

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

April 14, 1989

Serge M. Moore, M.D.
2360 Bernadine Drive
Salt Lake City, Utah 84109

Dear Doctor Moore:

Please find enclosed copies of the Entry of Order; the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on April 12, 1989, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board.

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

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

THE STATE MEDICAL BOARD OF OHIO


Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL NO. P 746 514 686
RETURN RECEIPT REQUESTED

Mailed 4/17/89

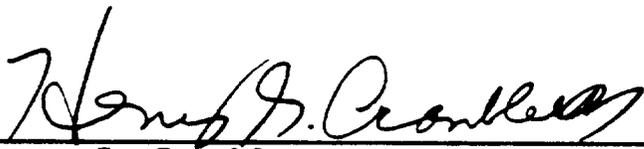
STATE OF OHIO
STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on April 12, 1989, including Motions approving and confirming said Report and Recommendation as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Serge M. Moore, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

(SEAL)


Henry G. Cramblett, M.D.
Secretary

4/17/89
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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SERGE M. MOORE, M.D.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 12th day of April, 1989.

Upon the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which is attached hereto and incorporated herein, and upon approval and confirmation by vote of the Board on April 12, 1989, the following Order is hereby entered on the Journal of the State Medical Board for the 12th day of April, 1989.

It is hereby ORDERED:

1. The certificate of Serge M. Moore, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is stayed, and Dr. Moore's license is hereby suspended for an indefinite period of time, but not less than one (1) year.
2. The State Medical Board shall not consider reinstatement of Dr. Moore's certificate to practice medicine and surgery in Ohio unless and until all of the following minimum requirements are met:
 - a. Dr. Moore shall submit an application for reinstatement, accompanied by appropriate fees. Dr. Moore shall not make such application for at least one (1) year from the effective date of this Order.
 - b. Dr. Moore shall submit documentation satisfactory to the Board showing his completion of not less than 25 hours per year of approved Category I Continuing Medical Education credits related to the violations set forth in the Conclusions herein. Such credits shall be in addition to the Continuing Medical Education requirements for relicensure. Such documentation shall be required for each full calendar year from and including 1989 to the time of reinstatement.

Serge M. Moore, M.D.

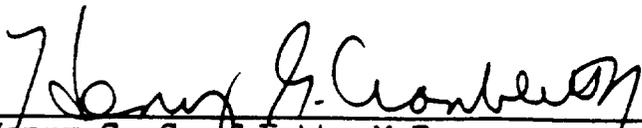
- c. Dr. Moore shall take and pass the SPEX examination or any similar written examination which the Board deems appropriate to assess his clinical competency.
3. Upon reinstatement and his return to the State of Ohio to practice medicine and surgery, Dr. Moore's certificate shall be subject to the following probationary terms, conditions, and limitations for a period of five (5) years:
 - a. Dr. Moore shall obey all federal, state, and local laws and all rules governing the practice of medicine in Ohio.
 - b. Dr. Moore shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the terms of probation.
 - c. Dr. Moore shall appear in person before the full Board, or its designated representative, at six (6) month intervals, or as otherwise requested by the Board.
 - d. In the event that Dr. Moore should leave Ohio for three (3) continuous months, or reside or practice outside the State, Dr. Moore must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside the State will not apply to the reduction of this probationary period.
 - e. Dr. Moore shall be ineligible to reapply for or to hold registration with the United States Drug Enforcement Administration, and shall not prescribe, dispense, administer, or possess controlled substances, except for those prescribed for his own use by another so authorized by law, without prior Board approval.
4. If Dr. Moore violates the terms of this Order in any respect, the Board, after giving Dr. Moore notice and an opportunity to be heard, may set aside the stay order and impose the revocation of his certificate.
5. Upon successful completion of this probation, Dr. Moore's license will be fully restored.

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Serge M. Moore, M.D.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

(SEAL)



Henry G. Crabbe, M.D.
Secretary

4/17/89

Date

FEB 27 1989

REPORT AND RECOMMENDATION
IN THE MATTER OF SERGE M. MOORE, M.D.

The Matter of Serge M. Moore, M.D., came on for hearing before me, Wanita J. Sage, Esq., Hearing Examiner for the State Medical Board of Ohio, on January 26, 1989.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

A. By letter of November 11, 1987 (State's Exhibit #8), the State Medical Board notified Serge M. Moore, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio for one or more of the following reasons:

1. On or about June 4, 1986, Dr. Moore entered into stipulations with the Division of Occupational and Professional Licensing of the Department of Business Regulation of the State of Utah in which he admitted that he "did not exercise prudent judgment in prescribing controlled substances to members of (his) family."
2. By a February 4, 1987, letter in response an inquiry from the Board, Dr. Moore stated that the reason for the Utah action was that "during the period of January 1985 to December 1985, I prescribed to members of my immediate family, Tylenol #3 tablets, and Lomotil tablets, in therapeutic dosages and at the recommended intervals, without keeping adequate clinical histories and records."

The Board alleged these acts and/or omissions constituted:

1. "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", as those clauses are used in Section 4731.22(B)(2), Ohio Revised Code; and
2. "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)(5), Ohio Revised Code.

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

B. By letter received by the State Medical Board on December 7, 1987 (State's Exhibit #7), Dr. Moore requested a hearing in this Matter.

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II. Appearances

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by Rachel L. Belenker, Assistant Attorney General
- B. The Respondent did not personally appear, but submitted a written statement which was admitted as Respondent's Exhibit A.

III. Testimony Heard

There was no testimony presented at hearing by either the State or the Respondent.

IV. Exhibits Examined

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

- A. State's Exhibit #1: December 5, 1988, letter to Dr. Moore from the State Medical Board scheduling the hearing for January 26, 1989.
- B. State's Exhibit #2: November 10, 1988, Entry of Hearing Examiner Sage confirming the granting of Respondent's request for continuance of the November 14, 1988, hearing and advising Dr. Moore of his opportunity to submit a written statement from his treating physician(s) for consideration before the rescheduling of the hearing.
- C. State's Exhibit #3: November 1, 1988, letter to Dr. Moore from the State Medical Board scheduling the hearing for November 14, 1988.
- D. State's Exhibit #4: July 7, 1988, Journal Entry and Order of former Hearing Examiner Kouns granting Dr. Moore's request for continuance of the July 6, 1988, hearing and rescheduling the hearing for November 14, 1988.
- E. State's Exhibit #5: February 10, 1988, letter to Dr. Moore from the State Medical Board scheduling the hearing for July 6, 1988.
- F. State's Exhibit #6: December 8, 1987, letter to Dr. Moore from the State Medical Board advising that a hearing initially set for December 21, 1987, was postponed pursuant to Section 119.09, Ohio Revised Code.
- G. State's Exhibit #9: February 4, 1987, letter to the State Medical Board from Dr. Moore explaining the circumstances with regard to the surrender of his DEA license and registration and the stipulations entered into with the Utah Licensing Board.

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H. State's Exhibit #10: Certified copies of the Petition, Order, and Stipulation of the Division of Occupational and Professional Licensing, Department of Business Regulation, State of Utah, in the Matter of Serge Moore, Case No. OPL-86-24.

V. Other Matters

For the Board's convenience in reviewing this Matter, the following additional exhibits are hereby admitted to the record upon the Hearing Examiner's own motion:

1. Board Exhibit A: Excerpt from the 1985 Physician's Desk Reference (39th Edition) with regard to Lomotil.
2. Board Exhibit B: Excerpt from the 1985 Physician's Desk Reference (39th Edition) with regard to Tylenol #3.

FINDINGS OF FACT

1. From January through December, 1985, Serge M. Moore, M.D., prescribed Lomotil tablets and/or Tylenol #3 tablets for himself, his wife, his son, and his daughter, without keeping clinical histories and records. In his written statement (Respondent's Exhibit A) Dr. Moore stated, "I...was not aware that I should be keeping medical histories and records on these family members." He further stated that he was now aware of acceptable procedure, having attended a course given by the Utah Medical Association.

These facts are established by State's Exhibits #9 and #10 and Respondent's Exhibit A.

2. On June 4, 1986, Dr. Moore entered into stipulations with the Utah Division of Occupational and Professional Licensing, Department of Business Regulation. In those stipulations, Dr. Moore admitted that he had not exercised prudent judgment in prescribing controlled substances to members of his family.

These facts are established by State's Exhibit #10.

3. Lomotil, a Schedule V controlled substance, is indicated for use only as an adjunct in the management of diarrhea and should be accompanied by appropriate monitoring of fluid and electrolyte levels. Tylenol #3, a Codeine-based Schedule III controlled substance, is indicated for the relief of moderate to severe pain. Psychic dependence, physical dependence, and tolerance may develop upon repeated administration of Tylenol #3.

These facts are established by Board's Exhibits A and B.

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4. Throughout 1985, Dr. Moore prescribed controlled substances for his wife because of the severe dysmenorrhea (menstrual pain) and endometriosis (abberant tissue in pelvic cavity) she had suffered throughout her menstrual history. His prescribing of controlled substances for his daughter was also for treatment of severe dysmenorrhea and endometriosis. It is unclear from Dr. Moore's written statement whether his daughter's surgeries by other physicians occurred before or after his 1985 prescribing for her. Dr. Moore prescribed controlled substances for his son for treatment of "faster" diarrhea episodes caused by his habit of eating at fast food restaurants. Dr. Moore also admitted that he had prescribed controlled substances for himself for treatment of dental pain when he was unable to reach his treating dentist.

These facts are established by Respondent's Exhibit A.

5. Dr. Moore stated that his prescribing problems had been resolved due to changes in family circumstances and his voluntary surrender of his DEA privileges pursuant to the Stipulation and Order of the Utah Licensing authority. Although Dr. Moore stated that he had no intention of reapplying for DEA privileges, the Utah Order places no restriction or prohibition against Dr. Moore's ability to reapply.

These facts are established by Respondent's Exhibit A and by State's Exhibit #10.

CONCLUSIONS OF LAW

The acts, conduct, and/or omissions of Serge M. Moore, M.D., with regard to Findings of Fact #1 through #4, above, constitute:

- a. "Failure to use reasonable care discrimination in the administration of drugs", as that clause is used in Section 4731.22(B)(2), Ohio Revised Code;
- b. "Failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease", as that clause is used in Section 4731.22(B)(2), Ohio Revised Code; and
- c. "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.

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Dr. Moore's admitted failure to maintain patient records with regard to his prescribing of controlled substances for family members constitutes both a failure to use reasonable care discrimination in the administration of drugs and a departure from minimal standards of care of similar practitioners under similar circumstances. Regardless of a physician's relationship to his patient, it is essential for him to perform and document on an ongoing basis a thorough and objective evaluation of the patient's complaints, as well as appropriate treatment based upon such evaluation. Maintaining objective and accurate data would be especially imperative with regard to treatment of family members, in itself a questionable practice, in that the physician tends to be more accessible and, thus, vulnerable to such patients.

Further, Dr. Moore's prescribing of controlled substances over a one-year period for treatment of the conditions set forth in his written statement violates each of the above provisions of law. The prescribing of controlled substances for treatment of diarrhea caused by dietary habits is simply an inappropriate treatment modality. Such condition would likely respond to non-drug therapies, such as diet and nutritional counseling. Likewise, long-term prescribing of controlled substances for chronic menstrual pain is also inappropriate. Such prescribing may, indeed, mask symptoms of other problems which may require appropriate evaluation and treatment.

In the absence of patient records, it must be assumed that Dr. Moore failed to perform appropriate work-up and evaluation of his family member-patients. Furthermore, based upon his statement of these patients' conditions, he failed to provide them appropriate treatment. Such acts and omissions indicate an inability on Dr. Moore's part to exercise sound medical judgment.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Serge M. Moore, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is stayed, and Dr. Moore's license is hereby suspended for an indefinite period of time, but not less than one (1) year.
2. The State Medical Board shall not consider reinstatement of Dr. Moore's certificate to practice medicine and surgery in Ohio unless and until all of the following minimum requirements are met:
 - a. Dr. Moore shall submit an application for reinstatement, accompanied by appropriate fees. Dr. Moore shall not make such application for at least one (1) year from the effective date of this Order.

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- b. Dr. Moore shall submit documentation satisfactory to the Board showing his completion of not less than 25 hours per year of approved Category I Continuing Medical Education credits related to the violations set forth in the Conclusions herein. Such credits shall be in addition to the Continuing Medical Education requirements for relicensure. Such documentation shall be required for each full calendar year from and including 1989 to the time of reinstatement.
 - c. Dr. Moore shall take and pass the SPEX examination or any similar written examination which the Board deems appropriate to assess his clinical competency.
 3. Upon reinstatement and his return to the State of Ohio to practice medicine and surgery, Dr. Moore's certificate shall be subject to the following probationary terms, conditions, and limitations for a period of five (5) years:
 - a. Dr. Moore shall obey all federal, state, and local laws and all rules governing the practice of medicine in Ohio.
 - b. Dr. Moore shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the terms of probation.
 - c. Dr. Moore shall appear in person before the full Board, or its designated representative, at six (6) month intervals, or as otherwise requested by the Board.
 - d. In the event that Dr. Moore should leave Ohio for three (3) continuous months, or reside or practice outside the State, Dr. Moore must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside the State will not apply to the reduction of this probationary period.
 - e. Dr. Moore shall be ineligible to reapply for or to hold registration with the United State Drug Enforcement Administration, and shall not prescribe, dispense, administer, or possess controlled substances, except for those prescribed for his own use by another so authorized by law, without prior Board approval.
 4. If Dr. Moore violates the terms of this Order in any respect, the Board, after giving Dr. Moore notice and an opportunity to be heard, may set aside the stay order and impose the revocation of his certificate.

Report and Recommendation
In the Matter of Serge M. Moore, M.D.
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5. Upon successful completion of this probation, Dr. Moore's license will be fully restored.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.


Manita J. Sage
Attorney Hearing Examiner

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EXCERPT FROM THE MINUTES OF APRIL 12, 1989

REPORTS AND RECOMMENDATIONS

Dr. O'Day 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 Daniel T. Sicking, M.D., Neil S. Angerman, M.D., Emmanuel L. Raymundo, M.D., and Serge M. Moore, M.D. A roll call was taken:

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

.....

Mr. Dowling, Ms. Belenker, Ms. Thompson, and Mr. Dilling, left the meeting at this time:

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REPORT AND RECOMMENDATION IN THE MATTER SERGE M. MOORE, M.D.

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MR. ALBERT MOVED TO APPROVE AND CONFIRM MS. SAGE'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF SERGE M. MOORE, M.D. DR. AGRESTA SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Gretter	- aye
	Dr. Daniels	- aye
	Dr. Stephens	- aye
	Dr. Agresta	- aye
	Mr. Albert	- aye
	Dr. Kaplansky	- aye
	Ms. Rolfes	- aye

The motion carried.

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

November 11, 1987

Serge M. Moore, M.D.
1536 Tomahawk Drive
Salt Lake City, Utah 84103

Dear Doctor Moore:

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. On or about June 4, 1986, you entered into stipulations with the Division of Occupational and Professional Licensing of the Department of Business Regulation of the State of Utah in which you did admit that you "did not exercise prudent judgment in prescribing controlled substances to members of (your) family."
2. By letter dated February 4, 1987, in response to this Board's inquiry, you stated that the reason for the action in Utah was that "during the period of January, 1985 to December of 1985, (you) prescribed to members of (your) immediate family Tylenol #3 tablets, and Lomotil tablets, in therapeutic dosages and at the recommended intervals, without keeping adequate clinical histories and records."

Such acts in the above paragraphs (1) and (2), individually and/or collectively, constitute "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," as those clauses are used in Section 4731.22(B)(2), Ohio Revised Code.

Further, such acts in the above paragraphs (1) and (2), 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.

STATE OF OHIO
THE STATE MEDICAL BOARD

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Serge M. Moore, M.D.

November 11, 1987

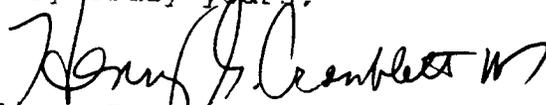
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, that request must be made within thirty (30) days of the time of mailing of this notice.

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.

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

Enclosure

CERTIFIED MAIL RECEIPT NO. P 026 073 384
RETURN RECEIPT REQUESTED