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MAR 8 1986

ADMINISTRATIVE SERVICES SECTION

IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

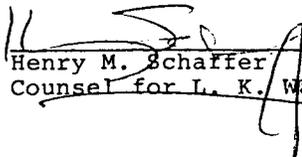
L. K. WALLERSTEIN ) Case No. 85-3170  
Plaintiff-Appellant, ) HON. FRANCIS C. RESTIVO  
V. ) NOTICE OF DISMISSAL  
STATE MEDICAL BOARD )  
Defendant-Appellee. ) Henry M. Schaffer (7757)  
 ) Counsel for Plaintiff  
 ) COOPER, STRAUB, WALINSKI  
 ) & CRAMER  
 ) 900 Adams; Suite 300  
 ) Toledo, Ohio 43624  
 ) Telephone (419) 241-1200  
 )

TO: Lauren M. Ross  
Assistant Attorney General  
State of Ohio  
State Office Tower; 10th Floor  
30 East Broad Street  
Columbus, Ohio 43215

Attorney for State of Ohio State Medical Board

Please take notice that the above-entitled action is hereby  
dismissed.

Respectfully submitted,

  
Henry M. Schaffer  
Counsel for L. K. Wallerstein, M.D.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Notice of Dismissal has been served by United States Certified Mail, Return Receipt Requested, upon Lauren Ross, State of Ohio Attorney General's Office, State Office Tower, 30 East Broad Street, Columbus, Ohio 43215 this 21<sup>st</sup> day of February, 1986.

  
Henry M. Schaffer

AGREEMENT

This Agreement is entered into between the State Medical Board of Ohio (hereinafter the "Board") and <sup>OHIO</sup>~~Dr.~~ L.K. Wallerstein, M.D. (hereinafter "Dr. Wallerstein").

This Agreement is entered into on the basis of the following statements:

1. Following a notice of opportunity for a hearing issued on or about December 4, 1984, an administrative hearing conducted on or about June 5, 1985, and a report and recommendation issued on or about September 27, 1985, the Board on or about October 24, 1985 issued an order in which it:
  - a. revoked Dr. Wallerstein's license to practice medicine and surgery in the State of Ohio;
  - b. stayed the revocation;
  - c. placed Dr. Wallerstein under indefinite suspension;
  - d. stated Dr. Wallerstein could not apply for reinstatement for a period of one (1) year; and
  - e. placed certain conditions upon his right to reinstatement.
2. On or about November 8, 1985 Dr. Wallerstein appealed the order of the Board to the Lucas County Court of Common Pleas.

WHEREFORE, in lieu of proceeding with the appeal of the Board's order to the Court of Common Pleas, and in consideration of the mutual promises set forth below, the Board and Dr. Wallerstein agree to the following:

- A. Dr. Wallerstein agrees to withdraw his administrative appeal presently pending in the Lucas County Court of Common Pleas, styled as L.K. Wallerstein, M.D. v. State Medical Board, Case No. 85-3170, assigned to Judge Restivo.
- B. The Board agrees to modify its order issued on or about October 24, 1985 so that its terms are those set forth in paragraph D below.
- C. The modification to the Board's order referred to in paragraph B above shall not extend to the Findings of Fact and Conclusions of Law set forth in the Report and Recommendation of the hearing member which shall remain in full force and effect.
- D. Dr. Wallerstein's license to practice medicine and surgery in the State of Ohio is indefinitely suspended, but this suspension is stayed and the following terms and conditions of limitation are placed upon Dr. Wallerstein's license:

- i. Dr. Wallerstein shall participate in the post-residential phase of the treatment program of the Shepard Hill facility in Newark, Ohio as set forth in his two year After-Care Plan, effective on or about January 10, 1986. As part of this After-Care Plan, Dr. Wallerstein's primary physician shall be Deirdre O'Connor, M.D.
- ii. Dr. Wallerstein shall request and to the best of his ability insure that Dr. O'Connor submits to the Board regular written reports concerning Dr. Wallerstein's treatment and condition. These reports shall be submitted to the Board at least once per month.
- iii. Following the expiration of his Shepard Hill After-Care Plan, Dr. Wallerstein shall continue to be treated by a psychiatrist or psychologist acceptable to the Board. Dr. Wallerstein shall request and to the best of his ability insure that this psychiatrist or psychologist submits to the Board regular written reports concerning Dr. Wallerstein's treatment and condition. These reports shall be submitted to the Board at least once every two months.
- iv. Dr. Wallerstein shall submit to weekly random urine screenings for the presence of drugs. It shall be the responsibility of Dr. Wallerstein to arrange for these screenings and to bear their cost. Within two weeks of the effective date of this Agreement, Dr. Wallerstein shall inform the Board of the specific arrangements he has made for urine screenings, which arrangements shall be subject to approval by the Board. Dr. Wallerstein shall request and to the best of his ability insure that reports of the weekly urine screens are submitted to the Board at least once per month.
- v. Dr. Wallerstein shall not prescribe, administer, or dispense Schedule II, IIN, III, and/or IIIN controlled substances for a period of two years from the effective date of this Agreement. Any certificate from the federal Drug Enforcement Agency (DEA) which authorizes Dr. Wallerstein to prescribe, administer, or dispense these classes of controlled substances shall be surrendered to the Board or its designee. If no such certificate is presently in Dr. Wallerstein's possession Dr. Wallerstein shall instead submit a signed, sworn statement to that effect.
- vi. Dr. Wallerstein shall appear before the Board once every three (3) months at a time and place to be designated by the Board in advance of each appearance.
- vii. Dr. Wallerstein shall arrange for and agree to submit to supervision of his practice by one or more licensed physicians approved by the Board. Within two weeks of the effective date of this

Agreement Dr. Wallerstein shall inform the Board of the names of the supervising physician(s) and provide to the Board signed statements from each that he or she is willing to perform the duties outlined in this Agreement. Dr. Wallerstein shall request and to the best of his ability insure that the supervising physicians carry out duties outlined in this Agreement.

viii. The supervision referred to in subparagraph vii above, shall be accomplished as follows:

- For the first three years of this Agreement at least one supervising physician shall review all records, charts, notes, or other documents relating to patients treated in any way by Dr. Wallerstein during each week. This review shall be done at least once per week.

- For the first six months of this Agreement a supervising physician shall visit Dr. Wallerstein's office at least one hour per week during a time when he is actually seeing patients. This visit shall be made on a random basis without any advance notice to Dr. Wallerstein. During each visit the supervising physician shall personally observe and speak to Dr. Wallerstein, but he shall not be required to either treat or observe any patients.

- For the second six months of this Agreement, the frequency of the random office visits described in the preceding subparagraph shall be reduced to once per month. After the first year of this Agreement, the random office visits shall no longer be required.

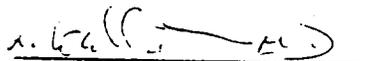
- During the course of any of the supervision described above, the supervising physicians shall immediately report to the Board any irregularities or problems he discovers in Dr. Wallerstein's practice.

ix. Dr. Wallerstein shall request and to the best of his ability insure that the supervising physician(s) submit to the Board regular written statements confirming their performance of any of the supervisory acts described in subparagraphs vi and viii above. These statements shall be submitted to the Board at least once per month.

x. During the first two years of this Agreement, Dr. Wallerstein shall not practice medicine or surgery outside of his private office practice supervised under subparagraph vii above, except in the course of a position in an emergency

room. If during the first two years of this Agreement Dr. Wallerstein secures an emergency room position, he shall immediately notify the Board. Before he shall be permitted to practice in an emergency room, Dr. Wallerstein shall arrange for another licensed physician acceptable to the Board to agree to monitor his activities in the emergency room and to report immediately to the Board any irregularities discovered.

- xi. The terms and conditions of limitation set forth in this paragraph which do not include their own time period or expiration date shall continue for a period of eight years from the effective date of this Agreement.
  - xii. At the end of the eight year period referred to in subparagraph x above, Dr. Wallerstein shall be eligible for the removal of all terms and conditions of limitation. Such eligibility shall be conditioned upon Dr. Wallerstein's written request to the Board and upon his submission of reports from his treating psychiatrist or psychologist and another psychiatrist or psychologist designated by the Board that he is able to practice medicine without further mandatory treatment or supervision.
- E. The terms set forth in paragraph D above shall be deemed to be "conditions of limitation placed by the Board upon a certificate to practice "as that term is used in R.C. §4731.22 (B)(11).
- F. This Agreement may be modified in writing upon the written consent of both parties.
- G. It is understood by and between the parties that this Agreement is a public record within the meaning of R.C. §149.43.
- H. This Agreement shall take effect when it is signed by Dr. Wallerstein.

  
L.K. Wallerstein, M.D.

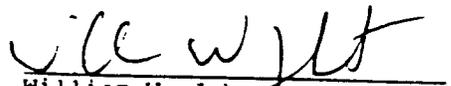
12/1/86  
Date

  
Henry M. Schaffer, Esq.  
Attorney for Dr. Wallerstein

1/29/86  
Date

  
Henry G. Cramblett, M.D.  
Secretary, State Medical Board

2/13/86  
Date

  
William W. Johnson, Esq.  
Supervising Member  
State Medical Board

18 Feb 86  
Date

  
Lauren M. Ross  
Assistant Attorney General  
Representing the State  
Medical Board

RECEIVED  
OHIO STATE  
MEDICAL BOARD

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IN THE COURT OF COMMON PLEAS, LUCAS COUNTY, OHIO

L. K. WALLERSTEIN, M.D.  
2706 Airport Hwy.  
Toledo, Ohio 43609,  
  
Plaintiff-Appellant,

vs.

STATE OF OHIO  
THE STATE MEDICAL BOARD  
65 S. Front Street  
Suite 510  
Columbus, Ohio 43215,  
  
Defendant-Appellee.

) Case No. 85-3170  
) NOTICE OF APPEAL AND ASSIGN-  
) MENTS OF ERROR FROM THE  
) STATE MEDICAL BOARD, STATE  
) OF OHIO  
)  
) Henry M. Schaffer  
) Counsel for Plaintiff-  
) Appellant  
) COOPER, STRAUB, WALINSKI  
) & CRAMER  
) 900 Adams Street  
) P.O. Box 1568  
) Toledo, Ohio 43603-1568  
) Telephone: (419) 241-1200  
)

\* \* \* \* \*

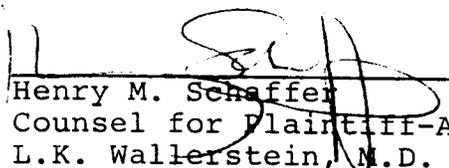
L. K. Wallerstein, M.D., appellant herein, hereby appeals to the Common Pleas Court of Lucas County, Ohio, pursuant to Ohio Revised Code §119.12 from an order entered by The State Medical Board on October 9, 1985 and mailed to appellant on October 24, 1985. A copy of the entry of order appealed from is attached as Exhibit 1 hereto.

The basis of this appeal is that The State Medical Board acted arbitrarily, punitively, and in violation of, inter alia, the provisions of Ohio Revised Code §4731.22(B)(15) in entering the order appealed from without affording plaintiff-appellant

the opportunity, required by the above statute, "to demonstrate to the board that he can resume his practice in compliance with acceptable and prevailing standards under the provisions of his certificate." Further support for this appeal and this Court's reversal of the order appealed from are stated in the Motion for Consideration of Additional Testimony and Introduction of Further Documentary Evidence, Motion to Delay Consideration of the Report and Recommendation in the matter of L.K. Wallerstein, M.D., letter of objection of November 4, 1985 to the Report and Recommendation of John Buchan, D.P.M., and Motion for Reconsideration, all previously filed by plaintiff-appellant with The State Medical Board, and denied by said board. A copy of each of these documents is attached hereto as composite Exhibit 2.

WHEREFORE, for the above reasons, plaintiff-appellant requests that the order of The State Medical Board be reversed.

Respectfully submitted,

  
Henry M. Schaffer  
Counsel for Plaintiff-Appellant  
L.K. Wallerstein, M.D.

CERTIFICATE OF SERVICE

This is to certify that the original of the Notice of Appeal and Assignments of Error in this proceeding was delivered

and served upon the State Medical Board, State of Ohio at 65 S.  
Front Street, Suite 510 Columbus, Ohio 43215 on the \_\_\_ day of  
November, 1985.

  
Henry M. Schaffer

RECEIVED  
OHIO STATE  
MEDICAL BOARD

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IN THE COURT OF COMMON PLEAS, LUCAS COUNTY, OHIO

L. K. WALLERSTEIN, M.D.,	)	Case No.
Plaintiff-Appellant,	)	<u>MOTION TO STAY ENFORCEMENT</u>
vs.	)	Henry M. Schaffer
STATE OF OHIO	)	Counsel for Plaintiff-
THE STATE MEDICAL BOARD,	)	Appellant
Defendant-Appellee.	)	COOPER, STRAUB, WALINSKI & CRAMER
	)	900 Adams Street
	)	P.O. Box 1568
	)	Toledo, Ohio 43603-1568
	)	Telephone: (419) 241-1200

\* \* \* \* \*

Pursuant to §119.12 of the Ohio Revised Code, L.K. Wallerstein, plaintiff-appellant herein, moves this Court for an order staying the enforcement of the Order entered below by appellee State Medical Board on October 9, 1985 and mailed to plaintiff-appellant on October 24, 1985. If enforcement of said Order is not stayed, pending appeal, then unusual hardship to the appellant will result in that despite appellant's successful recovery and rehabilitation from his dependency on prescription drugs, which will be demonstrated to this Court, he will be prevented from continuing in the practice of medicine in compliance and conformity with acceptable and prevailing

COOPER, STRAUB,  
WALINSKI & CRAMER  
A LEGAL PROFESSIONAL  
ASSOCIATION  
900 ADAMS STREET  
P.O. BOX 1568  
TOLEDO, OHIO 43603

standards of medical practice and, thereby, be unable to support himself and his family.

Respectfully submitted,

  
Henry M. Schaffer  
~~Counsel for Plaintiff-Appellant~~  
L.K. Wallerstein, M.D.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Motion to Stay Enforcement in this proceeding was delivered and served upon the State Medical Board, State of Ohio at 65 S. Front Street, Suite 510 Columbus, Ohio 43215 on the \_\_\_ day of November, 1985.

  
Henry M. Schaffer

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

- October 23, 1985

L. K. Wallerstein, M.D.  
2706 Airport  
Toledo, Ohio 43609

Dear Doctor Wallerstein:

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; a certified copy of the Motions by the State Medical Board, meeting in regular session on October 9, 1985, amending said Report and Recommendation as the Findings and Order of the State Medical Board. A certified copy of the draft of the Minutes setting forth the reasons for the amendment is also enclosed.

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



Henry G. Cramblett, M.D.  
Secretary

HCG:em

Enclosures

CERTIFIED MAIL NO. P 569 361 935  
RETURN RECEIPT REQUESTED

cc: Henry M. Schaffer, Esq.

CERTIFIED MAIL NO. P 569 361 936  
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 Motions, and a certified copy of the draft of Minutes setting forth the reasons for the amendment, by the State Medical Board, meeting in regular session on October 9, 1985, amending 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 L. K. Wallerstein, M.D., as it appears in the Journal of the State Medical Board of Ohio.

(SEAL)

  
Henry G. Cramblett, M.D.  
Secretary

October 23, 1985  
\_\_\_\_\_  
Date

STATE OF OHIO  
THE STATE MEDICAL BOARD

IN THE MATTER OF           \*  
                                  \*  
L. K. WALLERSTEIN, M.D.   \*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the   9th   day of   October, 1985  .

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 amended 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 9th day of October, 1985.

It is hereby ORDERED:

That the license of Dr. L. K. Wallerstein to practice medicine and surgery in the State of Ohio be revoked, that the revocation be stayed, and that Dr. Wallerstein would be under indefinite suspension with the following terms:

He may not apply for reinstatement for a period of one (1) year. His license would be returned only under the following conditions:

He present evidence of successful completion of a rehabilitation program; the Board receives a favorable report after examination of Dr. Wallerstein by a psychiatrist of the Board's choice that states he is able to re-enter the practice of medicine; he successfully take FLEX Component Two. After restoration of his license, he must:

Make appearances before the Board or its secretary every three (3) months; submit to random urine screens, the frequency of which is to be determined by the Board; and practice without a D.E.A. until the Board agrees to allow him to reapply.

The effective date of October 9, 1985 is placed on the Order.

(SEAL)

  
Henry G. Cramblett, M.D.  
Secretary

STATE OF OHIO  
THE STATE MEDICAL BOARD

REPORT AND RECOMMENDATION  
IN THE MATTER OF L. K. WALLERSTEIN, M.D.

The matter of L. K. Wallerstein, M.D., came before me, John H. Buchan, D.P.M., Member of the State Medical Board of Ohio, on June 5, 1985 SEP 27 A9:24

INTRODUCTION AND SUMMARY OF EVIDENCE

1. Dr. L. K. Wallerstein entered into a consent agreement with the State Medical Board of Ohio on September 28, 1984, to become effective October 1, 1984. (State's Exhibit #6)
2. Pursuant to this consent agreement, conditions were placed on Dr. Wallerstein's medical certificate which limited his prescribing practices and specifically forbade him from writing prescriptions for himself, as well as from handling, obtaining, prescribing, dispensing or administering the unscheduled drug Stadol.
3. The September 28, 1984 consent agreement included the following provision:

If, in the discretion of the Secretary of The State Medical Board of Ohio, L. K. Wallerstein, M.D., appears to have violated or breached any terms or conditions of this Agreement, The State Medical Board of Ohio reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Agreement.
4. On December 4, 1984, the State Medical Board issued a letter to Dr. Wallerstein (State's Exhibit #1) proposing to take disciplinary action on the basis of alleged violations of the Medical Practice Act.
5. By letter of January 2, 1985, Dr. Wallerstein requested a hearing on the Board's proposed action. (State's Exhibit #2)
6. The Medical Board acknowledged receipt of Dr. Wallerstein's hearing request by letter of January 7, 1985, and scheduled and continued his hearing pursuant to Section 119.09, Ohio Revised Code. (State's Exhibit #3)
7. By letter of April 24, 1985, the Medical Board scheduled Dr. Wallerstein's hearing for Wednesday, June 5, 1985. (State's Exhibit #4)

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REPORT AND RECOMMENDATION IN THE MATTER OF  
L. K. WALLERSTEIN, M.D.

Page 2

8. A hearing was held in this matter on June 5, 1985, with Assistant Attorney General Lauren M. Ross appearing on behalf of the State. Dr. Wallerstein did not attend the hearing and was not represented by counsel; however, a letter from Dr. Wallerstein which was received at the Board offices on the morning of the hearing was marked Respondent's Exhibit A and admitted to the record. In this letter Wallerstein indicates that he has been very depressed, to the extent that it is adversely affecting all aspects of his life. He further states that he is ill with diabetes and a very elevated blood sugar, making his vision blurred. He writes that he is under the care of a Dr. Mohan.
9. The State's case was presented through the testimony of the following individuals:
  - A. Thomas J. Prunte, Staff Counsel for the State Medical Board of Ohio,
  - B. James Tudor, Chief Investigator for the Ohio State Board of Pharmacy,
  - C. Lauren Lubow, Medical Board Assignment and Hearing Attorney, and
  - D. Thomas Bates, Investigator for the State Medical Board of Ohio.
10. Through these witnesses the State provided the following information in the form of testimony and documentary evidence:
  - A. That Dr. Wallerstein had prescribed and purchased Stadol from the Kahler Pharmacy in Toledo, Ohio from approximately August 23, 1983 through November 17, 1983. These prescriptions were written or telephoned in by Dr. Wallerstein and were prescribed for four separate patients, including Dr. Wallerstein's mother-in-law. Some of the prescriptions were picked up and paid for by Dr. Wallerstein. (State's Exhibit #7, sealed)
  - B. That Dr. Wallerstein had prescribed and purchased Stadol from the Fallen Timbers Apothecary in Maumee, Ohio during 1983 and early 1984. These prescriptions were written by Dr. Wallerstein, some in the name of a patient, with the remaining prescriptions being written for Dr. Wallerstein himself. (State's Exhibit #8, sealed)

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- C. That billing records from the Kahler Pharmacy indicated that Dr. Wallerstein had written Stadol prescriptions for himself in 1983 and 1984. (State's Exhibit #9)
  - D. That Dr. Wallerstein had prescribed and purchased injectable Stadol from the Kahler Pharmacy between January 2 and April 29, 1985, including approximately 129 refills of the original prescription. (State's Exhibit #10)
  - E. That these Stadol prescriptions from the Kahler Pharmacy between January 2 and April 29, 1985 show Dr. Wallerstein as both the prescribing physician and the patient. (State's Exhibit #11)
11. In addition to the above noted documents, the State presented a certified copy of notes taken during an office conference held on March 16, 1984 at the offices of the State Medical Board involving Dr. Wallerstein. (State's Exhibit #5, sealed) These notes reflect the following:
- A. That Dr. Wallerstein and his attorney, Mr. Henry Schaffer, were present at the conference.
  - B. That Dr. Wallerstein and Mr. Schaffer admitted that Dr. Wallerstein had supplied medicine, specifically injectable Stadol, to people who were not his patients, including, but not limited to members of the Cuban underground.
  - D. That Dr. Wallerstein had been apprised that the handling of Stadol in this manner for nontherapeutic purposes constituted violation of the Medical Practice Act, and that retaining his license to practice medicine was contingent on compliance with the Consent Agreement, State's Exhibit #6.
12. Subsequent to the closing of the hearing record, a letter from Dr. Wallerstein's attorney, Mr. Schaffer, was forwarded to this hearing officer and copied to Ms. Ross, the Assistant Attorney General. In his correspondence, dated September 13, 1985 and received in the Board offices on September 16, 1985, Mr. Schaffer requested that the record in this matter be reopened for the submission of additional evidence, which had been unavailable at the time of the June 5, 1985 hearing.

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After having reviewed Mr. Schaffer's statements, and in view of the fact that no objection has been registered by the office of the Attorney General, I have determined that this information is relevant and material to my recommendation in this matter. Accordingly, the record is hereby reopened for the inclusion of Mr. Schaffer's September 13, 1985 letter.

13. Mr. Schaffer's letter states that on August 29, 1985, Dr. Wallerstein acknowledged to Dr. Deirdre O'Connor that he had developed a dependency on certain prescription drugs and agreed to submit himself for diagnosis and treatment at Shepherd Hill, a treatment and rehabilitation facility in Newark, Ohio. Mr. Schaffer confirms that Dr. Wallerstein did in fact admit himself to Shepherd Hill and is now a resident and participant in that program.

#### FINDINGS OF FACT

1. Prior to September 28, 1984, Dr. Wallerstein prescribed large amounts of Stadol for specific patients and directly for himself. This is proven by State's Exhibits #7 and #8, and admitted by Dr. Wallerstein as recorded in the notes from the March 16, 1984 office conference, State's Exhibit #5.
2. Prior to September 28, 1984, Dr. Wallerstein was providing drugs for persons not his patients, and was sending these drugs to the Cuban underground, among others. Dr. Wallerstein admitted this in the March 16, 1984 office conference, which resulted in the Consent Agreement. State's Exhibit #5
3. Prior to September 28, 1984, Dr. Wallerstein was not keeping any written record of how much Stadol he was prescribing nor to whom he was prescribing it. This is clear from the extended discussion at the March 16, 1984 office conference. State's Exhibit #5
4. Dr. Wallerstein entered into a Consent Agreement with the State Medical Board of Ohio on September 28, 1984, effective on October 1, 1984, in which he agreed not to handle, prescribe, or obtain Stadol in any way. State's Exhibit #6
5. Dr. Wallerstein further agreed that he would not self-prescribe medications. State's Exhibit #6

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6. Dr. Wallerstein has continued to self-prescribe medications, including Stadol. This is clear not only from the tremendous quantities of Stadol he has prescribed with himself named as patient, but also the Diabinese and Talwin prescriptions filled by the Kahler Pharmacy for him. State's Exhibit #10
7. Dr. Wallerstein has continued to obtain, handle, prescribe, dispense and administer the drug Stadol in large quantities. State's Exhibit #10

CONCLUSIONS OF LAW

1. In spite of the fact that Stadol is not specifically controlled by the Food and Drug Administration, it is certainly a dangerous drug with the same abuse potential as any Schedule II medication. Dr. Wallerstein's apparent reliance on this substance, both personally and in the treatment of his patients, is a matter of serious concern for this Board.
2. Dr. Wallerstein's prescribing of large quantities of Stadol to several different patients over extended periods of time constitutes "failure to use reasonable care discrimination in the administration of drugs," in violation of Section 4731.22(B)(2), Ohio Revised Code.
3. Dr. Wallerstein's sending of prescription drugs to the Cuban underground or to other third parties constitutes a violation of Section 4731.22(B)(3), Ohio Revised Code, as the "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes."
4. Dr. Wallerstein's excessive prescribing of Stadol over extended periods of time for himself and others constitutes, "a 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," in violation of Section 4731.22(b)(6), Ohio Revised Code.
5. Dr. Wallerstein's continued obtaining, handling, prescribing, dispensing, and administering the drug Stadol after the effective date of his Consent Agreement with the State Medical Board constitutes a clear "violation of the conditions of limitation placed by the Board upon a certificate to practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

85 SEP 27 10:21

6. In addition to the circumstantial evidence of Dr. Wallerstein's drug dependency provided by pharmacy records of repeated and excessive self-prescribing, Mr. Schaffer's September 13, 1985 letter contains an admission of Dr. Wallerstein's current dependency on certain prescription drugs and self-admission to a treatment program. This is undeniable evidence of Dr. Wallerstein's "inability to practice according to acceptable and prevailing standards of care by reason of illness, excessive use of alcohol, excessive use of controlled substances, drugs, or other chemicals, or as a result of a mental or physical condition," as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

\* \* \*

There is no doubt that Dr. L. K. Wallerstein has suffered for a number of years from an overwhelming dependency on prescription drugs. His recent acceptance of this fact and his choice to seek treatment is courageous and laudable. However, it is not a sufficient basis for permitting him to remain a practicing physician in this state.

This Board has shown extreme leniency toward Dr. Wallerstein in the past by permitting him to retain his license under the conditions of a consent agreement. Our faith was rewarded by an outright disregard for the safeguards we attempted to impose. I am not concluding that Dr. Wallerstein's violation of his agreement with the Board was malicious in any way. Nevertheless, I cannot in good conscience write these acts of noncompliance off as purely the result of chemical dependency and overlook them now that Dr. Wallerstein has sought treatment. This Board has an obligation to the citizens of Ohio not to give a recalcitrant physician one too many chances.

I am convinced that, in this day and age, it is virtually impossible to conduct an effective medical practice without coming into contact with drugs, controlled or otherwise. I am equally convinced that allowing Dr. Wallerstein to return to medical practice, even with treatment, would create an unmanageable situation, and would be a disservice to both the doctor and the public.

85 SEP 27 A9:24

PROPOSED ORDER

It is hereby ORDERED that the license of Dr. L. K. Wallerstein to practice medicine and surgery in the State of Ohio be revoked.

This order shall become effective as determined by the State Medical Board of Ohio.

  
\_\_\_\_\_  
John H. Buchan, D.P.M.  
Hearing Member

  
\_\_\_\_\_  
Date

85 SEP 27 4 0:24

STATE OF OHIO  
THE STATE MEDICAL BOARD

EXCERPT FROM A DRAFT OF THE MINUTES OF OCTOBER 9, 1985

REPORT AND RECOMMENDATION IN THE MATTER OF L. K. WALLERSTEIN, M.D.

Mr. Schmidt and Ms. Thompson left the meeting at this time.

Mr. Bumgarner referred the Board to table file item number four, which was a motion from Dr. Wallerstein's attorney to delay consideration, as well as a motion for consideration of additional testimony and introduction of further documentary evidence. He also referred to table file item number five, which were the objections filed in response to the report and recommendation, should the Board decide to proceed with consideration of the report and recommendation.

Ms. Ross advised that she is appearing only to reply to the proffered motions. She advised that Dr. Wallerstein's attorney, Henry M. Schaffer, Esq., is aware that she is appearing before the Board to address these motions.

Ms. Ross continued that the state would oppose the motion for delay in considering Dr. Buchan's report and recommendation, which took into account certain additional evidence which Dr. Buchan permitted to be admitted after the hearing. Ms. Ross stated that the nature of this evidence was that apparently some time after the hearing, Dr. Wallerstein committed himself to a drug addiction treatment program. Dr. Buchan, having that information, recommended revocation. Ms. Ross stated that she does not feel that an additional delay in considering the matter would be in the best interest of the Board in pursuing its obligations.

Ms. Ross added that she would also oppose the motion to submit additional testimony and evidence because she has not had the opportunity to challenge the evidence or cross-examine the witnesses giving this additional testimony.

DR. CRAMBLETT MOVED TO DENY DR. WALLERSTEIN'S MOTION TO DELAY, AND TO DENY HIS MOTION TO ALLOW ADDITIONAL TESTIMONY. DR. STEPHENS SECONDED THE MOTION. A discussion followed.

Dr. Barnes asked why the Board would deny these motions. Dr. Cramblett stated that the hearing has taken place and a report and recommendation has been prepared and placed before the Board. He stated that he feels that these are just delay tactics and he does not feel that they will change what the Board should do with Dr. Wallerstein. He added that in a way these motions are an attempt to hide behind rehabilitation. Dr. Wallerstein had the opportunity to come forth and tell the Board about his problems, but instead came before the Board and gave dishonest testimony about the use of the material he was obtaining. Dr. Cramblett added that Dr. Wallerstein's problems go back years with the Board.

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

ROLL CALL VOTE:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Buchan	- abstain
	Dr. Lovshin	- aye
	Ms. Rolfes	- aye

Dr. Oxley	- aye
Dr. Barnes	- aye
Dr. Stephens	- aye
Mr. Johnston	- abstain

The motion carried.

Ms. Ross and Ms. Maxwell left the meeting at this time.

Dr. Rauch 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 L. K. Wallerstein, M.D. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Buchan	- aye
	Dr. Lovshin	- aye
	Ms. Rolfes	- aye
	Dr. Oxley	- aye
	Dr. Barnes	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- aye

The motion carried.

Dr. Buchan read the proposed order from his report and recommendation, the original of which shall be maintained in the exhibits section of this journal.

DR. OXLEY MOVED TO APPROVE AND CONFIRM DR. BUCHAN'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF L. K. WALLERSTEIN, M.D. MS. ROLFES SECONDED THE MOTION. A discussion followed.

Dr. Lovshin noted that the drug in question is Stadol, which is not scheduled.

Dr. O'Day joined the meeting at this time.

Dr. Stephens stated that the question involved here is Dr. Wallerstein's fitness.

Dr. Buchan stated that Stadol is not a specifically controlled drug, but it is a dangerous drug with the potential for abuse.

Dr. Barnes stated that what Dr. Wallerstein did was while he was under the effects of the drug. He asked if it might be more appropriate to suspend Dr. Wallerstein's license than to revoke it.

Dr. Rauch stated that it is up to the individual Board Members on how to proceed.

Dr. Barnes stated that the Board should be consistent. If a physician who is im-

paired can't practice, the Board should suspend or revoke, but it must be consistent.

Dr. Stephens advised that Dr. Cramblett's earlier statements should be taken into consideration. Dr. Wallerstein was given an opportunity before and gave erroneous testimony to the Board.

Ms. Rolfes advised that the Board could place an order of stayed revocation with a suspension. She stated that in that event of another violation, the license is revoked.

Mr. Johnston advised that historically, the Board will take an addicted physician who has not hurt anyone through his addiction, and start with an indefinite suspension. Then, depending on the severity of the individual cases, the Board will build on the suspension base to make the type of order it feels is appropriate.

Dr. Barnes suggested that Dr. Wallerstein's behavior might be secondary to his addiction. If so, it would be inappropriate to revoke Dr. Wallerstein's license.

Dr. Buchan stated that there is always a gray area in these cases, and each Board member must make up his own mind. He stated that revocation is pretty harsh, and it is a lot easier to suspend a license.

Dr. Lancione advised that Stadol is not on the D.E.A. controlled substance list.

Dr. Stephens stated that the one thing that is of concern to him is the Board's consistency. He stated that the Board established guidelines which will come in handy in being consistent.

Mr. Bumgarner reminded the Board that a violation of Section 4731.22(B)(15) O.R.C. is not the only violation involved here.

Dr. Cramblett stated that he remembers that Stadol was not the only drug involved in Dr. Wallerstein's problem.

Dr. Buchan read the Conclusions of Law from his report and recommendation.

Dr. Barnes asked why Dr. Buchan couldn't write Dr. Wallerstein's behavior off as the acts of a chemically dependent person. Dr. Buchan stated that Dr. Wallerstein was under a consent agreement and was in full accord with what the agreement said when he signed it.

Dr. Barnes stated that someone who is addicted can be compliant, but not in control of his addiction.

Dr. Buchan stated that the fact Dr. Wallerstein signed the agreement showed that he was aware that he was on notice by the Board. Dr. Wallerstein had his chance and agreed to certain conditions. Dr. Buchan stated that a drug dependent person does have a clear mind at times where he gets an idea of what is going on. Dr. Buchan stated that he thought the Board had Dr. Wallerstein's attention, but ap-

parently it did not.

Dr. Barnes stated that it is important that someone who is impaired be supported and maintained and kept out of practice until he is rehabilitated. He stated that to permanently take a doctor out of practice seems a destructive measure. He added why should a doctor care what he does if his license is revoked. He added that Dr. Wallerstein did not do what he did because he wanted to do it.

Dr. Cramblett asked Dr. Barnes if he could excuse Dr. Wallerstein's addiction if he was a patient and he and his family received substandard care from Dr. Wallerstein. Dr. Cramblett added that the Board has looked compassionately and kindly on physicians who have confessed their addiction and entered a program. Dr. Wallerstein refused to enter a program. Only after the Board got as far as the report and recommendation did he see the light and enter rehabilitation. As to whether he hurt any patients, that would be almost impossible to determine.

Dr. Barnes asked if the Board had any evidence of harm to a patient.

Dr. Cramblett stated that the only way to prove harm to a patient would be if the patients came to the Board. He stated that the Board doesn't have the manpower or authority to go out and question patients.

Ms. Rolfes stated that this is not just a matter of Dr. Wallerstein being an impaired physician, there is also a question of minimal standards of care in his use of stadol.

Dr. Buchan added that there is a moral issue involved here as well.

Dr. Lovshin stated that part of the record is a letter from Dr. Wallerstein that states he didn't have money for an attorney and he wanted the Board to appoint someone for him. Dr. Lovshin stated that a man who has been in practice as many years as Dr. Wallerstein and cannot afford an attorney could not be successful, which might indicate a problem in his practice.

DR. BARNES MOVED TO AMEND DR. BUCHAN'S ORDER TO STATE THAT DR. WALLERSTEIN'S LICENSE WOULD BE REVOKED, THAT THE REVOCATION WOULD BE STAYED, AND THAT DR. WALLERSTEIN WOULD BE UNDER INDEFINITE SUSPENSION WITH THE FOLLOWING TERMS: HE MAY NOT APPLY FOR REINSTATEMENT FOR A PERIOD OF ONE YEAR. HIS LICENSE WOULD BE RETURNED ONLY UNDER THE FOLLOWING CONDITIONS: HE PRESENT EVIDENCE OF SUCCESSFUL COMPLETION OF A REHABILITATION PROGRAM; THE BOARD RECEIVES A FAVORABLE REPORT AFTER EXAMINATION OF DR. WALLERSTEIN BY A PSYCHIATRIST OF THE BOARD'S CHOICE THAT STATES HE IS ABLE TO RE-ENTER THE PRACTICE OF MEDICINE; HE SUCCESSFULLY TAKES FLEX COMPONENT TWO. AFTER RESTORATION OF HIS LICENSE, HE MUST: MAKE APPEARANCES BEFORE THE BOARD OR ITS SECRETARY EVERY THREE MONTHS; SUBMIT TO RANDOM URINE SCREENS, THE FREQUENCY OF WHICH IS TO BE DETERMINED BY THE BOARD; AND PRACTICE WITHOUT A D.E.A. UNTIL THE BOARD AGREES TO ALLOW HIM TO REAPPLY. DR. LANCIONE SECONDED THE MOTION. A discussion followed.

Dr. Rauch asked Dr. O'Day if she 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 L. K. Wallerstein, M.D. Dr. O'Day stated that she had.

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

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

The motion carried.

A roll call vote was taken on Dr. Oxley's motion as amended:

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

The motion carried.

MR. JOHNSTON MOVED THAT THE BOARD SET AN EFFECTIVE DATE OF OCTOBER 9, 1985 ON THE ORDER. DR. LANCIONE SECONDED THE MOTION. A roll call vote was taken:

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

The motion carried.

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

December 4, 1984

L.K. Wallerstein, M.D.  
2706 Airport Highway  
Toledo, Ohio 43609

Dear Dr. Wallerstein:

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, 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 the dates indicated, you either wrote or phoned in prescriptions for Stadol for the patients names listed in the attached key(to be withheld from public disclosure):

<u>PATIENT NO.</u>	<u>DATE</u>	<u>SUBSTANCE</u>	<u>AMOUNT</u>
1.	2/9/83	STADOL	2 vials
	2/17/83	STADOL	2 vials
	2/23/83	STADOL	2 vials
	3/11/83	STADOL	2 vials
	3/16/83	STADOL	2 vials
	3/21/83	STADOL	4 vials
	3/23/83	STADOL	2 vials
	4/1/83	STADOL	2 vials
	4/7/83	STADOL	2 vials
	4/16/83	STADOL	2 vials
	8/19/83	STADOL	3 vials
	8/23/83	STADOL	3 vials
	8/26/83	STADOL	3 vials
	8/29/83	STADOL	2 x 10 cc (2 mg)
	9/2/83	STADOL	3 x 10 cc (2 mg)
	9/7/83	STADOL	3 x 10 cc (2 mg)
	9/8/83	STADOL	2 vials
	9/11/83	STADOL	3 x 10 cc (2 mg)
	9/12/83	STADOL	3 vials
	9/17/83	STADOL	3 vials
	9/18/83	STADOL	3 x 10 cc (2 mg)
	9/20/83	STADOL	3 x 10 cc (2 mg)
	9/24/83	STADOL	3 x 10 cc (2 mg)
	9/27/83	STADOL	3 x 10 cc (2 mg)
	10/4/83	STADOL	3 x 10 cc (2 mg)

STATE OF OHIO  
THE STATE MEDICAL BOARD

Page 2  
L. K. Wallerstein, M.D.

December 4, 1984

<u>PATIENT NO.</u>	<u>DATE</u>	<u>SUBSTANCE</u>	<u>AMOUNT</u>
1.	10/6/83	STADOL	3 x 10 cc (2 mg)
	10/7/83	STADOL	3 x 10 cc (2 mg)
	10/18/83	STADOL	2 x 10 cc (2 mg)
	10/26/83	STADOL	1 x 10 cc (2 mg)
	11/4/83	STADOL	3 x 10 cc (2 mg)
	11/14/83	STADOL	4 x 10 cc (2 mg)
	12/3/83	STADOL	3 x 10 cc (2 mg)
	12/23/83	STADOL	3 x 10 cc (2 mg)
	1/4/84	STADOL	3 x 10 cc (2 mg)
2	11/2/83	STADOL	3 x 10 cc (2 mg)
	11/5/83	STADOL	3 x 10 cc (2 mg)
	11/16/83	STADOL	3 x 10 cc (2 mg)
3	11/17/83	STADOL	3 x 10 cc (2 mg)
4	8/23/83	STADOL	2 x 10 cc (2 mg)
	9/9/83	STADOL	3 x 10 cc (2 mg)
	9/14/83	STADOL	3 x 10 cc (2 mg)
	9/19/83	STADOL	3 x 10 cc (2 mg)
	9/30/83	STADOL	3 x 10 cc (2 mg)
	10/5/83	STADOL	3 x 10 cc (2 mg)
	10/9/83	STADOL	2 x 10 cc (2 mg)
	10/11/83	STADOL	1 x 10 cc (2 mg)
	10/13/83	STADOL	3 x 10 cc (2 mg)
	10/24/83	STADOL	3 x 10 cc (2 mg)
	10/28/83	STADOL	3 x 10 cc (2 mg)
	10/29/83	STADOL	3 x 10 cc (2 mg)
	11/1/83	STADOL	3 x 10 cc (2 mg)
	11/9/83	STADOL	3 x 10 cc (2 mg)
	11/15/83	STADOL	3 x 10 cc (2 mg)

- On March 15, 1984, accompanied by and in the presence of counsel at an informal conference at the offices of the Ohio State Medical Board, you admitted that you had supplied in the past and continued to supply at that time, Stadol to persons who are not your patients for non-therapeutic reasons, including, but not limited to, members of the Cuban Underground.

Your acts, conduct, or omissions, as described in paragraphs 1 and 2, individually 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 one or all of those clauses are used in Section 4731.22(B)(2), Ohio Revised Code.

Further, your acts, conduct, or omissions, as described in paragraphs 1 and 2, individually 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.

December 4, 1984

L. K. Wallerstein, M.D.

Further, your acts, conduct, or omissions as described in paragraphs 1 and 2, individually 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.

3. On September 18, 1984, you entered into a Consent Agreement which prohibited you from "handling, prescribing, dispensing, or administering the unscheduled drug, Stadol". Said Agreement became effective on October 1, 1984. Thereafter despite the aforementioned Consent Agreement, you continued to purchase Stadol, in direct violation of said Agreement.

Your acts, conduct, or omissions, as described in paragraph 3 constitute a "violation of the conditions of limitation placed by the Board upon a certificate to practice or violation of the conditions of limitation upon which a limited or temporary registration or certificate to practice is issued, as such clause is used in Section 4731.22(B)(11), Ohio Revised Code.

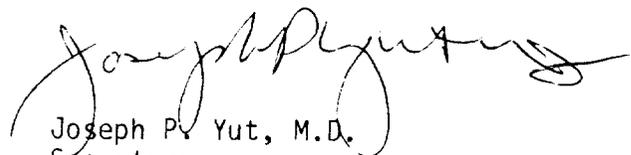
4. You are unable to practice according to acceptable and prevailing standards of care by reason of illness, excessive use of alcohol, excessive use of controlled substances, drugs or chemicals, or as a result of a mental or physical condition, as that clause is used in Section 4731.22(B)(15), Ohio Revised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

Pursuant to Chapter 119., Ohio Revised Code, please be 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 a hearing in person, or by your attorney, or you may present your position, arguments, or contentions in writing, or 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 a 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 or surgery in the State of Ohio.

Very truly yours,



Joseph P. Yut, M.D.  
Secretary

JPY:caa

CERTIFIED MAIL NO. P 753 404 655  
RETURN RECEIPT REQUESTED

Tolide

CONSENT AGREEMENT

BETWEEN

L. K. WALLERSTEIN, M.D.

AND

THE STATE MEDICAL BOARD OF OHIO

'84 SEP 20 A9:40

THIS CONSENT AGREEMENT is entered into by and between L. K. WALLERSTEIN, M.D. and THE STATE MEDICAL BOARD OF OHIO, a state agency charged with enforcing Chapters 4730. and 4731. of the Ohio Revised Code.

L. K. WALLERSTEIN, M.D., enters into this Agreement being fully aware of his rights, including his right to be advised by counsel.

This Agreement is entered into on the basis of the following statements, admissions and understandings:

- A. L. K. WALLERSTEIN, M.D., admits that he is in violation of the Medical Practice Act in supplying medicine, specifically Stadol, to persons who are not patients of his, for non-therapeutic reasons.
- B. L. K. WALLERSTEIN, M.D., admits that he is in violation of the Medical Practice Act by failure to keep and maintain adequate records of prescribing.

WHEREAS, in lieu of a formal adjudication hearing, L. K. WALLERSTEIN, M.D., and the BOARD have agreed to enter into this CONSENT AGREEMENT which the parties have resolved to be in their mutual best interests.

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth, L. K. WALLERSTEIN, M.D., and THE STATE MEDICAL BOARD OF OHIO hereby CONSENT and AGREE to the following terms and conditions:

1. DR. WALLERSTEIN shall immediately cease and desist the supplying or administering of medicines of any kind or nature to persons who are not patients of his, for any reason whatsoever.
2. DR. WALLERSTEIN shall immediately discontinue writing prescriptions for himself and obtain the services of an attending physician to prescribe and care for his physical problems on a continuing basis. Such physician shall provide periodic reports to the STATE MEDICAL BOARD OF OHIO, as requested by the BOARD.
3. DR. WALLERSTEIN shall immediately cease and desist the treating of any member of his family with medicines of any kind or nature.
4. DR. WALLERSTEIN shall neither write prescriptions for, nor dispense, medicines of any kind or nature to persons for whose use the medicines are not intended.
5. DR. WALLERSTEIN shall be allowed to prescribe, dispense or administer only Morphine and Demerol and then only within his hospital practice in the emergency room at Flower Hospital. DR. WALLERSTEIN shall NOT obtain, prescribe, dispense or administer any other scheduled drugs or medications other than Morphine and Demerol at any time.
6. DR. WALLERSTEIN shall NOT in any way obtain, handle, prescribe, dispense or administer the unscheduled drug, Stadol.
7. DR. WALLERSTEIN shall scrupulously maintain patient records for every medication that he prescribes, at any time and any place that he does so; these records will be open to THE STATE MEDICAL BOARD OF OHIO or its agents, without subpoena or patient releases.

8. DR. WALLERSTEIN shall immediately cease and desist prescribing drugs or medicines by telephone, and all medicines prescribed will be in written form, with a copy to be kept in a separate prescription file for examination by THE STATE MEDICAL BOARD OF OHIO or its agents; the only exception to this will be in phoning in prescriptions for his home, after office hours, and any prescriptions issued in this manner will be followed up the next day immediately, with a written prescription to the pharmacy called, a copy of same to be maintained in the prescription file as indicated herein; this same stipulation applies to DR. WALLERSTEIN'S emergency room work of approximately 100 hours per month.
9. DR. WALLERSTEIN shall continue to be supervised by the STATE MEDICAL BOARD OF OHIO, and shall appear before the BOARD or its agents every three months until terminated by the Board or its agents.
10. DR. WALLERSTEIN shall be subject to drug screenings of his urine as directed by THE STATE MEDICAL BOARD OF OHIO. Such screenings shall be administered by the attending physician identified in paragraph 2 above, or another physician acceptable to THE STATE MEDICAL BOARD OF OHIO.
11. DR. WALLERSTEIN shall obey all provisions of Chapters 4730. and 4731., Ohio Revised Code.

If, in the discretion of the Secretary of THE STATE MEDICAL BOARD OF OHIO, L. K. WALLERSTEIN, M.D., appears to have violated or breached any terms or conditions of this Agreement, THE STATE MEDICAL BOARD OF OHIO reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Agreement.

Upon consent of both parties, the terms and conditions of this agreement may be modified or terminated in writing.

The terms and conditions of this Agreement shall become effective on the 1st day of October, 1984.

IT IS AGREED AND UNDERSTOOD by and between the parties that this Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code.

SEP 20 1984

*L. K. Wallerstein*  
L. K. WALLERSTEIN, M.D.

*Joseph P. Put*  
JOSEPH P. PUT, M.D., SECRETARY  
STATE MEDICAL BOARD OF OHIO

9/15/84  
DATE

9-26-84  
DATE

*William W. Johnston*  
Attorney for L. K. WALLERSTEIN, M.D.

*William W. Johnston*  
WILLIAM W. JOHNSTON, ESQ.  
SUPERVISING MEMBER

9/20/84  
DATE

28 Sept 1984  
DATE

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

September 18, 1980

Thomas R. King, Esq.  
Attorney at Law  
300 Bell Building  
Toledo, OH 43624

Re: Ladisida Wallerstein, M.D.

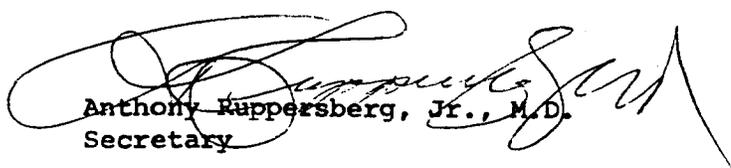
Dear Mr. King:

Please find enclosed a certified copy of the Findings and Order as they have been entered in the Journal of the Ohio State Medical Board; and a certified copy of the Motion approved by the State Medical Board, meeting in regular session on September 11, 1980, approving and confirming the Findings and Order.

You are hereby notified that Dr. Wallerstein may appeal this order to the Court of Common Pleas of the county in which his place of business is located, or the county in which he resides. If he is not a resident and has no place of business in this state, he may appeal to the Court of Common Pleas of Franklin County, Ohio.

To appeal as aforesaid, he must file a notice of appeal with the Board setting forth the order appealed from, and the grounds of the appeal. He must also file a copy of such notice with the court. Such notices of appeal shall be filed within fifteen days after the date of mailing of this letter, and in accordance with the requirements of Section 119.12, Ohio Revised Code.

The State Medical Board of Ohio

  
Anthony Rappersberg, Jr., M.D.  
Secretary

Enclosure

CERTIFIED MAIL NO. P14 6442281  
RETURN RECEIPT REQUESTED

cc: Ladisida K. Wallerstein, M.D.

CERTIFIED MAIL NO. P14 6442282  
RETURN RECEIPT REQUESTED

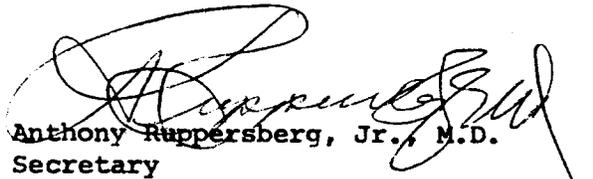
STATE OF OHIO  
THE STATE MEDICAL BOARD  
Suite 510  
65 South Front Street  
Columbus, Ohio 43215

September 18, 1980

CERTIFICATION

DATE: September 18, 1980

I hereby certify that the attached copy of the Findings and Order of the Ohio State Medical Board, in the matter of Ladisida K. Wallerstein, M.D., is a true and complete copy of the Findings and Order as they appear in the Journal of the State Medical Board; and that the attached copy of the Motion approved by the State Medical Board, meeting in regular session on September 11, 1980, is a true and complete copy as it appears in the Journal of the State Medical Board.

  
Anthony Ruppertsberg, Jr., M.D.  
Secretary

STATE OF OHIO  
THE STATE MEDICAL BOARD

REPORT AND RECOMMENDATIONS  
IN THE MATTER OF L. K. WALLERSTEIN, M.D.

The matter of L. K. Wallerstein, M.D. came before me, Oscar W. Clarke, M.D., Member of the State Medical Board of Ohio on November 15, 1979.

INTRODUCTION AND SUMMARY OF EVIDENCE

1. L. K. Wallerstein, M.D. was forwarded and did receive a letter of citation (Joint Exhibit #1) dated August 8, 1979 alleging violations of Section 4731.22 and 3719.121 (3719.12.1) of the Ohio Revised Code.
2. On August 14, 1979 Mr. King, the attorney of Dr. Wallerstein, sent a letter acknowledging receipt of the citation letter and indicating a desire for a hearing in this matter (Joint Exhibit #2). Dr. Wallerstein did appear for a hearing on November 15, 1979. (Exhibit #7)
3. The State's case was presented by Jeffrey Jurca, Assistant Attorney General. Dr. Wallerstein was represented by Mr. Thomas King.
4. In offering its case the State had one witness, Dr. Richard Fertel. Dr. Fertel has a Ph.D. in pharmacology and is a faculty member in the Department of Pharmacology at Ohio State University Medical School. (See Exhibit #17) Dr. Wallerstein testified in his own behalf.
5. During Dr. Fertel's testimony, the following was brought out:
  - A. Dr. Fertel was familiar with the drug Talwin and indicated this drug had the potential to be addicting. (Transcript at 27) Talwin is not currently a scheduled drug, however, in Illinois it has been moved to a Schedule II drug which is considered a dangerous or an addictive drug and the F.D.A. is considering moving it to that list. Dr. Fertel testified that the first indication that Talwin might be addicting was 1969. In 1973 a magazine article outlined some of the possible problems that could be expected with the drug.
  - B. Dr. Fertel expressed the opinion that if the prescriptions of paragraph one, page one through page three of Exhibit #1 were written for one patient, this could very well be a failure to use reasonable care even if the prescriptions were written for the purpose of treatment of a brain tumor. (November Transcript at 29) Dr. Fertel further stated that the prolonged use of parenteral Talwin, the use over a period of a year-and-a-half is probably not the best approach to pain, if pain was what it was prescribed for. Talwin itself, would not cause stress or anxiety in an individual, but the withdrawal from it probably would. Dr. Fertel stated that a patient such as Dr. Wallerstein's might be given the oral Talwin first or weaned to another drug that is not parenteral. (Transcript at 32) The continued use of parenteral injections might cause this patient additional problems.

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STATE MEDICAL BOARD
- C. Dr. Fertel stated that if Talwin were taken away from the patient and Stadol were substituted, it is not possible to say that the patient was not addicted just because there was no symptoms of withdrawal. The patient might have switched from one addiction to another. (Transcript at 36) However, some patients could be addicted and others could not be. Dr. Fertel also felt that in looking at the amount of Talwin prescribed to Patient A, it was reaching the limits that anybody could be expected to take without having problems, and that any condition that required this much Talwin for this period of time would have to be monitored very carefully.
- D. Dr. Fertel, in reviewing Joint Exhibit #1, paragraph one, indicated there was an increase in the frequency of the prescriptions of Talwin and that this was a good sign that the patient had become tolerant of the drug, with tolerance comes addiction, (Transcript at 48) and that this patient was probably addicted.
- E. Dr. Fertel said he had strong reservations about the course of treatment of Patient A, and that there was a good chance that the patient was addicted, and that this particular drug was not the best drug to choose for the patient because of the brain tumor. The patient could have been controlled better. The large size of this patient might require a dose of Talwin which is 15 percent over the recommended dose, however, the best indication of addiction is using increasing amounts of the drug. (Transcript at 54)
6. During Dr. Wallerstein's testimony the following was brought out:
- A. Dr. Wallerstein admitted that he prescribed the drugs as indicated to Patient A in paragraph 1 of Exhibit #1 and he did order the drugs as indicated in paragraph 2 of Exhibit #1.
- B. Dr. Wallerstein admitted that he had attended an informal meeting in July of 1977. The purpose of the meeting was to discuss his purchases of various drugs including Talwin. At that time he was advised by the office staff that such activities might be in violation of the Medical Practice Act as well as other law.
- C. Dr. Wallerstein explained by letter (Exhibit #3) and by testimony his purchases of Talwin as outlined in the citation letter, paragraph two. He has an emergency type of work in his office. He felt Talwin was not a narcotic because he was told this by the pharmacist and the salesman. Dr. Wallerstein said he knew Talwin is now a scheduled drug, but that it never had been until a few months ago. (Transcript at 17) He hasn't bought any Talwin since June, 15, 1979, 5 months ago. Dr. Wallerstein said he now gives Patient A Stadol which is classified as a non-narcotic analgesic for her brain tumor. At the time he prescribed Talwin to Patient A, Dr. Wallerstein maintains that he didn't make the diagnosis or give the treatment, all he did is follow a specialist's, George Booth, advice. (Transcript

at 60) He tried to give Patient A oral doses, but she vomited. When asked if he felt Patient A was addicted to Talwin, Dr. Wallerstein said he can't answer that question, it is too hard to say. When he changed Patient A over to Stadol, he did not notice any withdrawal problems.

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INDUSTRIAL MEDICAL BOARD

- D. Dr. Wallerstein denies ever prescribing or administering Talwin for a profit. (Transcript at 61) Since his informal hearing in 1977 when he admitted giving drugs to the Cuban underground, he has not given drugs to any government since then.
7. Mr. King, Dr. Wallerstein's attorney, spoke in favor of the doctor. He said Dr. Wallerstein has a favorable reputation in Toledo and that the most damaging statement stated here today is that Dr. Wallerstein possibly used poor judgment. (Transcript at 70)
  8. Joint Exhibit #4 is a multi-page document, listing a number of patients who have been prescribed Talwin and the basis for those prescriptions.
  9. Joint Exhibit #5 is a multi-page hand-written letter signed by Patient A detailing the circumstances behind the prescription of Talwin for her by Dr. Wallerstein.
  10. Joint Exhibit #10 is a three-page report from Dr. Perry Ayres, regarding his evaluation of the physical examination given to Dr. Wallerstein. The relevant parts states: In Dr. Ayres opinion Dr. Wallerstein's use of Talwin is somewhat more generous than is the usual practice. He feels it is excessive and it is an example of poor medical judgment.
    - A. Regarding Dr. Wallerstein's health, he takes insulin for diabetes and has had allergy shots and steroids of asthma in the past. Dr. Ayers indicated he found nothing to suggest Dr. Wallerstein is currently using Talwin injections and Dr. Wallerstein denies ever having done so.
    - B. Dr. Ayers did not challenge the diagnosis of diabetes treated with insulin, but felt it might be wise to seek verification of that diagnosis and treatment.
    - C. Dr. Ayers found no evidence that Dr. Wallerstein was "addicted" to controlled substances. And as to "his present competency and ability to practice medicine, Dr. Ayers had no firm negative opinion. However, Dr. Ayers felt Dr. Wallerstein over reacted to this crisis in his life and that some of his behavior was bizarre and a little inappropriate.
  11. Joint Exhibit #11 is a letter to Mr. King from Harry L. Snyder, M.D., in support of Dr. Wallerstein.
  12. Joint Exhibit #12 is a report from Dr. L. Mohan, M.D. detailing the result of a physical examination given to Dr. Wallerstein by Dr. Mohan. Dr. Mohan indicated Dr. Wallerstein was in perfect physical health.

13. Joint Exhibit #13 is a letter addressed to whom it may concern dated October 29, 1979, from Antonio Paat, M.D. indicating the results of a physical examination of Dr. Wallerstein. Dr. Paat said Dr. Wallerstein was in good health.
14. Joint Exhibit #15 is an envelope which contains prescriptions and pharmacy purchase orders involved in this case, both prescriptions for Patient A and purchase orders by Dr. Wallerstein of the drug Talwin
15. Joint Exhibit #16 is a letter from Dr. Wallerstein to Mr. Lee. In the letter Dr. Wallerstein states he didn't know he was breaking the law.

After considering all of the testimony and evidence presented at the hearing, and after having read the transcript and all exhibits introduced, I make the following findings:

#### FINDINGS OF FACT

Based on the testimony and evidence, I find:

1. Dr. Wallerstein used poor medical judgment in prescribing the drug Talwin to Patient A.
2. Dr. Wallerstein used poor medical judgment in personally purchasing and prescribing to his patients the drug Talwin.
3. There is nothing in the record to indicate that Dr. Wallerstein's present ability and capacity to practice medicine is impaired.

#### CONCLUSIONS

1. There was a failure to use reasonable care discrimination in the administration of drugs to Patient A in violation of R.C. Section 4731.22(B)(2).
2. There was a departure from, and the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances in caring for Patient A in violation of R.C. Section 4731.22(B)(6).
3. There is not sufficient evidence to show that the acts of Dr. Wallerstein, individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal or legitimate therapeutic purposes as used in Section 4731.22(B)(3), Ohio Revised Code.
4. There is not sufficient evidence to show that Dr. Wallerstein is unable to practice medicine according to acceptable and prevailing standards of care as provided in Section 4731.221 (4731.22.1) of the Revised Code.

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PROPOSED ORDER

It is hereby ordered that the license to practice medicine of L. K. Wallerstein, M.D. be suspended for ninety (90) days. This order is stayed:

OHIO STATE  
MEDICAL BOARD

- A. Provided that Dr. Wallerstein keep a drug log of controlled substances for one year. This log should tell the reason for prescribing the drug, the type of drug, and the duration of the prescription. This log should be made available to the Board or staff if desired.
- B. Further, Dr. Wallerstein should appear before the State Medical Board every three months for one year.
- C. That he comply with all laws of the United States, the State of Ohio, and all laws and regulations relating to the practice of medicine.

This Order shall become effective immediately upon approval by the Board.

*Oscar W. Clarke, M.D.*

Oscar W. Clarke, M.D.

Member, State Medical Board of Ohio

STATE OF OHIO  
THE STATE MEDICAL BOARD

September 11, 1980

REPORT AND RECOMMENDATIONS IN THE MATTER OF L. K. WALLERSTEIN, M.D.

Dr. Cover asked the members of the Board if they had read the transcript in the matter of Dr. Wallerstein. A roll call was taken:

ROLL CALL:	Dr. Lancione	- aye
	Dr. Cramblett	- aye
	Dr. Yut	- aye
	Dr. Lovshin	- aye
	Dr. Oxley	- aye
	Mr. Paulo	- nay
	Dr. Ferritto	- aye
	Dr. Ruppertsberg	- aye

Dr. Ferritto moved to approve and confirm Dr. Clarke's Report and Recommendations in the matter of L. K. Wallerstein, M.D. Dr. Yut seconded the motion. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Lancione	- aye
	Dr. Cramblett	- nay
	Dr. Yut	- aye
	Dr. Lovshin	- aye
	Dr. Oxley	- aye
	Mr. Paulo	- abstain
	Dr. Ferritto	- aye
	Dr. Ruppertsberg	- abstain

The motion carried.

CERTIFICATION

I hereby certify that the attached copy of the Findings and Order of the State Medical Board of Ohio, and the attached Motion, in the matter of L. K. Wallerstein, M.D., are true and complete copies as they appear in the Journal of the State Medical Board.

  
WILLIAM J. LEE  
ADMINISTRATOR

25th day of March, 1981

STATE OF OHIO  
THE STATE MEDICAL BOARD  
Suite 1006  
180 East Broad Street  
Columbus, Ohio 43215

August 8, 1979

L. K. Wallerstein, M.D.  
2706 Airport Highway  
Toledo, OH 43609

Dear Doctor Wallerstein:

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, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate your certificate to practice medicine and surgery under the provisions of Section 4731.22 and 3719.121 (3719.12.1), Revised Code, for the following reasons:

1. On or about the following dates, you prescribed for Patient A the following drugs in the amounts as indicated:

<u>Date</u>	<u>Drug</u>	<u>Amount</u>	<u>Prescription Number</u>
05/05/77	Demerol 50 mg/cc	20 cc	N-273483
06/01/77	Demerol 50 mg/cc	30 cc	N-274644
08/06/77	Talwin 30 mg/cc	2 x 10 cc	277269
09/23/77	Talwin 30 mg/cc	2 x 10 cc	279612
09/28/77	Talwin 30 mg/cc	2 x 10 cc	279853
11/10/77	Talwin 30 mg/cc	2 x 10 cc	282071
12/14/77	Talwin 30 mg/cc	2 x 10 cc	283576
12/27/77	Talwin 30 mg/cc	2 x 10 cc	284152
01/04/78	Talwin 30 mg/cc	2 x 10 cc	284152 (refill)
02/03/78	Talwin 30 mg/cc	2 x 10 cc	286182
03/01/78	Talwin 30 mg/cc	1 x 10 cc	287453
03/27/78	Talwin 30 mg/cc	1 x 10 cc	288775
03/29/78	Talwin 30 mg/cc	1 x 10 cc	288891
04/04/78	Talwin 30 mg/cc	2 x 10 cc	289150
04/14/78	Talwin 30 mg/cc	2 x 10 cc	289652
04/24/78	Talwin 30 mg/cc	1 x 10 cc	290109
05/09/78	Talwin 30 mg/cc	1 x 10 cc	290878
05/15/78	Talwin 30 mg/cc	1 x 10 cc	291164
05/24/78	Talwin 30 mg/cc	2 x 10 cc	291682
06/05/78	Talwin 30 mg/cc	1 x 10 cc	292152

August 8, 1979

<u>Date</u>	<u>Drug</u>	<u>Amount</u>	<u>Prescription Number</u>
06/09/78	Talwin 30 mg/cc	1 x 10 cc	292152 (refill)
06/20/78	Talwin 30 mg/cc	1 x 10 cc	292152 (refill)
06/26/78	Talwin 30 mg/cc	1 x 10 cc	293134
06/27/78	Talwin 30 mg/cc	1 x 10 cc	362252
06/28/78	Talwin 30 mg/cc	1 x 10 cc	362252 (refill)
06/30/78	Talwin 30 mg/cc	2 x 10 cc	293428
07/03/78	Talwin 30 mg/cc	1 x 10 cc	203525
07/05/78	Talwin 30 mg/cc	1 x 10 cc	293525
07/07/78	Talwin 30 mg/cc	1 x 10 cc	362466
07/11/78	Talwin 30 mg/cc	1 x 10 cc	362555
07/15/78	Talwin 30 mg/cc	1 x 10 cc	362676
07/18/78	Talwin 30 mg/cc	2 x 10 cc	294213
07/21/78	Talwin 30 mg/cc	1 x 10 cc	294335
07/22/78	Talwin 30 mg/cc	1 x 10 cc	362807
07/24/78	Talwin 30 mg/cc	1 x 10 cc	294335 (refill)
07/26/78	Talwin 30 mg/cc	1 x 10 cc	294335 (refill)
07/29/78	Talwin 30 mg/cc	1 x 10 cc	362968
07/31/78	Talwin 30 mg/cc	1 x 10 cc	294745
08/01/78	Talwin 30 mg/cc	1 x 10 cc	294745 (refill)
08/02/78	Talwin 30 mg/cc	1 x 10 cc	294850
09/05/78	Talwin 30 mg/cc	2 x 10 cc	363908
09/06/78	Talwin 30 mg/cc	2 x 10 cc	296482
09/11/78	Talwin 30 mg/cc	2 x 10 cc	363908 (refill)
09/13/78	Talwin 30 mg/cc	2 x 10 cc	296816
09/19/78	Talwin 30 mg/cc	2 x 10 cc	363908 (refill)
09/22/78	Talwin 30 mg/cc	2 x 10 cc	297336
09/26/78	Talwin 30 mg/cc	2 x 10 cc	364415
10/06/78	Talwin 30 mg/cc	2 x 10 cc	364415 (refill)
10/09/78	Talwin 30 mg/cc	2 x 10 cc	298141
10/11/78	Talwin 30 mg/cc	2 x 10 cc	364415 (refill)
10/18/78	Talwin 30 mg/cc	2 x 10 cc	364415 (refill)
10/27/78	Talwin 30 mg/cc	2 x 10 cc	299183
10/29/78	Talwin 30 mg/cc	2 x 10 cc	365070
10/31/78	Talwin 30 mg/cc	2 x 10 cc	365279
11/03/78	Talwin 30 mg/cc	2 x 10 cc	299484
11/07/78	Talwin 30 mg/cc	2 x 10 cc	299668
11/18/78	Talwin 30 mg/cc	2 x 10 cc	300324
11/22/78	Talwin 30 mg/cc	2 x 10 cc	365857
12/05/78	Talwin 30 mg/cc	2 x 10 cc	301117
12/07/78	Talwin 30 mg/cc	2 x 10 cc	365857 (refill)
12/11/78	Talwin 30 mg/cc	2 x 10 cc	365857 (refill)
12/13/78	Talwin 30 mg/cc	2 x 10 cc	301537
12/18/78	Talwin 30 mg/cc	2 x 10 cc	366532
12/21/78	Talwin 30 mg/cc	2 x 10 cc	301968
12/28/78	Talwin 30 mg/cc	2 x 10 cc	302228

August 8, 1979

<u>Date</u>	<u>Drug</u>	<u>Amount</u>	<u>Prescription Number</u>
01/08/79	Talwin 30 mg/cc	2 x 10 cc	302723
01/10/79	Talwin 30 mg/cc	2 x 10 cc	366532 (refill)
01/17/79	Talwin 30 mg/cc	2 x 10 cc	366532 (refill)
01/18/79	Talwin 30 mg/cc	2 x 10 cc	303240
01/23/79	Talwin 30 mg/cc	2 x 10 cc	366532 (refill)
02/01/79	Talwin 30 mg/cc	2 x 10 cc	366532 (refill)
02/05/79	Talwin 30 mg/cc	2 x 10 cc	366532 (refill)
02/06/79	Talwin 30 mg/cc	2 x 10 cc	304316
02/13/79	Talwin 30 mg/cc	2 x 10 cc	366532 (refill)
02/16/79	Talwin 30 mg/cc	2 x 10 cc	304998
02/19/79	Talwin 30 mg/cc	2 x 10 cc	368253
02/23/79	Talwin 30 mg/cc	2 x 10 cc	B-305411
02/26/79	Talwin 30 mg/cc	2 x 10 cc	368463
02/28/79	Talwin 30 mg/cc	2 x 10 cc	B-305678

Such acts, in Paragraph 1 above, 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 that clause is used in Section 4731.22(B)(2), Ohio Revised Code.

Further, such acts, in Paragraph 1 above, 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.

2. On or about the following dates, you purchased or caused to be purchased the following drugs in the amounts as indicated:

<u>Date</u>	<u>Drug</u>	<u>Amount</u>
01/02/78	Talwin 30 mg/cc	1 x 10 cc
01/19/78	Talwin 30 mg/cc	1 x 10 cc
01/31/78	Talwin 30 mg/cc	1 x 10 cc
02/13/78	Talwin 30 mg/cc	1 x 10 cc
02/16/78	Talwin 30 mg/cc	1 x 10 cc
02/20/78	Talwin 30 mg/cc	1 x 10 cc
03/03/78	Talwin 30 mg/cc	1 x 10 cc
03/13/78	Talwin 30 mg/cc	1 x 10 cc
03/21/78	Talwin 30 mg/cc	1 x 10 cc
03/27/78	Talwin 30 mg/cc	1 x 10 cc
04/03/78	Talwin 30 mg/cc	1 x 10 cc
04/06/78	Talwin 30 mg/cc	1 x 10 cc
04/10/78	Talwin 30 mg/cc	1 x 10 cc
04/17/78	Talwin 30 mg/cc	1 x 10 cc
04/20/78	Talwin 30 mg/cc	1 x 10 cc
04/23/78	Talwin 30 mg/cc	1 x 10 cc
05/01/78	Talwin 30 mg/cc	1 x 10 cc
05/08/78	Talwin 30 mg/cc	1 x 10 cc
05/18/78	Talwin 30 mg/cc	1 x 10 cc
05/22/78	Talwin 30 mg/cc	1 x 10 cc
06/04/78	Talwin 30 mg/cc	1 x 10 cc
06/06/78	Talwin 30 mg/cc	1 x 10 cc
06/08/78	Talwin 30 mg/cc	1 x 10 cc

<u>Date</u>	<u>Drug</u>	<u>Amount</u>
06/19/78	Talwin 30 mg/cc	1 x 10 cc
06/21/78	Talwin 30 mg/cc	1 x 10 cc
06/23/78	Talwin 30 mg/cc	1 x 10 cc
06/29/78	Talwin 30 mg/cc	1 x 10 cc
07/09/78	Talwin 30 mg/cc	1 x 10 cc
07/12/78	Talwin 30 mg/cc	1 x 10 cc
07/14/78	Talwin 30 mg/cc	1 x 10 cc
07/17/78	Talwin 30 mg/cc	1 x 10 cc
07/18/78	Talwin 30 mg/cc	1 x 10 cc
07/23/78	Talwin 30 mg/cc	1 x 10 cc
07/25/78	Talwin 30 mg/cc	1 x 10 cc
07/27/78	Talwin 30 mg/cc	1 x 10 cc
07/27/78	Diabinese 250 mg.	100
08/09/78	Talwin 30 mg/cc	1 x 10 cc
08/11/78	Talwin 30 mg/cc	1 x 10 cc
08/14/78	Talwin 30 mg/cc	1 x 10 cc
08/16/78	Talwin 30 mg/cc	1 x 10 cc
08/24/78	Talwin 30 mg/cc	1 x 10 cc
08/29/78	Talwin 30 mg/cc	1 x 10 cc
08/29/78	Talwin 30 mg/cc	1 x 10 cc
09/03/78	Talwin 30 mg/cc	1 x 10 cc
09/05/78	Talwin 30 mg/cc	1 x 10 cc
09/09/78	Talwin 30 mg/cc	1 x 10 cc
09/11/78	Talwin 30 mg/cc	1 x 10 cc
09/12/78	Talwin 30 mg/cc	1 x 10 cc
09/14/78	Talwin 30 mg/cc	1 x 10 cc
09/16/78	Diabinese 250 mg.	100
09/16/78	Talwin 30 mg/cc	1 x 10 cc
09/18/78	Talwin 30 mg/cc	1 x 10 cc
09/20/78	Talwin 30 mg/cc	1 x 10 cc
09/25/78	Talwin 30 mg/cc	1 x 10 cc
09/29/78	Talwin 30 mg/cc	1 x 10 cc
10/02/78	Talwin 30 mg/cc	1 x 10 cc
10/04/78	Talwin 30 mg/cc	1 x 10 cc
10/08/78	Talwin 30 mg/cc	1 x 10 cc
10/11/78	Talwin 30 mg/cc	1 x 10 cc
10/14/78	Talwin 30 mg/cc	1 x 10 cc
10/17/78	Talwin 30 mg/cc	1 x 10 cc
10/17/78	Erythromycin 250 mg.	50
10/19/78	Talwin 30 mg/cc	1 x 10 cc
10/23/78	Talwin 30 mg/cc	1 x 10 cc
10/25/78	Talwin 30 mg/cc	1 x 10 cc
10/30/78	Talwin 30 mg/cc	1 x 10 cc
11/01/78	Talwin 30 mg/cc	1 x 10 cc
11/02/78	Talwin 30 mg/cc	1 x 10 cc
11/08/78	Talwin 30 mg/cc	1 x 10 cc
11/08/78	Valium 2 mg.	100
11/08/78	Diabinese 250 mg.	100
11/09/78	Talwin 30 mg/cc	1 x 10 cc
11/10/78	Talwin 30 mg/cc	1 x 10 cc

<u>Date</u>	<u>Drug</u>	<u>Amount</u>
11/13/78	Talwin 30 mg/cc	1 x 10 cc
11/17/78	Talwin 30 mg/cc	1 x 10 cc
11/20/78	Talwin 30 mg/cc	1 x 10 cc
11/22/78	Talwin 30 mg/cc	1 x 10 cc
11/24/78	Talwin 30 mg/cc	1 x 10 cc
11/25/78	Talwin 30 mg/cc	1 x 10 cc
11/27/78	Talwin 30 mg/cc	1 x 10 cc
11/28/78	Talwin 30 mg/cc	1 x 10 cc
11/29/78	Talwin 30 mg/cc	1 x 10 cc
11/30/78	Talwin 30 mg/cc	1 x 10 cc
12/03/78	Talwin 30 mg/cc	1 x 10 cc
12/04/78	Talwin 30 mg/cc	1 x 10 cc
12/06/78	Talwin 30 mg/cc	1 x 10 cc
12/09/78	Talwin 30 mg/cc	1 x 10 cc
12/13/78	Talwin 30 mg/cc	1 x 10 cc
12/15/78	Talwin 30 mg/cc	1 x 10 cc
12/16/78	Talwin 30 mg/cc	1 x 10 cc
12/19/78	Talwin 30 mg/cc	1 x 10 cc
12/22/78	Talwin 30 mg/cc	1 x 10 cc
12/24/78	Talwin 30 mg/cc	1 x 10 cc
12/29/78	Talwin 30 mg/cc	1 x 10 cc
12/30/78	Talwin 30 mg/cc	1 x 10 cc
12/30/78	Diabinese 250 mg.	100
01/02/79	Talwin 30 mg/cc	1 x 10 cc
01/03/79	Talwin 30 mg/cc	1 x 10 cc
01/04/79 or		
01/04/78	Talwin 30 mg/cc	1 x 10 cc
01/07/79	Talwin 30 mg/cc	1 x 10 cc
01/08/79	Talwin 30 mg/cc	1 x 10 cc
01/12/79	Talwin 30 mg/cc	1 x 10 cc
01/14/79	Talwin 30 mg/cc	1 x 10 cc
01/17/79	Talwin 30 mg/cc	1 x 10 cc
01/20/79	Talwin 30 mg/cc	1 x 10 cc
01/23/79	Talwin 30 mg/cc	1 x 10 cc
01/24/79	Talwin 30 mg/cc	1 x 10 cc
02/05/79	Talwin 30 mg/cc	1 x 10 cc
02/13/79	Talwin 30 mg/cc	1 x 10 cc
02/16/79	Talwin 30 mg/cc	1 x 10 cc
02/19/79	Talwin 30 mg/cc	1 x 10 cc
02/21/79	Talwin 30 mg/cc	1 x 10 cc
02/23/79	Talwin 30 mg/cc	1 x 10 cc
02/23/79	Diabinese	100
02/25/79	Talwin 30 mg/cc	1 x 10 cc
02/28/79	Talwin 30 mg/cc	1 x 10 cc

Such acts, in Paragraphs 2 above, 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 that clause is used in Section 4731.22(B)(2), Ohio Revised Code.

Further, such acts, in Paragraph 2 above, 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.

3. You are unable to practice medicine according to acceptable and prevailing standards of care, as stated in Section 4731.22(B)(16), Ohio Revised Code, for one or more of the following reasons: illness, excessive use of alcohol, excessive use of controlled substances, chemicals, or as a result of a physical condition or adjudication of incompetence as provided in Section 4731.221 (4731.22.1) of the Revised Code.

Pursuant to Section 3719.121 (3719.12.1), Ohio Revised Code, addiction to the use of controlled substances constitutes grounds for suspension of your certificate to practice medicine and surgery.

In order to best protect any privileges which may exist, the name of Patient A is enclosed on a separate form, included with this letter.

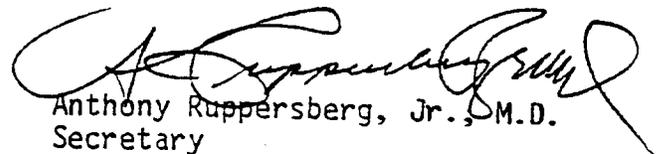
You are hereby advised that you are entitled to a hearing on this matter if you request such hearing within thirty (30) days of the time of mailing of this notice.

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

A copy of the Medical Practice Act is enclosed for your examination.

Very truly yours,

  
Anthony Ruppertsberg, Jr., M.D.  
Secretary

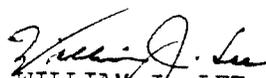
AR:sp

Enclosure

CERTIFIED MAIL #506658  
RETURN RECEIPT REQUESTED

CERTIFICATION

I hereby certify that the attached copy of the Citation letter in the matter of L. K. Wallerstein, M.D., is a true and complete copy as it appears in the Journal of the State Medical Board.

  
WILLIAM J. LEE, ADMINISTRATOR