



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

October 11, 1996

Albert B. Cinelli, M.D.
10 Dutton Drive
Youngstown, Ohio 44502

Dear Doctor Cinelli:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 9, 1996, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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 a copy of that Notice of Appeal to 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

Thomas E. Gretter, M.D.
Secretary

TEG:em
Enclosures

Certified Mail Receipt No. P 152 982 874
Return Receipt Requested

cc: Gerald S. Gold, Esq.

Certified Mail Receipt No. P 152 982 875
Return Receipt Requested

Mailed 10-11-96



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

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 Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 9, 1996, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Albert B. Cinelli, 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)

Thomas E. Gretter, M.D.
Secretary

10/18/96

Date



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

ALBERT B. CINELLI, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 9th day of October, 1996.

Upon the Report and Recommendation of Sharon W. Murphy, Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

The certificate of Albert B. Cinelli, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

Thomas E. Gretter, M.D.
Secretary

(SEAL)

10/10/96

Date

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**REPORT AND RECOMMENDATION
IN THE MATTER OF ALBERT B. CINELLI, M.D.**

The Matter of Albert B. Cinelli, M.D., was heard by Sharon W. Murphy, Esq., Attorney Hearing Examiner for the State Medical Board of Ohio, on August 20, 1996.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated July 10, 1996, the State Medical Board of Ohio [Board] notified Albert B. Cinelli, M.D., that, pursuant to Section 3719.121(C), Ohio Revised Code, the Board had immediately suspended his certificate to practice medicine and surgery in the State of Ohio. This action was based on Dr. Cinelli's May 15, 1996, guilty plea to one felony count of "knowingly possessing, with the intent to illegally dispense and distribute, controlled substances," specifically, Dilaudid, Vicodin, and Valium, in violation of Title 21, Section 841(a)(1), United States Code. The Board further notified Dr. Cinelli that continued practice of medicine or surgery would be considered practicing medicine without a certificate in violation of Section 4731.41, Ohio Revised Code. In addition, the Board notified Dr. Cinelli that, based on the guilty plea, the Board proposed to take disciplinary action against his certificate to practice medicine in this state.

The Board alleged that Dr. Cinelli's guilty plea constitutes:

1. "[s]elling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, or a judicial finding of guilty of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,' as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code;"
2. "[a] plea of guilty to, or a judicial finding of guilty of, a felony,' as that clause is used in Section 4731.22(B)(9), Ohio Revised Code"; and
3. "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,' as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(E), Ohio Administrative Code, to wit: 21 U.S.C. Section 841."

Moreover, the Board alleged that, pursuant to 4731-11-02(F), Ohio Administrative Code, a violation of any provision of 4731-11-02 also constitutes violations of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.

In addition, the Board advised Dr. Cinelli of his right to request a hearing in this Matter. (State's Exhibit 1).

- B. On July 15, 1996, Gerald S. Gold, Esq., filed a written hearing request on behalf of Dr. Cinelli. (State's Exhibit 2).

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Anne B. Strait, Assistant Attorney General.
- B. On behalf of the Respondent: Gerald S. Gold and Paul M. Dutton, Esqs.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 - 1. Thomas Malone
 - 2. Orlando DiLullo
 - 3. Carl Frost
- B. Presented by Respondent
 - 1. Edward Poczekaj
 - 2. Hai-Shiuh Wang, M.D.
 - 3. Kenneth R. Furman, Jr.
 - 4. Henry Holden, M.D.
 - 5. Rev. John Wigle
 - 6. W. Steven Meloy

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7. Bruce R. Beeghly
8. William J. Brennan
9. Rev. David C. Stone
10. Albert B. Cinelli, M.D.

II. Exhibits Examined

In addition to State's Exhibits 1 and 2, noted above, the following exhibits were identified and admitted into evidence.

A. Presented by the State

- * 1. State's Exhibit 1A: Patient key.
2. State's Exhibit 3: Copy of a July 18, 1996, letter to Mr. Gold from the Board advising that a hearing had been scheduled for July 31, 1996, but further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code.
3. State's Exhibit 4: Copy of a July 19, 1996, letter to Mr. Gold from the Board advising that a hearing had been scheduled for August 20, 1996. (2 pp.)
4. State's Exhibit 5: Copy of the Prosecutor's Reporting Form regarding Dr. Cinelli filed with the Board on July 12, 1996. (2 pp.)
5. State's Exhibit 6: Certified copy of the Bill of Information filed in *The United States of America v. Albert B. Cinelli*, in the United States District Court for the Northern District of Ohio, Eastern Division, Case No. 4:96CR-151, on May 2, 1996. (6 pp.)
6. State's Exhibit 7: Certified copy of the Order accepting Dr. Cinelli's plea of guilty in *United States v. Cinelli*, filed May 17, 1996.
7. State's Exhibit 8: Copy of a Complaint in Forfeiture filed in *United States v. Real Property Located at 4012 Whipporwill Way*, in the United States District Court for the Northern District of Ohio, Eastern Division, Case No. 4:96CV-1056, on June 21, 1996. (8 pp.)

8. State's Exhibit 9: Certified copy of the Initial Order of Forfeiture in *United States v. Cinelli*, filed on August 15, 1996. (4 pp.)
9. State's Exhibit 10: Certified copy of the Plea Agreement in *United States v. Cinelli*, filed on August 15, 1996. (4 pp.)
10. State's Exhibit 11: Certified copy of the Judgment in a Criminal Case in *United States v. Cinelli*, filed on August 15, 1996. (5 pp.)
11. State's Exhibit 12: Original prescription for Valium written by Dr. Cinelli in the name of James Naples.
12. State's Exhibit 13: Original prescriptions for various controlled substances written by Dr. Cinelli in the name of Marion Varcha, with attached prosecutor's office receipts. (12 pp.)
- *13. State's Exhibit 14: Original prescriptions for Vicodin ES and/or Dilaudid written by Dr. Cinelli in the name of Patient 1, with attached prescription labels and prosecutor's office receipts. (19 pp.)
14. State's Exhibit 15: Original prescriptions for various controlled substances written by Dr. Cinelli in the name of Karen Schriener, with attached prosecutor's office receipts. (14 pp.)
15. State's Exhibit 16: Notarized statement of Louis Zona. (2 pp.)
16. State's Exhibit 17: Copy of an advertisement announcing Dr. Cinelli's retirement from Eye Care Associates, Inc.
17. State's Exhibit 18: Copy of an article headlined "Forfeiture Ordered in Drug Case," printed in *The Youngstown Vindicator* on August 13, 1996.
18. State's Exhibit 19: Copy of an article entitled "Ophthalmologist Faces Drug Count," printed in *The Youngstown Vindicator* on May 3, 1996.

B. Presented by Respondent

- * 1. Respondent's Exhibit A: Copies of Dr. Cinelli's medical records from the Cleveland Clinic Foundation. (40 pp.)
2. Respondent's Exhibit B: Letters written by patients and professional colleagues of Dr. Cinelli in his support, with cover letter. (53 pp.)

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3. Respondent's Exhibit C: Additional letters written by patients and professional colleagues of Dr. Cinelli in his support. (31 pp.)

* (Note: Exhibits marked with an asterisk [*] are sealed to protect patient confidentiality.)

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned in the Summary of the Evidence, were thoroughly reviewed and considered by the Attorney Hearing Examiner prior to preparing this Report and Recommendation.

1. Albert B. Cinelli, M.D., graduated from Georgetown University Medical School in 1963. Thereafter, Dr. Cinelli performed an internship at Providence Hospital in Washington, D.C. In 1967, he completed an ophthalmology residency program at the New York Eye and Ear Infirmary. Subsequently, Dr. Cinelli practiced ophthalmology as a member of the Eye Care Associates, Inc., in Youngstown, Ohio, for twenty-eight years. He retired from that practice on March 1, 1996. (Transcript [Tr.] at 194-195; State's Exhibit [St. Ex.] 17; Respondent's Exhibit [Resp. Ex.] A at 2).
2. Thomas Malone, a Youngstown police officer currently assigned to the Mahoning County Drug Task Force, testified at hearing on behalf of the State. Officer Malone testified that on April 13, 1995, a local pharmacist informed him that Dr. Cinelli had come into the pharmacy to obtain a prescription he thought he had ordered in the name of Patient 1. The pharmacist thought it unusual that a physician would personally retrieve a prescription for his patient, so the pharmacist contacted Officer Malone. The pharmacist also reported that Dr. Cinelli had been writing prescriptions for Eloise Hines, who claimed to be Dr. Cinelli's girlfriend. The pharmacist added that Dr. Cinelli often accompanied Ms. Hines when she picked up her drugs. (Tr. at 15-20).

Officer Malone decided to initiate an investigation of Dr. Cinelli. During the investigation, Officer Malone discovered that Dr. Cinelli frequently called various pharmacies and ordered Dilaudid, Vicodin, Valium, or Xanax, in the name of Patient 1, Eloise Hines, or Marion Varcha [Dr. Cinelli's mother-in-law.] Moreover, Dr. Cinelli would personally retrieve the drugs. In addition, after obtaining the drugs, Dr. Cinelli often went to a local bar to meet a known drug abuser and occasional police informant, James [G.G.] Naples. On one occasion, however, Dr. Cinelli called a pharmacy and requested that a prescription be delivered to his office. Shortly thereafter, G.G. Naples entered Dr. Cinelli's office and left carrying a bottle of pills. After meeting Dr. Cinelli, Mr. Naples generally went to the home of John Frederick [Fat Freddy] Gibson, a man

previously arrested for drug trafficking in Dilaudid. (Tr. at 21-25-32, 34-36, 38-41, 43; St. Exs. 13-15).

Officer Malone also testified that, as part of the investigation, officers made a number of undercover purchases of Dilaudid from "Fat Freddy" Gibson. Upon his arrest, Mr. Gibson acknowledged that he had purchased the Dilaudid from G.G. Naples. (Tr. at 49-51).

Accordingly, Officer Malone interviewed G.G. Naples. Mr. Naples informed Officer Malone that he had been receiving Dilaudid from Dr. Cinelli for approximately ten years. He stated that Dr. Cinelli would give him one or two tablets once or twice a week. G.G. Naples informed Officer Malone that Dr. Cinelli had been aware that Mr. Naples had been selling the Dilaudid. In addition, Mr. Naples informed Officer Malone that, in return for the pills, Mr. Naples arranged dates with women for Dr. Cinelli and took care of Dr. Cinelli's cars. G.G. Naples was later convicted in relation to his obtaining drugs from Dr. Cinelli and reselling them. (Tr. at 59-64).

Officer Malone further testified that, on one occasion, Dr. Cinelli obtained a prescription for 120 Vicodin ES written in the name of his mother-in-law. Dr. Cinelli then drove to a local bar to meet Karen Schriner. Officer Malone saw Dr. Cinelli hand something to Ms. Schriner which she put in her purse. (Tr. at 45-46). Officer Malone later interviewed Ms. Schriner, who admitted that Dr. Cinelli gave her controlled substances. Ms. Schriner further informed Officer Malone that she had promised Dr. Cinelli sexual favors in exchange for the pills, but never followed through with her promises. (Tr. at 62-65).

Officer Malone testified that Dr. Cinelli also wrote a prescription for 36 Vicodin ES tablets in the name of Louis Zona, the director of the Butler Art Institute. (Tr. at 53). Officer Malone stated that he interviewed Louis Zona. Dr. Zona denied that Dr. Cinelli had ever prescribed pain medicine for him. Dr. Zona further denied having seen Dr. Cinelli as a patient in the two previous years. (Tr. at 53-54; St. Ex. 16).

Officer Malone further testified that after the investigation had become publicly known, Officer Malone received information that Dr. Cinelli had "planted" pills in Patient 1's desk at the Butler Art Institute. Officer Malone contacted the security staff at the art institute, and discovered that Dr. Cinelli had recently been rummaging through Patient 1's desk. Officer Malone searched Patient 1's desk and found a bottle of Dilaudid. (Tr. at 55-57). Thereafter, Officer Malone interviewed Patient 1, a female in her nineties. Patient 1 explained that she volunteered full time at the Butler Art Institute, and was a patient of Dr. Cinelli's. Patient 1 informed the officers that the only medication Dr. Cinelli prescribed for her was a pink eye salve. She further informed them that she did

not take any medication for pain. She denied that the pills in her desk had been hers. (Tr. at 51-52, 58).

3. Orlando DiLullo, Pharmaceutical Investigator for the Trumble County Prosecutor's Office, testified at hearing on behalf of the State. Investigator DiLullo testified that he worked with Officer Malone in the investigation of Dr. Cinelli. (Tr. at 67-68). Investigator DiLullo confirmed some points of Officer Malone's testimony. In addition, Investigator DiLullo testified that he interviewed Patient 1's family physician, Dr. Bunn. Dr. Bunn informed Investigator DiLullo that he did not prescribe Dilaudid or Vicodin for Patient 1. He further stated that Patient 1 was 94 years old at that time and suffered from serious pulmonary problems. He suggested that if Patient 1 had taken one of those medications, it may have been life-threatening. (Tr. at 80-81).
4. Dr. Cinelli testified at hearing on his own behalf. Dr. Cinelli stated that he had led a secret life of bars, alcohol, and drugs. Dr. Cinelli further testified that he had frequented bars all of his adult life because he liked to drink, but he did not like to drink alone. Dr. Cinelli stated that, over the past few years, he began to spend increasing amounts of time in bars because he had more free time in the afternoon. He began associating with a group of people who spent their afternoons in certain local bars. The group included G.G. Naples and Karen Schriener. Dr. Cinelli explained that he bought drinks for the members of the groups, which made him the center of attention. He stated that the attention gratified his ego. (Tr. at 196-200). Moreover, Dr. Cinelli stated that his life bored him. The group at the bar was exciting, with a freedom of lifestyle that Dr. Cinelli found appealing. (Tr. at 204, 210, 225).

Dr. Cinelli explained that G.G. Naples eventually learned that Dr. Cinelli had been sending his mother-in-law Dilaudid to treat her cancer related pain. Mr. Naples begged Dr. Cinelli to give him some Dilaudid. Dr. Cinelli testified that he first agreed to give Dilaudid to G.G. Naples because Mr. Naples was hurting, crying, and suffering withdrawal symptoms. Dr. Cinelli denied knowing at the time that G.G. Naples suffered from a heroin addiction or that Mr. Naples was reselling the Dilaudid. Nevertheless, in due time, Dr. Cinelli started supplying other members of the group with Dilaudid, Vicodin, ES, Valium, and Xanax. (Tr. at 196-197, 206, 216). Dr. Cinelli admitted writing prescriptions for Dilaudid and giving Vicodin tablets to Karen Schriener. He further admitted that he had been aware that Ms. Schriener was an addict at that time. (Tr. at 207-208, 221). Dr. Cinelli denied exchanging drugs for sexual favors. (Tr. at 226).

In addition, Dr. Cinelli explained that he obtained the controlled substances by writing prescriptions in the names of person for whom the medications were not intended. Dr. Cinelli stated that the prescriptions written in the name of

Patient 1 were not intended for Patient 1's use, but for the use of Dr. Cinelli and G.G. Naples. (Tr. at 226-227). Dr. Cinelli further explained that he had stored controlled substances in the home of Patient 1 without her knowledge. He hid them in a cabinet in her kitchen, behind her eye medications and her dishes. Dr. Cinelli would visit Patient 1 at home, socialize with her, and take care of her eyes. Therefore, he had access to the hidden drugs. (Tr. at 227-228). In addition, Dr. Cinelli testified that after he discovered Officer Malone's investigation, Dr. Cinelli removed the pills from Patient 1's apartment and hid them in her desk at the Butler Art Institute. Dr. Cinelli declared that he could not explain why he hid the pills in Patient 1's desk, but stated that he had been experiencing a high anxiety level and suffered his "zenith of drinking" at that time. (Tr. at 211, 229-230).

5. On January 22, 1996, after consulting with his attorney, Dr. Cinelli was admitted to the Cleveland Clinic Foundation for detoxification and treatment of alcohol, opiate and benzodiazepine dependency. His discharge diagnoses were chemical dependency and adjustment reaction mixed with obsessive-compulsive traits. (Resp. Ex. A at 1). In the discharge summary, Gregory Collins, M.D., Dr. Cinelli's attending physician, noted that Dr. Cinelli had been living a "double life consisting of being 'the pillar of the community,' but also hanging out in sleazy bars with sleazy people." Dr. Collins further noted that Dr. Cinelli started drinking in medical school. His alcohol consumption increased over the years. At the time of his admission, Dr. Cinelli had been consuming approximately 13 drinks, the equivalent of a fifth of scotch, daily. He also self-prescribed Vicodin, Percocet, Valium, and Dalmane for occasional use. (Resp. Ex. A at 2). Dr. Collins concluded, however, that Dr. Cinelli was humble and motivated in his treatment program. (Resp. Ex. A at 3).
6. At hearing, Edward Poczekaj, Ohio Physicians Effectiveness Program, testified on behalf of Dr. Cinelli. (Tr. at 102-103). Mr. Poczekaj testified that Dr. Cinelli suffers from addiction, in relation to multiple substances. He noted that Dr. Cinelli took appropriate steps to seek treatment at a board-approved treatment service and has superseded the recommended aftercare treatment. Moreover, Mr. Poczekaj noted that Dr. Cinelli has a "real internal drive for recovery," and does not deny or rationalize his disease. Mr. Poczekaj testified that Dr. Cinelli participates in 12-Step and Caduceus programs and provides urines for random toxicology screening. Mr. Poczekaj believes that Dr. Cinelli has successfully maintained his sobriety. (Tr. at 104-111).
7. On May 2, 1996, the United States Attorney filed a Bill of Information against Dr. Cinelli in *The United States of America v. Albert B. Cinelli* in the United States District Court for the Northern District of Ohio, Eastern Division, Case No. 4:96CR 151. (St. Ex. 6). On May 15, 1996, Dr. Cinelli pleaded guilty to one felony count of "knowingly possessing, with the intent to illegally dispense and

distribute, controlled substances," specifically Dilaudid, Vicodin, and Valium, in violation of Title 21, Section 841(a)(1), United States Code. (St. Ex. 7). In the plea agreement, Dr. Cinelli admitted that he had possessed at least 86 tablets of Dilaudid, 600 tablets of Vicodin ES, and 60 tablets of Valium "with intent to illegally dispense or distribute them to others." Dr. Cinelli further admitted that he had:

used his medical degree and DEA registration to enable him to write and place telephonic prescriptions, personally took delivery of prescribed narcotics, used his medical offices to facilitate the placement of prescriptions by telephone and the storage of prescribed substances, and possessed the following prescribed substances which were prescribed for various persons with the knowledge that there was no medical purpose for prescribing the substances, and intended to illegally dispense and distribute [various controlled substances].

(St. Ex. 10 at 3-5).

As part of the plea agreement, Dr. Cinelli agreed never to reapply for registration with the Drug Enforcement Administration. (St. Ex. 10 at 2). In addition, Dr. Cinelli agreed to submit \$150,000.00 in lieu of forfeiture of certain properties which were allegedly used in the commission of the violations. That property included Dr. Cinelli's interest in the Eye Care Associates, Inc., real estate in Youngstown, and his interest in a land company. (St. Exs. 6 and 9; St. Ex. 10 at 6).

Moreover, Dr. Cinelli acknowledged that the United States Attorney for the Northern District of Ohio would file a Complaint in Forfeiture in a civil action against him alleging that Dr. Cinelli either unlawfully distributed controlled substances from his home or had used the telephone in his home to assist in the unlawful distribution. [See *United States of America v. Real Property Located at 4012 Whipporwill Way, Youngstown*, Case No. 4:96CV-1056]. In lieu of that forfeiture, Dr. Cinelli agreed to submit \$450,000.00. (St. Ex. 8; St. Ex. 10 at 7).

On August 15, 1996, the Court sentenced Dr. Cinelli to twenty-one months incarceration in a federal prison, to begin on September 9, 1996. Upon discharge from prison, Dr. Cinelli will remain on supervised release for three years. At that time, Dr. Cinelli must surrender the \$600,000.00 in lieu of forfeiture. In addition, Dr. Cinelli must participate in a federally approved program for the treatment of alcohol and/or drug dependency. Finally, Dr. Cinelli must pay a \$5,000.00 fine. (St. Ex. 11).

8. Various colleagues and patients testified at hearing on behalf of Dr. Cinelli. In addition, Dr. Cinelli submitted numerous letters of support from professional colleagues and patients. All testified that Dr. Cinelli is an asset to the Youngstown community, both as a physician and as a civic leader. (Tr. at 122-191; Resp. Exs. B and C).
9. Dr. Cinelli testified that he has maintained sobriety since January 22, 1996. (Tr. at 214).

FINDINGS OF FACT

1. Dr. Cinelli prescribed and distributed controlled substances for no legitimate medical purpose to persons who were not his patients and who he knew to be addicted to controlled substances. Moreover, Dr. Cinelli wrote prescriptions for controlled substances in the names of persons for whom the drugs were not intended.
2. On May 15, 1996, Dr. Cinelli pleaded guilty to one felony count of "knowingly possessing, with the intent to illegally dispense and distribute, controlled substances," Dilaudid, Vicodin, and Valium, in violation of Title 21, Section 841(a)(1), United States Code.

CONCLUSIONS OF LAW

1. Dr. Cinelli's guilty plea, and the conduct upon which it was based, as set forth in Findings of Fact 1 and 2, constitutes "[s]elling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes [and] a plea of guilty to, or a judicial finding of guilty of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,' as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code."
2. Dr. Cinelli's guilty plea, as set forth in Findings of Fact 2, constitutes "[a] plea of guilty to, or a judicial finding of guilty of, a felony,' as that clause is used in Section 4731.22(B)(9), Ohio Revised Code."
3. Dr. Cinelli's guilty plea, as set forth in Findings of Fact 2, constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,' as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(E), Ohio Administrative Code, to wit: 21 U.S.C. Section 841."

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4. Furthermore, pursuant to 4731-11-02(F), Ohio Administrative Code, the violation of 4731-11-02(E), as set forth in Conclusions of Law 3, also constitutes violations of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.

* * * * *

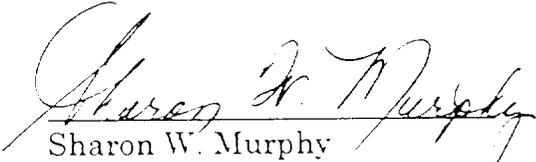
Dr. Cinelli asks the Board to consider his own addiction to alcohol and controlled substances as a mitigating factor in this case. In addition, Dr. Cinelli asks the Board to consider his years of service to his community. Although Dr. Cinelli presents an unfortunate story, he severely abused the privilege of practicing medicine and surgery. In doing so, he jeopardized the well-being of Patient 1 and his community. Accordingly, the Board must act to protect the interests of the public.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Albert B. Cinelli, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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


Sharon W. Murphy
Attorney Hearing Examiner



STATE MEDICAL BOARD OF OHIO

100 North High Street, Columbus, Ohio 43260-1125 • (614) 461-3931 • Fax: (614) 461-3932

EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 9, 1996

REPORTS AND RECOMMENDATIONS

Dr. Stienecker announced that the Board would now consider the findings and orders appearing on the Board's agenda. He noted that, due to the Board's inability to obtain service in the Matter of Archie W. Bedell, M.D. and Walter Woodhouse, M.D., the case will be considered at another time. He asked members to maintain their hearing record in that case until such time as it is finally decided.

Dr. Stienecker asked whether 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: Albert B. Cinelli, M.D.; Sunil P. Pandit, M.D.; Ramachandra Pudupakkam, M.D.; Luis E. Quiroga, M.D.; Nancy Stover, M.T. and American Institute of Massotherapy; Michael Paul Torosian, D.O.; James A. Walsh, Jr., M.D.; and Jerome A. Wensinger, M.D.

A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Stienecker	- aye

Dr. Stienecker asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Stienecker	- aye

Dr. Garg stated that, due to a conflict of interest, he will recuse himself in the matter of Albert B. Cinelli, M.D.

Dr. Stienecker and Mr. Sinnott advised that, due to conflicts of interest, they will recuse themselves in the matter of Ramachandra Pudupakkam, M.D.

In accordance with the provision in Section 4731.22(C)(1), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of this matter.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....
REPORT AND RECOMMENDATION IN THE MATTER OF ALBERT B. CINELLI, M.D.

.....
DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ALBERT B. CINELLI, M.D. DR. BHATI SECONDED THE MOTION.

.....
A vote was taken on Dr. Steinbergh's motion:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Gretter	- abstain
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

Charles D. Stienecker, M.D.
President
Wapakoneta, Ohio

Nora M. Noble
Vice-President
Newark, Ohio

Thomas E. Gretter, M.D.
Secretary
Cleveland, Ohio

Raymond J. Albert
Supervising Member
Amanda, Ohio

Ronald C. Agresta, M.D.
Board Member
Steubenville, Ohio

Anant R. Bhati, M.D.
Board Member
Cincinnati, Ohio

David S. Buchan, D.P.M.
Board Member
Westerville, Ohio

Carol L. Egner, M.D.
Board Member
Cincinnati, Ohio

Anand G. Garg, M.D., Ph.D.
Board Member
Boardman, Ohio

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NOTICE OF IMMEDIATE SUSPENSION

AND

OPPORTUNITY FOR HEARING

July 10, 1996

Albert B. Cinelli, M.D.
10 Dutton Drive
Youngstown, OH 44502

Dear Doctor Cinelli:

In accordance with Section 2929. 7, Ohio Revised Code, the Department of Justice, Office of the United States Attorney, Northern District of Ohio, reported that on or about May 15, 1996, in the United States District Court, Northern District of Ohio, you pleaded guilty to one (1) felony count of knowingly possessing, with the intent to illegally dispense and distribute, controlled substances in violation of 21 U.S.C. Section 841(a)(1). This section is substantially equivalent to Section 2925.03, Ohio Revised Code, Trafficking in Drugs, a felony.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your license to practice medicine and surgery in the State of Ohio is immediately suspended. Continued practice after this suspension shall be considered practicing medicine without a certificate in violation of Section 4731.41, Ohio Revised Code.

Furthermore, 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:

Mailed 7/11/96

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- (1) On or about May 15, 1996, in the United States District Court, Northern District of Ohio, you pleaded guilty to and were found guilty of one (1) felony count of knowingly possessing, with the intent to illegally dispense and distribute, controlled substances in violation of 21 U.S.C. Section 841(a)(1).

The acts underlying your guilty plea include that between April 12, 1995 and October 18, 1995, you possessed various quantities of Dilaudid, a Schedule II narcotic, Vicodin, a Schedule III narcotic, and Valium, a Schedule IV depressant, with the intent to illegally dispense or distribute them to others.

Your guilty plea and/or the acts, conduct, and/or omissions underlying your guilty plea, as alleged in paragraph (1) above, individually and/or collectively, constitute "(s)elling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code.

Further, your guilty plea and the judicial finding of guilt, as alleged in paragraph (1) above, individually and/or collectively, constitute "(a) plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(E), Ohio Administrative Code, to wit: 21 U.S.C. Section 841. Pursuant to Paragraph (F) of Rule 4731-11-02, Ohio Administrative Code, a violation of any provision of the rule shall constitute a violation of Sections 4731.22(B)(2) and (B)(6), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board 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 by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that

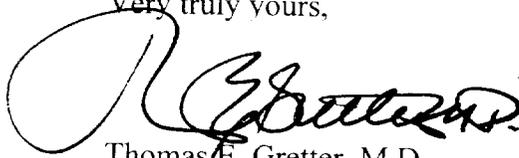
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at the hearing you may present evidence and examine witnesses appearing for or against you.

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

A handwritten signature in black ink, appearing to read "T. E. Gretter", written over a large, stylized circular flourish.

Thomas E. Gretter, M.D.
Secretary

TEG/bjm

Enclosures

CERTIFIED MAIL # P 152 983 467
RETURN RECEIPT REQUESTED

cc: Gerald S. Gold, Esq.

CERTIFIED MAIL # P 152 983 471
RETURN RECEIPT REQUESTED