

28 FEB 1986

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STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

IN THE COURT OF COMMON PLEAS

CASE NO. 73290

LAMBERT N. DePOMPEI, M.D.)
)
) Appellant)

(F)

vs.

JUDGMENT ENTRY

STATE OF OHIO,)
)
STATE MEDICAL BOARD)
)
) Appellee)

Francis E. Sweeney, J.:

This matter is an appeal from the decision of the Ohio State Medical Board pursuant to R.C. Chapter 119, the Administrative Procedure Act. The Court, upon consideration of the entire record pertaining to the disciplinary proceedings against Appellant, Lambert N. DePompei, and the arguments of counsel, finds that the Board's order is supported by reliable, probative, and substantial evidence and is in accordance with law. Accordingly, the decision of the Board is, therefore, affirmed.

Francis E. Sweeney
FRANCIS E. SWEENEY, JUDGE

RECEIVED FOR FILING

Dated: 12-29, 1986.

DEC 30 1986

GERALD E. FUERST, CLERK
BY *[Signature]* DEP.

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THE STATE OF OHIO)
Cuyahoga County) ss I, GERALD E. FUERST, CLERK OF
) THE COURT OF COMMON PLEAS
) WITHIN AND FOR SAID COUNTY,
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY
TAKEN AND COPIED FROM THE ORIGINAL *[Signature]*
[Date: December 30, 1986]
NOW ON FILE IN MY OFFICE. *[Signature]*
WITNESS MY HAND AND SEAL OF SAID COURT THIS *[Signature]*
DAY OF *[Date]* A.D. 1992
GERALD E. FUERST, Clerk
By *[Signature]* Deputy

09 APR 1984

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY

LAMBERT N. DePOMPEI, M.D.
22600 Halburton
Beachwood, Ohio 44122

Appellant,

-vs-

THE STATE MEDICAL BOARD OF THE
STATE OF OHIO
c/o LEONARD L. LOVSHIN, M.D.
President
Suite 510 - 65 South Front St.
Columbus, Ohio 43215

Appellee.

CASE NO.

NOTICE OF APPEAL

Now comes appellant Lambert N. DePompei, and hereby gives notice of his appeal from a final decision and Order of the Ohio State Medical Board, as rendered on March 14, 1984, written notice of which was mailed March 23, 1984. Said Order of the Board approved the recommendation of Hearing Officer Leonard L. Lovshin, issued February 16, 1984, and revoked appellant's certificate to practice medicine and surgery. A copy of the Revocation Notice and the Order issued by the Board are attached hereto.

Appellant asserts that the Board's decision to revoke his certificate to practice medicine and surgery was unsupported by substantial, reliable and probative evidence and was not in accordance with law. Appellant further asserts that the revocation of his certificate and the Board's refusal to await the outcome of his pending appeal in the Ohio Supreme Court from his criminal conviction deprived him of the equal protection of

09 APR 1984

the law in violation of the Fourteenth Amendment to the United States Constitution, by reason of its contemporaneous action on April 4, 1984 deferring action on the revocation of the certificate to practice medicine and surgery of the similarly situated George Gotsis, M.D., pending resolution of his pending appeal in the Ohio Supreme Court from his similar conviction of drug offenses. This appeal, taken on questions of law and fact is made pursuant to Section 119.12 of the Ohio Revised Code.

Respectfully submitted,


GOLD, ROTATORI, SCHWARTZ &
GIBBONS CO., L.P.A.

By: Niki Z. Schwartz
1100 Ohio Savings Plaza
Cleveland, Ohio 44114
(216) 696-6122

Attorney for Appellant

09 APR 1984

PRAECIPE

TO THE STATE MEDICAL BOARD:

Please prepare and forward to the clerk of the Common Pleas Court of Cuyahoga County, the complete record in this matter, including all documents and exhibits introduced into evidence in the matter of the revocation of the certificate to practice medicine and surgery of Lambert N. DePompei.


GOLD, ROTATORI, SCHWARTZ &
GIBBONS CO., L.P.A.
By: Niki Z. Schwartz
1100 Ohio Savings Plaza
Cleveland, Ohio 44114
(216) 696-6122

CERTIFICATE OF SERVICE

A copy of this Notice of Appeal is being filed with the State Medical Board on April 9, 1984.

I also hereby certify that a copy of the foregoing Notice of Appeal was mailed to Sherry J. Cato, Esq., counsel for appellee, 65 South Front Street, Columbus, Ohio 43215 on this 6th day of April, 1984.


Niki Z. Schwartz

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

March 22, 1984

Lambert N. DePompei, M.D.
8413 Lake Avenue
Cleveland, OH. 44102

Dear Doctor DePompei:

Please find enclosed a certified copy of the Entry of Order, the Report and Recommendation of Leonard L. Lovshin, M.D., Member, State Medical Board of Ohio and a certified copy of the Motion by the State Medical Board, meeting in regular session on March 14, 1984, 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 notices 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



Leonard L. Lovshin, M.D.
President

LLL:em

Encls.

CERTIFIED MAIL NO. P34 9335242
RETURN RECEIPT REQUESTED

cc: Niki Z. Schwartz, Esq.
1100 Ohio Savings Plaza
Cleveland, OH. 44114

CERTIFIED MAIL NO. P34 9335243
RETURN RECEIPT REQUESTED

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

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 Leonard L. Lovshin, M.D., Member, State Medical Board of Ohio; and the attached copy of the Motion approved by the State Medical Board, meeting in regular session on March 14, 1984, 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 Lambert N. DePompei, M.D., as it appears in the Journal of the State Medical Board of Ohio.

Leonard L. Lovshin

Leonard L. Lovshin, M.D.
President

(SEAL)

3/22/84

Date

STATE OF OHIO
THE STATE MEDICAL BOARD

REPORT AND RECOMMENDATION

IN THE MATTER OF LAMBERT N. DEPOMPEI, M.D.

'84 FEB 16 P 4:15

The matter of Lambert N. Depompei, M.D., came on for hearing before me, Leonard L. Lovshin, M.D., Member of the State Medical Board of Ohio, on October 20, 1983.

INTRODUCTION AND SUMMARY OF EVIDENCE

1. Lambert N. Depompei, M.D., was notified by letter of June 15, 1983 that the State Medical Board of Ohio intended to determine under the provisions of Section 4731.22, Ohio Revised Code, whether or not to take disciplinary action against him based on the grounds enumerated in said letter. (State's Exhibit 1)
2. Doctor Depompei, through his attorney, Niki Z. Schwartz, requested a hearing in this matter by letter of July 8, 1983. (State's Exhibit 2)
3. Doctor Depompei was notified by letter of July 13, 1983, that his adjudicative hearing had been scheduled for July 22, 1983, but had been postponed by the Medical Board. (State's Exhibit 3)
4. Doctor Depompei was notified by letter of October 3, 1983, that his adjudicative hearing was scheduled for October 20, 1983. (State's Exhibit 4)
5. The State was represented at the hearing on October 20, 1983, by Mary Joseph Maxwell, Assistant Attorney General. Doctor Depompei, who did not personally attend the hearing, was represented by Mr. Schwartz.
6. The State rested its case after introducing a certified journal entry (State's Exhibit 5) of the Court of Common Pleas, Cuyahoga County, Ohio, reflecting that Lambert N. Depompei was sentenced on or about May 2, 1983, on four counts of Trafficking in Drugs and twenty-seven counts of Possession of False Forged Prescription, in violation of Revised Code Sections 2925.03 and 2925.23, respectively.
7. Upon agreement of counsel (Transcript at 9-10), the record was left open for submission of clean copies of the specific counts of the indictment upon which Doctor Depompei was convicted. Such copies were subsequently submitted, and are hereby admitted to the record as State's Exhibit 6.
8. A review of State's Exhibits 5 and 6 reveals that Doctor Depompei's conviction on the four Trafficking counts resulted from his participation in a scheme to illegally distribute four different Schedule II controlled substances, to wit: Biphedamine, Eskatrol, Methaqualone, and Demerol. The twenty-seven False Forged Prescription counts resulted from individual prescriptions written for these same four drugs during the time periods encompassed by counts one through four. The record is silent as to the actual disposition of the drugs obtained through these prescriptions.

'84 FEB 16 P 1:15

Board's duty to decide in the first instance whether and to what extent discipline ought to be imposed upon a licensed practitioner who has been convicted of a felony. It is abundantly clear from a review of Respondent's Exhibit B (at 4-6) that the issues considered by the Supreme Court in reaching its decision included whether the appellant would flee from justice if allowed to remain free, and whether his freedom would present a "danger for the community", i.e., a danger that he would further engage in the same sort of illegal drug activities that led to his conviction. The issue before this Board, on the other hand, is whether Doctor Depompei's conviction is evidence of moral and/or judgmental deficiencies that render him incapable of practicing medicine in a manner that assures safe, effective, and honest treatment of his patients. I find that such conviction proves the Respondent to be unable to meet the high level of trust and confidence required of a licensed medical practitioner in Ohio. This conclusion is mandated by the serious nature of the offenses involved, and the fact that Dr. Depompei committed such offenses under color of his medical certificate. I therefore must decline to withhold action in this matter pending the outcome of Dr. Depompei's criminal appeal.

FINDINGS OF FACT

1. Lambert Depompei, M.D., was convicted on or about May 2, 1983, in the Court of Common Pleas, Cuyahoga County, Ohio, of four counts of Trafficking in Drugs and twenty-seven counts of Possession of False Forged Prescriptions, Schedule II, in violation of Revised Code Sections 2925.03 and 2925.23, respectively.
2. Dr. Depompei's conviction resulted from his activities in writing false prescriptions under color of his certificate to practice medicine and surgery.

CONCLUSION

Lambert Depompei, M.D., is guilty of conviction of a felony, in violation of Section 4731.22(B)(9), Ohio Revised Code.

PROPOSED ORDER

The certificate to practice medicine and surgery of Lambert Depompei, M.D., is hereby REVOKED.

This order shall be effective on a date determined by the State Medical Board.

Leonard L. Lovshin M.D.
Leonard L. Lovshin, M.D., Member
State Medical Board of Ohio

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

EXCERPT FROM THE MINUTES OF MARCH 14, 1984

REPORT AND RECOMMENDATION IN THE MATTER OF LAMBERT N. DEPOMPEI, M.D.

Ms. Cato remained out of the room.

Dr. Lovshin asked if each member of the Board 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 Lambert N. DePompei, M.D. A roll call was taken:

ROLL CALL:	Dr. O'Connor	- aye
	Dr. Lancione	- aye
	Dr. Buchan	- aye
	Dr. Rauch	- aye
	Mr. Johnston	- aye
	Dr. Yut	- aye
	Dr. Oxley	- aye
	Ms. Rolfes	- aye

.....

DR. YUT MOVED TO APPROVE AND CONFIRM DR. LOVSHIN'S FINDINGS OF FACT, CONCLUSION AND PROPOSED ORDER IN THE MATTER OF LAMBERT N. DEPOMPEI, M.D. MS. ROLFES SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. O'Connor	- aye
	Dr. Lancione	- aye
	Dr. Buchan	- aye
	Dr. Rauch	- aye
	Mr. Johnston	- aye
	Dr. Yut	- aye
	Dr. Oxley	- aye
	Ms. Rolfes	- aye

The motion carried.

MR. JOHNSTON MOVED THAT THE ORDER BE EFFECTIVE IMMEDIATELY. MS. ROLFES SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. O'Connor	- aye
	Dr. Lancione	- aye
	Dr. Buchan	- aye
	Dr. Rauch	- aye
	Mr. Johnston	- aye
	Dr. Yut	- aye
	Dr. Oxley	- aye
	Ms. Rolfes	- aye

The motion carried.

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

June 15, 1983

Lambert DePompei, M.D.
8413 Lake Avenue
Cleveland, OH 44102

Dear Doctor DePompei:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine under the provisions of Section 4731.22, Ohio Revised Code, whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register or reinstate your certificate to practice medicine and surgery in Ohio for one or more of the following reasons:

1. On March 28, 1983, you were found guilty of four counts of Trafficking in Drugs, in violation of Section 2925.03, Ohio Revised Code, and twenty-seven counts of Possession of False or Forged Prescriptions, in violation of Section 2925.23, Ohio Revised Code (Illegal Processing of Drug Documents). Such offenses constitute felonies.

Conviction of a felony or felonies constitutes grounds to limit, reprimand, revoke, suspend, place on probation, refuse to register or reinstate your certificate to practice medicine or surgery, pursuant to Section 4731.22(B)(9), Ohio Revised Code, as in effect August 27, 1982.

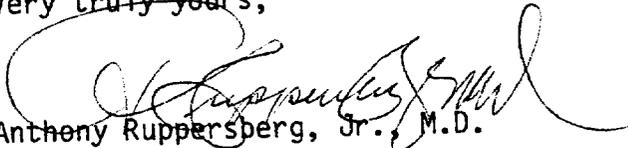
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you may request a hearing on this matter. If you wish to request such a hearing, that request must be made within thirty (30) days of the time of mailing of this notice.

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.

In the event 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, reprimand, revoke, place on probation, refuse to register, or reinstate your certificate to practice medicine and surgery.

Please find enclosed a copy of the appropriate sections of the Ohio Revised Code for your review.

Very truly yours,


Anthony Ruppertsberg, Jr., M.D.
Secretary

AR:jmb

Enclosures:

CERTIFIED MAIL #P349 642 081
RETURN RECEIPT REQUESTED