COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

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ADMINISTRATIVE AGENCY

In the Matter of :

William M. Pack, M.D. CASE No. 84CVF-08-5000

: Assigned to Judge Rader

DECISION

Rendered this 18th day of February, 1986.

RADER, J.

This matter comes before the Court on an administrative appeal. The record below has been filed with the Clerk. Upon review of the record, the Court finds that the decision is supported by reliable, substantial and probative evidence and is in accordance with law. Therefore, the decision below is AFFIRMED, Appellant to pay costs.

Rader
Clifford E. Rader, Judge

APPEARANCES:

William M. Pack, M. D.
Appellant, pro-se

COPY TO:

Anthony J. Celebrezze, Attorney General
State Medical Board of Ohio

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
1986 FEB 18 AM 10:46
THOMAS J. EMERSON
CLERK OF COURTS

MEDICAL

'84 AUG 30 P12:32

William Pack, M.D.
140 Old Short Hills Road
Short Hills, New Jersey 07078
(201) 379-7520
Pro Se

Court of Common Pleas
Franklin County

IN THE MATTER OF:

William M. Pack, M.D.

:

:

:

Civil Action

NOTICE OF APPEAL

PLEASE TAKE NOTICE that William M. Pack, M.D. hereby appeals to the Court of Common Pleas for Franklin County from an Order effective August 8, 1984 of the State Board of Ohio which reprimands appellant and set forth other requirements. Appellant's basis for this appeal are that the findings of the Board are not supported, in law or in fact, by the weight of the evidence.

Dated: August 22, 1982

William M. Pack

William M. Pack, M.D.

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

August 15, 1984

William M. Pack, M.D.
140 Old Short Hills Road
Short Hills, NJ 07078

Dear Doctor Pack:

Please find enclosed a certified copy of the Entry of Order, the Report and Recommendation of John H. Buchan, D.P.M., Member, State Medical Board of Ohio and a certified copy of the Motion by the State Medical Board, meeting in regular session on August 8, 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

Joseph P. Yut, M.D.
Secretary

JPY:em

Enclosures

CERTIFIED MAIL NO. P 569 457 832
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 John H. Buchan, D.P.M., Member, State Medical Board of Ohio; and the attached copy of the Motion approved by the State Medical Board, meeting in regular session on August 8, 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 William M. Pack, M.D., as it appears in the Journal of the State Medical Board of Ohio.

(SEAL)

Joseph P. Yut, M.D.
Secretary

8-15-84
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

WILLIAM M. PACK, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 8th day of August, 1984.

Upon the Report and Recommendation, a true copy of which is attached hereto and incorporated herein, of John H. Buchan, D.P.M., Hearing Member in this matter designated pursuant to R.C. 4731.23, which Report and Recommendation was approved and confirmed 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 8th day of August, 1984, and made part of the Board's proceedings:

It is hereby ordered that William M. Pack, M.D. be reprimanded. Further, should Dr. Pack return to practice medicine in Ohio, he:

1. Shall appear before the Medical Board for review of the method and type of practice in which he proposes to engage;

2. Shall not employ any individual not licensed to practice medicine in the State of Ohio for the purpose of rendering medical services to the public;

3. Shall not authorize his employees to complete prescriptions signed in blank.

The effective date of the Order is August 8, 1984.

(SEAL)

Joseph P. Yut, M.D.
Secretary

8-15-84

Date

STATE OF OHIO
THE STATE MEDICAL BOARD

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

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The matter of William M. Pack, M.D., came on before me, John H. Buchan, D.P.M., Member, State Medical Board of Ohio, on February 29, 1984.

INTRODUCTION AND SUMMARY OF EVIDENCE

1. William M. Pack, M.D., was cited in Ohio on July 14, 1983 for the following four counts which were substantiated at a hearing of the New Jersey Board of Medical Examiners:

   A. For a period from 1975 to April of 1981, Dr. Pack employed, permitted and allowed one Marcos Herrera to perform medical services on the public at Port Medical Center and authorized and permitted Marcos Herrera to represent himself to the public as "Dr. Herrera".

   B. On August 12, 1980, medical services were rendered to Pedro Garcia by Marcos Herrera with the knowledge of, or at the direction of Dr. Pack.

   C. On August 12, 1980, Dr. Pack delivered to his employees at Port Medical Center, including but not limited to Marcos Herrera, a prescription signed in blank by Dr. Pack and including his Controlled Dangerous Substance registration number.

   D. On June 22, 1980, Jeffrey Dinocento went to Port Medical Center seeking a physical examination for purposes of health evaluation, and Dr. Pack permitted and authorized his employee to render medical services by performing said physical examination and evaluation.

2. By letter of August 11, 1983, Dr. Pack requested a hearing before the Ohio State Medical Board under Chapter 119., Ohio Revised Code.

3. Dr. Pack was present at the February 29, 1984 hearing to represent himself, having been duly advised of his right to counsel, as well as his right to present witnesses.

4. Mary Joseph Maxwell, Assistant Attorney General, appeared on behalf of the State.

5. Ms. Maxwell made an opening statement indicating that the Ohio State Medical Board proposed to take disciplinary action against Dr. Pack's Ohio license based upon the findings of the New Jersey Board of Medical Examiners. The actions of the New Jersey Board stemmed from several incidents that were found to have occurred in New Jersey.

6. Dr. Pack made an opening statement denying the allegations made against him by the New Jersey Board. He also emphasized that his former employee, Marcos Herrera, was a licensed physician in Cuba, although he was not authorized to practice medicine in New Jersey.

7. Dr. Pack was sworn in and testified as if on cross-examination, as follows:

   A. That he received the citation letter sent to him by the Board. (State's Exhibit 1)

   B. That he wrote a letter to the Board requesting a hearing. (State's Exhibit 3)

   C. That he sent a Xerox copy of his New Jersey medical license to the Ohio State Medical Board. (State's Exhibit 4)

   D. That he received a scheduling letter from the State Medical Board setting the hearing for August 26, 1983. (State's Exhibit 5)

   E. That he received a letter rescheduling the hearing for February 29, 1984. (State's Exhibit 6)

   F. That he wrote a letter to the Board requesting that the hearing be postponed. (State's Exhibit 7)

   G. That he received a letter restating that the hearing would be held on February 29, 1984. (State's Exhibit 8)

   H. That he had appeared at a hearing before a New Jersey Administrative Law Judge at which it was stipulated that Marcos Herrera, an employee of Dr. Pack's, had no license to practice medicine in New Jersey.

8. State's Exhibits 1, 3, 4, 5, 6, 7 and 8 were received in evidence and made part of the record.

9. State's Exhibit 2 consisted of certified copies of the final decision and order from the New Jersey Board of Medical Examiners. The order recommended a three year suspension of Dr. Pack based on a finding that five of the charges against him were substantiated by the evidence. Although the suspension was stayed, there were a number of civil fines assessed against Dr. Pack by the Board in connection with the charges.

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10. On direct examination, Dr. Pack testified as follows:

    A. That he had employed Marcos Herrera to assist in examinations, but had never allowed him to diagnose, treat, or prescribe for patients independently.

    B. That, as his request, prescriptions had been written by his nurse which he subsequently signed.

    C. That an investigator for the New Jersey Board of Medical Examiners had told him that he could refer to Marcos Herrera as "doctor" so long as he did not hold Herrera out to the public as being a physician.

FINDINGS OF FACT

1. The New Jersey State Board of Medical Examiners made the following findings:

    A. Dr. William M. Pack employed Marcos Herrera to assist in Dr. Pack's clinic.

    B. Marcos Herrera rendered medical services to the public with Dr. Pack's knowledge or at Dr. Pack's direction.

    C. Dr. Pack authorized and permitted Marcos Herrera to represent himself to the public as "Dr. Herrera".

    D. Dr. Pack delivered to his employees at Port Medical Center including but not limited to Marcos Herrera, a prescription signed in blank by Dr. Pack and including his Controlled Dangerous Substance registration number.

2. The New Jersey Board of Medical Examiners suspended Dr. Pack's license for three years. Although the suspension was stayed, fines were assessed against Dr. Pack in connection with the charges.

3. Based on the findings of the New Jersey Board, a citation was issued by the Ohio State Medical Board to Dr. Pack with regard to his Ohio license.

4. The adoption of Section 4731.22(B)(18), Ohio Revised Code by the Ohio legislature clearly evidences its intention that the findings and orders of other state medical boards should be given credence by Ohio. I thus so find that the facts as determined by the New Jersey Board of Medical Examiners are accurate, and hereby adopt them as such.

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CONCLUSIONS

Although given the opportunity to fully present his account of the incidents for which he was disciplined in New Jersey, Dr. William M. Pack has failed to persuade this hearing officer that the findings of the New Jersey State Board of Medical Examiners are erroneous. Accordingly, I have reached the following conclusions on the basis of applicable Ohio statutes:

1. By delivering to his employees a prescription signed in blank and including his DEA registration number, Dr. Pack is in violation of Section 4731.22(B)(2), Ohio Revised Code, to wit: failure to use reasonable care discrimination in the administration of drugs.

2. By delivering a blank prescription to his employees, Dr. Pack is further in violation of Section 4731.22(B)(3), Ohio Revised Code, to wit: selling, prescribing, giving away or administering drugs for other than legal and legitimate therapeutic purposes or conviction of violation of any federal or state law regulating the possession, distribution, or use of any drug.

3. By employing, permitting and allowing Marcos Herrera to perform medical services on the public, Dr. Pack is in violation of Section 4731.22(B)(6), Ohio Revised Code, to wit: 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.

4. By employing, permitting and allowing Marcos Herrera to perform medical services on the public, Dr. Pack is further in violation of Section 4731.22(B)(8), Ohio Revised Code, effective prior to August 27, 1982, to wit: knowingly maintaining a professional connection or association with a person who is in violation of this chapter or rules of the board or with a person who knowingly aids, assists, procures or advises an unlicensed person to practice medicine contrary to this chapter or rules of the board.

5. By billing patients for medical services rendered by his unlicensed employee, Marcos Herrera, Dr. Pack is in violation of Section 4731.22(B)(9), Ohio Revised Code, effective prior to August 27, 1982, to wit: the obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of treatment.

PROPOSED ORDER

It is hereby ordered that William M. Pack, M.D. be reprimanded. Further, should Dr. Pack return to practice medicine in Ohio, he:

1. Shall appear before the Medical Board for review of the method and type of practice in which he proposes to engage;

2. Shall not employ any individual not licensed to practice medicine in the State of Ohio for the purpose of rendering medical services to the public;

3. Shall not authorize his employees to complete prescriptions signed in blank.

John H. Buchan DPM

John H. Buchan, D.P.M.
Member, State Medical Board of Ohio

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

EXCERPT FROM THE MINUTES OF AUGUST 8, 1984

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

Mr. Bumgarner, Mr. Schmidt, Ms. Yale, Mr. Prunte, and Ms. Lubow 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 William M. Pack, M.D. A roll call was taken:

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

.....

DR. LANCIONE MOVED TO APPROVE AND CONFIRM DR. BUCHAN'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF WILLIAM M. PACK, M.D. MS. ROLFES SECONDED THE MOTION. A roll call vote was taken:

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

The motion carried.

.....

MR. JOHNSTON MOVED THAT AN EFFECTIVE DATE OF AUGUST 8, 1984 BE PLACED ON THE PROPOSED ORDER IN THE MATTER OF WILLIAM M. PACK, M.D. DR. YUT SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. O'Connor	- aye
	Dr. Lancione	- 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

July 14, 1983

William M. Pack, M.D.
140 Old Short Hills Road
Short Hills, NJ 07078

Dear Doctor Pack:

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

1. As a result of a Verified Complaint dated April 1, 1981 by James R. Zazzali, Attorney General of New Jersey, an Initial Decision dated November 3, 1982 by Robert P. Glickman, ALJ and a Final Decision and Order filed December 22, 1982 by Edwin H. Albano, M.D., President, New Jersey Board of Medical Examiners, the New Jersey Board of Medical Examiners concluded that you had committed violations as charged to wit:

   A. Count One: On or about 1975 to April 1981 William M. Pack, M.D. employed, permitted and allowed Marcos Herrera to perform medical services on members of the public at Port Medical Center and authorized and permitted Marcos Herrera to represent himself to the public as "Dr. Herrera".

   B. Count Four: On August 12, 1980 medical services were rendered to Pedro Garcia by Marcos Herrera with the knowledge of, or at the direction of William M. Pack, M.D.

   C. Count Five: On August 12, 1980, William M. Pack, M.D. delivered to his employees at Port Medical Center, including but not limited to Marcos Herrera, a prescription signed in blank by Dr. Pack and including his Controlled Dangerous Substance registration number.

   D. Count Eleven: On June 22, 1980, Jeffrey Dinocento went to Port Medical Center seeking a physical examination for purposes of health evaluation, and that Dr. Pack permitted and authorized his employee to render medical services by performing said physical examination and evaluation.

Said Verified Complaint, Initial Decision and Final Decision and Order, including all discussion of facts, findings of fact and conclusions of law are attached hereto and incorporated herein.

The fact of and bases for the disciplinary action taken against you in the State of New Jersey are hereby alleged to constitute grounds to limit, revoke, suspend, refuse to register, refuse to reinstate, reprimand or place on probation your license to practice medicine and surgery in Ohio under the authority of Section 4731.22, Ohio Revised Code, effective prior to August 27, 1982, to wit:

1. Section 4731.22(B)(2): Failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease.

2. Section 4731.22(B)(3): Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes or conviction of violation of any federal or state law regulating the possession, distribution, or use of any drug.

3. Section 4731.22(B)(6): A departure from, or the failure to conform to, minimal standards of care of similiar practitioners under the same or similiar circumstances, whether or not actual injury to a patient is established.

4. Section 4731.22(B)(8): Knowingly maintaining a professional connection or association with a person who is in violation of this chapter or rules of the board or with a person who knowingly aids, assists, procures or advises an unlicensed person to practice medicine contrary to this chapter or rules of the board.

5. Section 4731.22(B)(9): The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of treatment.

In accordance with Chapter 119., Ohio Revised Code, you are hereby advised that you have a right to a hearing in this matter, if you request such hearing 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 of Ohio may, in your absence and upon consideration of this matter, determine whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate your certificate to practice medicine and surgery in the State of Ohio.

Copies of the applicable Sections of the Ohio Revised Code are enclosed for your reference.

Very truly yours,

Oscar W. Clarke, M.D.

Oscar W. Clarke, M.D.
President

OWC:jmb

Enclosure:

CERTIFIED MAIL #P349 643 982
RETURN RECEIPT REQUESTED