distribution to his bariatric patients. The code set forth on the boxes of medication dispensed by Respondent to his patients did not contain information as to the patient's name, nor the full or complete name of the drug in most cases, nor the expiration date of the drug.

   (These facts are established by the testimony of the Respondent at page 50, line 6 through page 51, line 20, inclusive of the transcript).

10. Respondent's bariatric patients included persons from Ohio, Indiana and Kentucky as well as persons who would be in transit to Florida.

   (These facts are established by the testimony of Respondent at page 57, line 8 through line 21, inclusive of the transcript).

11. In order to keep his bariatric practice organized, Respondent tried several different techniques including using sign-in sheets, assigning numbers to bariatric patients, remembering faces, using social security numbers and requiring the bariatric patients to produce pieces of identification. As Respondent's bariatric practice continued, individuals frequented his office and attempted to make use of false identification in an effort to obtain more medication.

(Th[illegible]cts are established by the testimony of Respondent at p[illegible] 54, line 9 through page 55, line 8, inclusive of the transcript).

12. Respondent generally met with and addressed his bariatric patients as a group. Respondent did not orally advise his bariatric patients as to the possible side effects surrounding the use of certain drugs which he dispensed prior to dispensing the same. Respondent did not orally advised his female bariatric patients that if they were pregnant they should not be taking amphetamines. Respondent instead chose to provide his patient with literature regarding their medication and to rely on the patient educating themselves regarding their own medication.

(These facts are established by the testimony of Respondent at page 56, line 19 through page 57, line 7, inclusive and at page 58, line 2 through page 59, line 15, inclusive of the transcript).

13. Respondent had knowledge certain warning had been issued regarding the use of amphetamines, specifically that amphetamines had a high potential for abuse and further that their prolong use could lead to drug dependence.

(These facts are established by the testimony of Respondent at page 59, line 20 through page 60, line 2, inclusive of the transcript).

14. All the drugs ordered by Respondent as set forth in State's Exhibits #7-A through #7-H were for dispensing to Respondent's patients.

(This fact is established by the testimony of Respondent at page 51, line 21 through line 24, inclusive of the transcript together with the information contained in Sta[illegible] Exhibits #7-A through #7-H, inclusive).

15. Dur[illegible]he period from 1976 through 1985 Respondent pur[illegible]d the specific controlled substances set forth in State's Exhibit #1 in the specific dosage unit quantities set forth in said exhibit, the grand total of the dosage units purchased during said period being 5,635,800.

(These facts are established by reference to the information contained in State's Exhibit #1, State's Exhibits #7-A through #7-H, inclusive; State's Exhibit #8-A through #8-C, inclusive; together with the testimony of William J. Schmidt at page 20, line 23 through page 30, line 5 of the transcript).

16. Respondent used the abbreviation "Das" to represent Dextroamphetamine Sulfate in his patient records. Respondent used the abbreviation "Met" to represent Methamphetamine in his patient records.

    (These facts are established by the testimony of Respondent at page 68, line 12 through line 16, inclusive of the transcript and by the information contained in State's Exhibits #9-A through #9-D, inclusive).

17. Respondent stated at hearing that his policy was not to accept an individual as a bariatric patient unless they were at least twenty pounds overweight. However, a review of the patient records for Patient C reveals the contrary. Patient C's ideal weight as set forth in State's Exhibit #9-C and as testified to by Respondent was between 118-134 pounds. Patient C's highest recorded weight while under Respondent's care was 148 pounds as taken on January 20, 1976. On March 2, 1976, Patient C's weight was recorded as being 139 1/2 pounds. On said date, with Patient C weighing only 5 1/2 pounds in excessive of her ideal weight, Respondent dispensed Obetrol 20 mg. to Patient C. Respondent continued to treat Patient C by dispensing one or more Schedule II amphetamines either alone or in combination to Patient C as well as giving Patient C injections of Phenopropanolanine for appetite control through September 19, 1977, on which date Patient C's weight was recorded as being 137 pounds. Patient C's highest recorded weight during the period of treatment via amphetamines by Respondent (March 12, 1976 through September 19, 1977) was 141 1/2 pounds as taken on July 25, 1977 and Patient C's lowest recorded weight during the treatment period of said treatment regime was 128 1/2 pounds as taken on January 4, 1977.

    (These facts are established by the testimony of the Respondent at page 60, line 17 through line 22, inclusive and page 66, line 12 through page 69, line 14, inclusive of the transcript, as well as by reference to the information contained in State's Exhibit #9-C).

18. Respondent continued to dispensed Schedule II amphetamines to some bariatric patients for a period of one or two years when said patients had not demonstrated a substantial weight loss over the same period for the purpose of maintaining the patient's weight.

    (These facts are established by the testimony of Respondent at page 61, line 7 through line 15 of the transcript and by reference to the information contained in patient records set forth in State's Exhibits #9-A through #9-D, inclusive).

19. The Respondent had only minimal information about each bariatric patient prior to dispensing Schedule II controlled substances to said patients. The testimony of the Respondent regarding the large number of bariatric patients seen in a day and the general office procedures with reference to bariatric patients visits when taken together with the absence from the records of Patients A through D of any information relative to the patients' age, sex, prior medical history and family history, and allergies establishes that the Respondent had very little information on each bariatric patient prior to the beginning of a course of treatment.

    (These facts are established by reference to State's Exhibits #9-A through #9-D, inclusive, together with the testimony of Respondent at page 41, line 10 through page 43, line 1, inclusive, at page 45, line 21 through page 27, line 24, inclusive, at page 49, line 15 through page 50, line 19, inclusive, and at page 55, line 9 through page 57, inclusive of the transcript).

20. The safety for use of amphetamines during pregnancy has not been established.

    (This fact is established by reference to State's Exhibit #10 at page 223a of said exhibit under the discussion of captioned "Usage in Pregnancy").

21. "Amphetamine and similar drugs have been widely used in the treatment of obesity, although the wisdom of this use is at best questionable. Weight loss in obese humans treated with amphetamine is almost entirely due to reduced food intake and only in small measure to increased metabolism."

    "The effect of taking amphetamines alone is insufficient to reduce weight continuously in obese individuals without dietary restriction." (Emphasis added by the Attorney Hearing Examiner)

    (These facts are established by reference to Goodman and Gilman's The Pharmacological Basis of Therapeutics, 5th ed., (1975) at page 498 of the text under the discussion captioned "Depression of Appetite").

22. The use of amphetamines alone as a means of weight reduction is of no value. "These appetite depressants are of no value without an accompanying strigent dietary regime, and it has been regularly demonstrated that without consistent supervision, no prescribed regime of drug or diet is predictably successful"...."In addition, tolerance, develops within a few weeks..."

(These facts are established by reference to Goodman and Gilman's, The Pharmacological Basis of Therapeutics, 5th ed. (1975) at page 510 of the text under the discussion captioned "Obesity and Weight Reduction").

23. "Addiction often occurs to amphetamine and dextroamphetamine...". "Tolerance is striking in addicts, and a daily intake of 1700 mg. without apparent ill effects has been reported." (Emphasis added by the Attorney Hearing Examiner)

(These facts are established by reference to Goodman and Gilman's, The Pharmacological Basis of Therapeutics, 5th edition (1975) at page 499 of the text under the discussion captioned "Addiction in Tolerance").

24. There are a number of different patterns of amphetamine abuse. One involves those who first obtain the drug from a physician in the course of treatment for obesity or depression and then pass through a phrase of habituation as described for barbiturates. Truck drivers and students who use the drug to stay awake may also follow this pattern. More often, the individual obtains the drug specifically for its euphoric effects." "With time, tolerance develops; higher and more frequent doses are used, and toxic symptoms and signs then appear." (Emphasis added by the Attorney Hearing Examiner)

(These facts are established by reference to Goodman and Gilman's The Pharmacological Basis of Therapeutics, 5th edition (1975) at page 303 under the discussion captioned "Incidence and Patterns of Use").

25. "In chronic users, (of amphetamines) there may be a striking paucity of sympathomimetic effects, and the blood pressure is not unduly elevated." (Emphasis added by the Attorney Hearing Examiner)

(This fact is established by reference to Goodman and Gilman's, The Pharmacological Basis of Therapeutics, 5th ed. (1975) at page 304 of the text under the discussion captioned "Tolerance, Toxicity, Physical Dependence, and Withdrawal Symptoms").

26. Patient "compliance with medication instructions can never be assumed." "The physician's relationship with the patient and how clearly he explains the treatment regime has a powerful impact on compliance."

(These facts are established by reference to Goodman and Gilman's, The Pharmacological Basis of Therapeutics, 5th ed. (1975) at pages 1616 and 1617 of the text under the discussion captioned "Patient Compliance Instructions").

CONCLUSIONS OF LAW

1. The Respondent's conduct in purchasing massive quantities of Schedule II controlled substances when coupled with his subsequent repackaging of the same into smaller boxes bearing minimally informative "coded" information constitutes failure to use reasonable care discrimination in the administration of drugs contrary to and in violation of Section 4731.22(B)(2) of the Ohio Revised Code.

   The term "administration" as used in Section 4731.22(B)(2) encompasses more than just the prescribing or dispensing of drugs. The term administration as used in said section includes every step from the ordering of a controlled substance by a physician to the prescribing, dispensing or administering of the same to the patient.

   The Respondent's argument at hearing to the effect that the total number of dosage units in question (approximately 6,000,000) when divided by the total number of patient visits (almost 300,000) establishes that his administration of the drugs in question was proper omits one important fact from the equation, namely, that not all the patients visits were made by different individuals. The patient records of Patients A, B, C, and D establish that the Respondent dispensed and/or administered a large amount of controlled substances to the <u>same</u> patients over a large number of patient visits.

   Further, Respondent's method of repackaging and thereafter dispensing controlled substances did not conform with sound medical practice as discussed in the text with which Respondent displayed familiarity i.e., <u>The Pharmacological Basis of Therapeutics</u>, 5th ed., (1975). The testimony of Respondent at hearing regarding the code appearing on the boxes used for dispensing controlled substances does not establish that the code even stated the number of times per day or the time of day during which the controlled substance was to be taken. Nor does the testimony of Respondent establish that the boxes in question even bore the name of the patient. The failure to set forth the patient's name on the dispensing container does nothing to discourage or reduce the likelihood of subsequent diversion of the drug through illicit channels, a problem Respondent acknowledged having some information about as having occurred in the general surrounding community.

2. The Respondent's conduct in dispensing large quantities of Schedule II amphetamines to bariatric patients in large groups for prolonged periods of time as a means of weight reduction and/or weight maintenance without coupling the same with dietary restrictions constitutes selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes contrary to and in violation of Section 4731.22(B)(3) of the Ohio Revised Code. The facts as previously found and established by the relevant text in The Pharmacological Basis of Therapeutics not only called in to question the wisdom of using amphetamines in the treatment of obesity but certainly do not approve of their long term use or their use alone, without dietary restrictions in treating obesity.

It should be noted that said text was in print during the period in question in the instant case (1976-1985) and Respondent through his testimony established his familiarity with the same to the extent that he was able to correctly cite the exact dosage given in one portion of the text dealing with addiction and tolerance as well as being able to direct the Attorney Hearing Examiner's attention to specific pages of the text. The Respondent while establishing his familiarity with the text certainly did not apply the principles set forth therein in the day to day conduct of his bariatric practice.

It is particularly interesting to note that the specific daily dosage cited by Respondent (1700 mg.) in his reliance upon said text to support his proposition that consumption of high doses of amphetamines does not lead to any side effects or ill effects is contained within a passage discussing tolerance in addicts.

Further, the testimony of Respondent regarding his dispensing practices and the patient records of Patients A through D are devoid of any evidence that Respondent placed his bariatric patients on any dietary restrictions. Although Respondent testified that he would lecture groups of patients with the same or similar problems, an examination of Respondent's entire testimony as well as the information in the patient records of Patients' A through D fails to reveal that Respondent ever placed his bariatric patients on any dietary restrictions in conjunction with the dispensing of amphetamines. Nor does the record reveal the subject matter discussed by Respondent in his lectures to groups of patients.

3. The Respondent's conduct in dispensing amphetamines to individual female bariatric patients without first personally warning said patients regarding the possible side effects of consuming the drug during pregnancy coupled with the Respondent's conduct in dispensing amphetamines, for prolong periods of time to bariatric patients who demonstrated no or minimal weight loss and about whom he had minimal patient information constitutes a departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances contrary to and in violation of Section 4731.22(B)(6) of the Ohio Revised Code.

Respondent testified at hearing that he was unaware of any adverse side effects having been experienced by any female bariatric patient taking amphetamines during pregnancy. However, in order to establish a violation of Section 4731.22(B)(6) actual injury to the patient need not be shown.

Despite acknoweledging in his testimony that the literature which he gave his bariatric patients regarding amphetamines contained a warning against their use during pregnancy, Respondent did not verbally warn his female bariatric patients against the use of said drug during pregnancy. Respondent relied on his female bariatric patients to inform themselves as to any adverse side effects by reading the literature he had given them. Such an impersonal approach does little to insure patient compliance with medication instructions.

The evidence, both from Respondent's own testimony as well as the information contained in the patient records for Patients A through D, reveals that Respondent obtained very little in the way of patient information and prior medical history before dispensing controlled substances to his bariatric patients. Even the value of the blood pressure readings which Respondent so routinely took is called in to question in light of chronic amphetamine use as discussed in Finding of Fact #25.

The evidence further establishes that addiction and tolerance often developed to amphetamines and that their use should only be employed for a short time. Yet as can be seen in the case of Patient C, Respondent dispensed amphetamines to said patient over a prolonged period of time with minimal results having been established.

PROPOSED ORDER

It is hereby ORDERED that the license of Reuben Richardson, M.D., to practice medicine and surgery in the State of Ohio be and the same is hereby REVOKED.

Such revocation is ordered STAYED, and Dr. Richardson is hereby placed on probation for a term of five (5) years, provided he complies with the following terms and conditions:

1. Dr. Reuben Richardson shall obey all federal, state and local laws, and all rules governing the practice of medicine and surgery in the State of Ohio;

2. Dr. Richardson shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the conditions and terms of this Order;

3. Dr. Richardson shall immediately surrender his U.S. Drug Enforcement Administration (D.E.A.) Controlled Substances certificate, and shall never hereafter reapply for or hold the same. Dr. Richardson shall not engage in the practice of medicine and surgery until he has provided documentary proof of that surrender to the Board.

4. Dr. Richardson shall not prescribe, administer, dispense, order or possess (except as prescribed, administered, or dispensed to him by another person so authorized by law) Controlled Substances as defined by state or federal law.

5. Dr. Richardson shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.

6. If Dr. Richardson violates any conditions or terms of this Order, the Board, after giving Dr. Richardson notice and an opportunity to be heard, may set aside this stay Order and impose the revocation of Dr. Richardson's license to practice medicine and surgery.

This Order shall become effective upon final action of the State Medical Board of Ohio as provided by law.

Mark E. Kouns
Attorney Hearing Examiner

'88 JAN 14 P5:17

EXCERPT FROM THE MINUTES OF FEBRUARY 10, 1988

REPORTS AND RECOMMENDATIONS

Mr. Culley and Ms. Nester left the meeting at this time.

Dr. Stephens advised that the Findings and Orders appearing on this day's agenda are those in the matters of Dr. Carlos Huerto, Dr. Anthony Nakhle, Dr. Reuben Richardson, Dr. Donald Williams, Dr. Thomas McCarthy, and Dr. Bernard Megaffin.

He further advised that since distribution of the Board's agenda materials, the following documents were submitted: Dr. Nakhle's objections to the Hearing Examiner's Report and Recommendation; a motion to address the Board filed by Dr. Nakhle's attorney; Dr. Williams' objections to the Hearing Examiner's Report and Recommendation; Dr. McCarthy's dismissal of his appeal of the Board's remand of his case to the Hearing Examiner; Dr. McCarthy's objections to the Report of Remand and Report and Recommendation of the Hearing Examiner; and a motion to address the Board filed by Dr. McCarthy's attorney. Time was given to the Board to review these documents.

Dr. Stephens 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 Carlos D. Huerto, M.D.; Anthony J. Nakhle, M.D.; Reuben Richardson, M.D.; Donald R. Williams, M.D.; Thomas H. McCarthy, D.O.; and Bernard B. Megaffin, M.D. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Kaplansky	- aye
	Dr. Lovshin	- aye
	Dr. Rauch	- aye
	Mr. Albert	- aye
	Dr. O'Day	- aye
	Ms. Rolfes	- aye
	Mr. Jost	- aye
	Dr. Stephens	- aye

.....

REPORT AND RECOMMENDATION IN THE MATTER OF REUBEN RICHARDSON, M.D.

Dr. Stephens stated that if there are 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. Stephens asked if there were any questions concerning the proposed findings of fact in the above matter. There were none.

Dr. Stephens asked if there were any questions concerning the proposed conclusions in the above matter. There were none.

MR. ALBERT MOVED TO APPROVE AND CONFIRM MR. KOUNS' FINDINGS OF FACT AND CONCLUSIONS IN THE MATTER OF REUBEN RICHARDSON, M.D. DR. BARNES SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Kaplansky	- abstain
	Dr. Lovshin	- aye
	Dr. Rauch	- abstain
	Mr. Albert	- aye
	Dr. O'Day	- aye
	Ms. Rolfes	- aye
	Mr. Jost	- aye

The motion carried.

Dr. Stephens asked if there were any questions concerning the proposed order in the above matter.

Dr. Lovshin stated that he felt that the Proposed Order is much to lenient in this case. He continued that this was the most flagrant example of the misuse of amphetamines that has ever come before the Board. Dr. Lovshin stated that he sees nothing to convince him that the Board should allow Dr. Richardson to continue to practice, even though he says that he has quit practice and only wants his license to treat friends.

DR. LOVSHIN MOVED THAT THE PROPOSED ORDER IN THE MATTER OF REUBEN RICHARDSON, M.D., BE MODIFIED TO READ AS FOLLOWS:

> It is hereby ORDERED that the license of Reuben Richardson, M.D., to practice medicine and surgery in the State of Ohio be and the same is hereby REVOKED.
>
> This Order shall become effective immediately.

DR. O'DAY SECONDED THE MOTION.

Dr. Rauch asked Mr. Kouns if the Board has ever talked about a surrender during negotiations with Dr. Richardson. Mr. Kouns stated that he has no knowledge concerning negotiations in cases he hears.

Mr. Bumgarner stated that such information should not have any bearing on the matter at hand.

Dr. O'Day stated that she agreed with Dr. Lovshin concerning the need for a stricter penalty due to the severity of the case.

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

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Kaplansky	- abstain
	Dr. Lovshin	- aye
	Dr. Rauch	- aye
	Mr. Albert	- aye
	Dr. O'Day	- aye
	Ms. Rolfes	- aye
	Mr. Jost	- aye

The motion carried.

Dr. Lancione commented that the Board now needs to vote on the Order as modified. There was some discussion by the Board Members concerning proper procedure in cases such as this.

Mr. Bumgarner stated that as he understands it, the Board was asked if there was a motion to approve and confirm the hearing officer's report and recommendation. Instead a substitute motion was made. Mr. Bumgarner stated that if this was not the case, the Board might wish to clarify the matter.

At this time Dr. Stephens stated that the Board would reconsider its motions with respect to the Proposed Order so that no confusion exists.

DR. BARNES MOVED TO APPROVE AND CONFIRM MR. KOUNS' PROPOSED ORDER IN THE MATTER OF REUBEN RICHARDSON, M.D. DR. O'DAY SECONDED THE MOTION.

MR. JOST MOVED THAT THE FOLLOWING ORDER BE SUBSTITUTED IN THE MATTER OF REUBEN RICHARDSON, M.D.:

> It is hereby ORDERED that the license of Reuben Richardson, M.D., to practice medicine and surgery in the State of Ohio be and the same is hereby REVOKED.
>
> This Order shall become effective immediately.

DR. LOVSHIN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Kaplansky	- abstain

Dr. Lovshin	- aye
Dr. Rauch	- aye
Mr. Albert	- aye
Dr. O'Day	- aye
Ms. Rolfes	- aye
Mr. Jost	- aye

The motion carried.

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

August 12, 1987

Reuben Richardson, M.D.
411 Pendery Avenue
Cincinnati, Ohio 45215

Dear Doctor Richardson:

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. During calendar years 1976 through 1985 you made excessive purchases of schedule II controlled substances, including but not limited to the following, to be administered or dispensed in your practice of medicine or surgery, as revealed by D.E.A. Form 222s maintained by you. Controlled substances entered as "illegibles" indicate instances in which the identity of substances purchased could not be accurately determined from review of the form(s). Said purchases were made pursuant to your Ohio practitioner's D.E.A. registration:

YEAR	CONTROLLED SUBSTANCE	TOTAL DOSAGE UNITS
1976	Biphetamine 20	80,000
	Dextroamphetamine 15 mg.	75,000
	Dextroamphetamine 10 mg.	350,000
	Methamphetamine 10 mg.	250,000
	Obetrol 20 mg.	100,000
	Ritalin 20 mg.	12,000
	Ritalin 10 mg.	4,000
	TOTAL	871,000
1977	Biphetamine 20	28,800
	Delcobese 20 mg.	10,000
	Delcobese 10 mg.	8,000
	Desoxyn 15 mg.	18,000
	Desoxyn 10 mg.	3,000
	Dexamyl 15 mg.	1,000
	Dexedrine 15 mg.	600
	Dexedrine 5 mg.	500
	Dextroamphetamine 15 mg.	25,000
	Dextroamphetamine 10 mg.	143,000
	Diphylets 15 mg.	11,000

STATE OF OHIO
THE STATE MEDICAL BOARD

 August 12, 1987

YEAR	CONTROLLED SUBSTANCE	TOTAL DOSAGE UNITS
1977 Cont'd.	Methamphetamine 10 mg.	85,000
	Obedrin L.A. 10 mg.	14,400
	Obetrol 20 mg.	160,000
	Ritalin 20 mg.	16,000
	TOTAL	524,300
1978	Biphetamine 20	11,000
	Dextroamphetamine 10 mg.	210,000
	Methamphetamine 10 mg.	340,000
	Obetrol 20 mg.	300,000
	"Illegibles"	100,000
	TOTAL	961,000
1979	Biphetamine 20	16,000
	Dextroamphetamine 10 mg.	50,000
	TOTAL	66,000
1980	Diphylets 15 mg.	8,000
	Ritalin 20 mg.	6,000
	Ritalin 10 mg.	2,000
	"Illegibles"	4,000
	TOTAL	20,000
1981	Desoxyn 15 mg.	24,000
	Desoxyn 10 mg.	5,000
	Dexampex 15 mg.	15,000
	Dexampex 10 mg.	25,000
	Dextroamphetamine 10 mg.	100,000
	Methampex 10 mg.	25,000
	Methamphetamine 10 mg.	100,000
	Obetrol 20 mg.	100,000
	"Illegibles"	29,000
	TOTAL	423,000

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YEAR	CONTROLLED SUBSTANCE	TOTAL DOSAGE UNITS
1982	Dexampex 15mg.	65,000
	Dexampex 10 mg.	65,000
	Dextroamphetamine 10 mg.	200,000
	Methampex 10 mg.	65,000
	Methamphetamine 10 mg.	206,000
	Methylphendate 20 mg.	2,000
	Obetrol 20 mg.	100,000
	Oxycodone with Aspirin	500
	TOTAL	703,500
1983	Delcobese 15 mg.	20,000
	Dexampex 15 mg.	25,000
	Dexampex 10 mg.	50,000
	Dextroamphetamine 15 mg.	2,500
	Dextroamphetamine 10 mg.	87,000
	Dextroamphetamine 5 mg.	2,500
	Dextroamphetamine ? mg.	12,500
	Methampex 10 mg.	40,000
	Methamphetamine 10 mg.	100,000
	Obetrol 20 mg.	40,000
	Oxycodone with Aspirin	2,500
	Ritalin 20 mg.	10,000
	"Illegibles"	5,000
	TOTAL	397,000
1984	Delcobese 20 mg.	100,000
	Dexampex 15 mg.	75,000
	Dexampex 10 mg.	125,000
	Dexedrine 15 mg.	5,000
	Dextroamphetamine 15 mg.	4,000
	Dextroamphetamine 10 mg.	275,000
	Dextroamphetamine 5 mg.	15,000
	Methampex 10 mg.	138,000
	Methamphetamine 10 mg.	275,000
	Methylphenidate 20 mg.	5,000
	Obetrol 20 mg.	100,000
	Oxycodone with Aspirin	2,000
	TOTAL	1,119,000

YEAR	CONTROLLED SUBSTANCE	TOTAL DOSAGE UNITS
1985	Dexampex 15 mg.	75,000
	Dexampex 10 mg.	100,000
	Dexedrine 15 mg.	24,000
	Dextroamphetamine 10 mg.	100,000
	Dextroamphetamine 5 mg.	5,000
	Methampex 10 mg.	100,000
	Methamphetamine 10 mg.	100,000
	Methylphenidate 20 mg.	5,000
	Obetrol 20 mg.	40,000
	Oxycodone with Aspirin	2,000
	TOTAL	551,000

Such acts in the above paragraph (1), individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs," and "failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease," as those clauses are used in Section 4731.22(B)(2), Ohio Revised Code.

Further, such acts in the above paragraph (1), individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

Further, such acts in the above paragraph (1), individually and/or collectively, constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in Section 4731.22(B)(6), 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 that request must be made 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 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.

STATE OF OHIO
THE STATE MEDICAL BOARD

August 12, 1987

In the event that there is no request for such hearing made 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,

Henry G. Cramblett, M.D.
Secretary

HGC:caa

enclosures

CERTIFIED MAIL NO. P 158 073 877
RETURN RECEIPT REQUESTED