



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

January 9, 2002

Rogel R. Belmonte, M.D.
162 Loretta Avenue, #3
Fairborn, OH 45324-2552

Dear Doctor Belmonte:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 9, 2002, 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 must be taken to the Franklin County Court of Common Pleas.

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

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5147 1784
RETURN RECEIPT REQUESTED

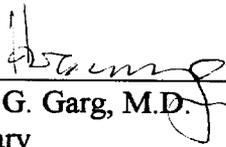
Mailed 1-10-02

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter,, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 9, 2002, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner 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 Rogel R. Belmonte, 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)



Anand G. Garg, M.D.
Secretary

January 9, 2002

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

ROGEL R. BELMONTE, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 9, 2002.

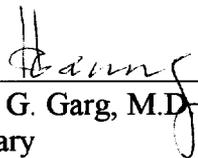
Upon the Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the 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 Rogel R. Belmonte, 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 Board.

(SEAL)



Anand G. Garg, M.D.
Secretary

January 9, 2002

Date

2001 DEC -7 A 8:33

**REPORT AND RECOMMENDATION
IN THE CONSOLIDATED MATTERS OF ROGEL R. BELMONTE, M.D.**

The consolidated Matters of Rogel R. Belmonte, M.D., were heard by R. Gregory Porter, Attorney Hearing Examiner for the State Medical Board of Ohio, on September 24 and October 10, 2001.

INTRODUCTION

I. Basis for Hearing

- A. On June 13, 2001, the State Medical Board of Ohio [Board] sent a Notice of Immediate Suspension and Opportunity for Hearing to Rogel R. Belmonte, M.D. The Board advised Dr. Belmonte that the Greene County Prosecuting Attorney had reported pursuant to Sections 2929.24 and/or 3719.12, Ohio Revised Code, that, on or about March 5, 2001, in the Greene County Common Pleas Court, Dr. Belmonte had pleaded no contest to, and been found guilty of, six felony counts of violating Section 2925.22(A), Ohio Revised Code, Deception to Obtain a Dangerous Drug. The Board notified Dr. Belmonte that, pursuant to Section 3719.121(C), Ohio Revised Code, his certificate to practice medicine and surgery in Ohio had been immediately suspended. The Board further advised Dr. Belmonte that continued practice would be considered practicing medicine without a certificate, in violation of Section 4731.41, Ohio Revised Code.

Moreover, the Board notified Dr. Belmonte that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based on the guilty pleas noted above.

The Board alleged that the judicial findings of guilt constitute “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony,” as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.”

Accordingly, the Board advised Dr. Belmonte of his right to request a hearing in this matter. (State’s Exhibit 1A) By document received by the Board on July 9, 2001, Dr. Belmonte requested a hearing. (State’s Exhibit 1B)

- B. By Amended Notice of Opportunity for Hearing dated August 3, 2001 (which amended a December 13, 2000, notice for which Dr. Belmonte had requested a hearing on January 16, 2001), the Board notified Dr. Belmonte that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board’s action was based on allegations that Dr. Belmonte

had violated the conditions of limitation imposed on his license by a December 6, 1989, Board Order, due to his having (1) prescribed medications for himself and a family member using prescription forms he had had printed bearing the name of another physician and signing that name himself; (2) submitted false quarterly declarations attesting to his compliance with probationary requirements; and (3) failed to advise the Board on a license renewal application that he had pleaded guilty to Theft, a fourth degree felony, the acts underlying which had involved his deposit of a check from an account for which he had insufficient funds.

The Board alleged that such conduct constitutes the following:

- “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,’ as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.”
- “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,’ as that clause is used in Section 4731.22(B)(10), Ohio Revised Code,” to wit: Section 2925.22, Ohio Revised Code, Deception to Obtain a Dangerous Drug; Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents; and/or Section 2913.31, Ohio Revised Code, Forgery.
- “[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed,’ as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2921.13, Ohio Revised Code, Falsification.”
- “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the Board,’ as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect March 9, 1999.”
- “[p]ublishing a false, fraudulent, deceptive, or misleading statement,’ as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect prior to March 9, 1999.”
- “[f]raud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board,’ as that clause is used in Section 4731.22(A), Ohio Revised Code, as in effect prior to March 9, 1999.”

2001 DEC -7 A 8:33

- “[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, as in effect prior to March 9, 1999.”

Accordingly, the Board advised Dr. Belmonte of his right to request a hearing on the matters addressed in the Amended Notice of Opportunity for Hearing. (State’s Exhibit 1H) By document received by the Board on August 20, 2001, Dr. Belmonte requested a hearing on the matters addressed in the Amended Notice of Opportunity for Hearing. (State’s Exhibit 1B)

- C. On September 6, 2001, the State filed a motion to consolidate for hearing the matters addressed in the Board’s notice letters dated June 13 and August 3, 2001. By Entry dated September 7, 2001, the Hearing Examiner granted the State’s motion, and consolidated these matters for hearing. (State’s Exhibits K and L)

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers, Assistant Attorney General.
- B. On behalf of the Respondent: Dr. Belmonte, having been previously notified of his right to be represented by an attorney, represented himself at the hearing.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 1. Rogel R. Belmonte, M.D., as upon cross-examination
 2. William Wertz
 3. Gregory A. McGlaun
 4. Danielle Bickers
- B. Presented by the Respondent
 1. James Staton
 2. Robert Kleine
 3. William J. Schmidt
 4. Sheryl Warner
 5. John Woolwine
 6. Doug Edwards

STATE MEDICAL BOARD
OF OHIO

2001 DEC -7 A 8:33

7. Rogel R. Belmonte, M.D.
8. Jeff Hunter, via speaker telephone
9. Cozette Snead, via speaker telephone

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1U: Procedural exhibits.
2. State's Exhibit 2: Certified copies of a December 6, 1989, Board Order concerning Dr. Belmonte, and related documents.
3. State's Exhibit 3: Certified copies of documents relating to the 1996 restoration of Dr. Belmonte's Ohio certificate.
4. State's Exhibit 4: Certified copies of documents concerning Dr. Belmonte maintained by the Tuscarawas County Court of Common Pleas. [Note: The Hearing Examiner redacted Social Security numbers from these documents post-hearing.]
5. State's Exhibits 5A through 5F: Copies of Declarations of Compliance signed by Dr. Belmonte.
6. State's Exhibit 6: Certified copies of documents concerning Dr. Belmonte maintained by the Greene County Court of Common Pleas. [Note: The Hearing Examiner redacted Social Security numbers from these documents post-hearing.]
7. State's Exhibit 7: Patient Key. [Note: This exhibit has been sealed to protect patient confidentiality.]
8. State's Exhibit 8: Certified copy of Dr. Belmonte's 1995 application for restoration of his Ohio certificate.
9. State's Exhibit 9: Certified copy of Dr. Belmonte's 1998 application for renewal of his Ohio certificate.
10. State's Exhibits 10A through 10P: Prescriptions written for Patient A in the name of Jose Martinez, M.D. [Note: These exhibits have been sealed to protect patient confidentiality.]

2001 DEC -7 A 8: 33

11. State's Exhibit 11: December 5, 1997, prescription written in the name of Dr. Belmonte.
12. State's Exhibits 12A through 12K: Prescriptions written for Dr. Belmonte in the name of Jose Martinez, M.D.
13. State's Exhibit 13: Certified copies of documents concerning Dr. Belmonte maintained by the City of Uhrichsville Police Department. [Note: The Hearing Examiner redacted Social Security numbers from these documents post-hearing.]
14. State's Exhibit 14: Copy of the contents of a prescription pad printed in the name of Jose Martinez, M.D. [Note: This exhibit has been sealed to protect patient confidentiality.]
15. State's Exhibit 15: Certified copies of documents maintained by Ohio Job and Family Services, and an October 9, 2001, letter from Daniel R. Hecht, Health Services Policy Specialist, Ohio Job and Family Services.

B. Presented by the Respondent

1. Respondent's Exhibit C: Copies of medical records concerning Patient A. [Note: This exhibit has been sealed to protect patient confidentiality.]
2. Respondent's Exhibit D: Copy of Acknowledgement of Guilty Plea from the Tuscarawas County Common Pleas Court. [Note: The Hearing Examiner redacted Social Security numbers from this document post-hearing.]
3. Respondent's Exhibit E: Copies of documents relating to Dr. Belmonte's application for an Idaho certificate. [Note: The Hearing Examiner redacted Social Security numbers from this document post-hearing.]

SUMMARY OF THE EVIDENCE

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

Background Information

1. On September 24 and October 10, 2001, a hearing was held concerning the allegations raised by the Board against Rogel R. Belmonte, M.D., in its June 13 and August 3, 2001,

notices. During his closing argument, Dr. Belmonte stated that, in 1969, after having completed his medical education and internship in the Philippines, he worked for two years in the mountains of the southern Philippines taking care of the Hiligaynon people. Subsequently, Dr. Belmonte came to the U.S. for further training, with the intention of returning to the Philippines to continue his practice there. However, Dr. Belmonte stated that he married an American, and "figured it was easier for [him] to get adjusted here in the United States than to have [his] wife get adjusted there in the mountains where the people were considered backwards even by Philippine standards and there was no indoor plumbing, no running water or electricity." (Hearing Transcript Volume II [Tr. Vol. II.] at 42-44)

Dr. Belmonte stated that his practice had been very successful for the first several years. Dr. Belmonte further stated that during this time he had been asked to join the clinical faculty of Northeastern Ohio University's College of Medicine, and he became a preceptor of the family practice residents of his hospital. Dr. Belmonte testified that he also had been certified by the American Board of Family Practice. (Tr. at. Vol. II at 44)

Dr. Belmonte stated that Patient A, a family member, became preeclamptic during her second and third pregnancies, and that her health began declining following those events. Dr. Belmonte stated that, previous to these pregnancies, she had been a healthy person. Dr. Belmonte provided an extensive description of Patient A's health problems, which included migraine headaches. Dr. Belmonte further stated that, by 1982 or 1983, he had taken over as Patient A's primary care physician. Dr. Belmonte stated that "[a]t that time it was still customary, at least in Summit County, for primary care physicians to take care of their immediate and extended families." Moreover, Dr. Belmonte testified that, after experimenting with various medications, he found that a combination of Valium 10 mg, Tylenol No. 4, and "IM Phenergan" controlled Patient A's headaches and allowed her to be functional. (Tr. Vol. II at 44-47)

Dr. Belmonte stated that, after having worked in Iowa for one year from 1986 to 1987, he returned to Ohio and began working full time as an emergency room physician. Dr. Belmonte further stated that in 1987 or 1988, "[w]hen the Medical Board was being attacked in the press * * * for being lax with its physicians," Dr. Belmonte purchased several thousand units of Tylenol No. 4 and Valium 10 mg, "enough to last [Patient A] for years." Dr. Belmonte stated that he had not been aware that this violated the laws governing controlled substances. Dr. Belmonte further stated that this led to action being taken against him by the Board. (Tr. Vol. II at 47-49)

The December 11, 1989, Board Order

2. On July 12, 1989, the Board notified Dr. Belmonte that it had proposed to take disciplinary action against his certificate to practice medicine in Ohio based upon alleged violations of the Ohio Medical Practice Act. A hearing was held on October 10, 1989,

2001 DEC -7 A 8: 33

and a Report and Recommendation was filed on November 7, 1989. The Board met on December 6, 1989, and found that Dr. Belmonte had purchased large quantities of controlled substance medications for the treatment of Patient A, and that Dr. Belmonte had failed to maintain dispensing records or an inventory system to account for the controlled substances that he had purchased and dispensed. The Board revoked Dr. Belmonte's certificate, stayed the revocation, and suspended his certificate for a period of at least two years. In addition, the Board established conditions for reinstatement and probationary terms and conditions for at least five years following reinstatement. Finally, on December 11, 1989, the Board issued its Entry of Order [Board Order]. (State's Exhibit [St. Ex.] 2)

The December 11, 1989, Board Order stated, in part, as follows:

3. Upon reinstatement, Dr. Belmonte's license shall be permanently limited as follows: Dr. Belmonte shall refrain from prescribing, dispensing, or administering any and all medications for his wife, for himself, and any other family members except in life-threatening emergency situations.
4. Upon reinstatement, Dr. Belmonte's license shall be subject to the following probationary terms, conditions, and limitations, in addition to the limitation listed in paragraph 3, for a period of five (5) years:
 - a. Dr. Belmonte shall obey all federal, state, and local laws and all rules governing the practice of medicine in Ohio.
 - b. Dr. Belmonte shall submit quarterly declarations under penalty of perjury stating that there has been compliance with all the terms of probation.

* * *

- e. Dr. Belmonte shall be permanently ineligible to reapply for or to hold registration with the United States Drug Enforcement Administration and shall not prescribe, dispense, administer, or possess any controlled substances, except for those prescribed for his own use by another so authorized by law.

* * *

6. Upon successful completion of his probation, Dr. Belmonte's license, as limited under paragraph 3 of this Order, will be fully restored.

(St. Ex. 2)

2001 DEC -7 A 8: 33

3. Dr. Belmonte testified that he had believed that paragraph 4.a. had required him to obey only those laws that relate to the practice of medicine. Moreover, Dr. Belmonte testified that, in standard probationary language contained in Appendix C of the Board's Disciplinary Guidelines, a comma is placed between "local laws" and "and all rules." Dr. Belmonte testified that, in his Order, there was no such comma. Dr. Belmonte testified that, accordingly, he understood the requirement to mean that he was to "obey all federal, state, and local laws and rules governing the practice of medicine." Finally, Dr. Belmonte testified that he had believed that paragraph 4.a was to take effect upon the reinstatement of his certificate, and not before. (St. Ex. 2; Hearing Transcript Volume I [Tr. Vol. I] at 41-43)

The Board's January 1996 Restoration of Dr. Belmonte's Certificate

4. On October 11, 1995, the Board reinstated Dr. Belmonte's certificate conditioned upon his successful completion of the SPEX examination. On January 12, 1996, the Board notified Dr. Belmonte that he had achieved a passing score on the December 28, 1995, SPEX examination. Subsequently, on January 18, 1996, the Board notified Dr. Belmonte that he had successfully completed the requirements for restoration of his certificate, subject to the probationary requirements of the December 11, 1989, Board Order. (St. Ex. 3)

On July 11, 1996, Dr. Belmonte made his initial appearance before the Board. Dr. Belmonte expressed to the Board his difficulty and lack of success at finding employment as a physician since the restoration of his certificate. Dr. Belmonte attributed this difficulty in part to the probationary requirement that forbids him from holding DEA registration. Dr. Belmonte further told the Board that the emergency room for which he used to work had agreed to take him back if he could obtain DEA registration. Following a discussion, the Board agreed to permit Dr. Belmonte to use the DEA registration of the hospital where he would work. Subsequently, by letter dated July 22, 1996, the Board informed Dr. Belmonte that his request to use hospital DEA registration had been granted. (St. Ex. 3)

5. Dr. Belmonte testified that, following the reinstatement of his license, the Board's restriction on his obtaining his own DEA registration had prevented him from obtaining physician employment. Dr. Belmonte stated that he had been employed as a physician by a chiropractor, Richard Thomas, D.C., from September 1996 through August 1998, but lost that position due to his employer having submitted fraudulent billings. (Tr. Vol. II at 49-54, 61)
6. William J. Schmidt testified that he is the Assistant Executive Director of the Board. Mr. Schmidt testified that he had attended office conferences with Dr. Belmonte, and that Dr. Belmonte had often complained about the restriction against his obtaining DEA registration. Mr. Schmidt further testified that, during these conferences, Dr. Belmonte had been encouraged to not be blocked by that restriction, and had been told that other licenses had found ways to continue in their professions with the same restriction. (Tr. Vol. I at 149-170)

Dr. Belmonte's 1996 Criminal Conviction

7. On May 15, 1995, in the Common Pleas Court of Tuscarawas County, an Indictment was filed charging Dr. Belmonte with one felony count of violating Section 2913.02, Ohio Revised Code, Theft, a felony of the fourth degree. The Indictment further charged that, on or about August 2, 1994, Dr. Belmonte, "with purpose to deprive Bank One of Uhrichsville, Ohio, of \$2500.00, did unlawfully and knowingly exert control over said money by deception." (St. Ex. 4)

A police report from the City of Uhrichsville Police Department indicates that Dr. Belmonte had deposited a \$2,500.00 check from his checking account at Huntington Bank into his checking account at Bank One. The check was later returned by the Huntington Bank due to insufficient funds. Dr. Belmonte subsequently either did not or could not cover the resulting \$2,073.47 loss suffered by Bank One. (St. Ex. 13)

On September 17, 1996, Dr. Belmonte entered a plea of guilty to the Indictment. The court accepted Dr. Belmonte's guilty plea and ordered a pre-sentence investigation. On December 19, 1996, the court sentenced Dr. Belmonte to one year of incarceration, which the court deferred subject to probation for two years. Among the probationary terms imposed, the court required Dr. Belmonte to make full restitution, pay court costs and ten percent interest; and forbade Dr. Belmonte from holding a checking account unless authorized by the probation department. (St. Ex. 4)

8. Dr. Belmonte testified at the present hearing that, at the time he deposited the check, he had not had sufficient funds in his Huntington Bank checking account to cover it. Dr. Belmonte testified that he had been expecting to be able to cover the check within a day or two with money he was to receive from friends and relatives. (Tr. Vol. I at 47)
9. Dr. Belmonte presented a non-certified copy of an Acknowledgment of Guilty Plea, which was signed by Dr. Belmonte and filed in the Tuscarawas County Common Pleas Court on September 17, 1996. Among other things, that document states that, "IF THE DEFENDANT PAYS FULL RESTITUTION TO THE VICTIM HEREIN PRIOR TO SENTENCING IN THIS MATTER THE STATE WILL AGREE TO REDUCING THE CHARGE TO A MISDEMEANOR OF THE FIRST DEGREE." (Resp. Ex. D) (Emphasis in original) Nevertheless, there is nothing in the certified copy of the court's Judgment Entry on Sentencing that indicates that the charge to which Dr. Belmonte had been convicted was reduced to a misdemeanor. (St. Ex. 4)

Dr. Belmonte's 1998 Renewal Application

10. On June 4, 1998, Dr. Belmonte signed an application for the renewal of his certificate to practice medicine in Ohio. By signing the card, Dr. Belmonte certified, "under penalty of

2001 DEC -7 A 8: 34

loss of [his] right to practice in the State of Ohio, * * * that the information provided on this application is true and correct in every respect.” Further, Dr. Belmonte answered, “No,” to question 1 on that application, which asked, “At any time since signing your last application for renewal of your certificate have you * * * [b]een found guilty of, or pled guilty or no contest to a felony or misdemeanor.” (St. Ex. 9)

Dr. Belmonte testified that he had answered, “No,” to question 1 because the crime that he had pleaded guilty to had been committed in 1994. Dr. Belmonte further testified that he had understood the question to refer to the 1994 date of his criminal offense, not to the 1996 date of his plea. In addition, Dr. Belmonte testified that he did not notify the Board of his conviction because it had been his understanding that the prosecuting attorney would notify the Board. Moreover, Dr. Belmonte testified, “I understood I was not even obliged to notify the Medical Board because they’ve been getting it from the source, you know. And my probation officer, like I said, told me that from the beginning, that the Medical Board will get all these things.” (Tr. Vol. I at 44-46)

11. In his closing argument, Dr. Belmonte stated that he believes that he had truthfully answered the question on the renewal application. Dr. Belmonte further stated:

I was also told that when I signed the plea bargain agreement in September of 1996 that if the money was paid before my sentencing in December of 1996, which my employer did, I would just receive a misdemeanor instead of a felony. I, therefore, always believed that I was convicted of a misdemeanor.

(Tr. Vol. II at 55-57) Note, however, that question 1 on the 1998 renewal application refers to both felony and misdemeanor offenses. (St. Ex. 9)

Dr. Belmonte’s December 5, 1997, Prescription to Himself

12. On December 5, 1997, Dr. Belmonte issued to himself a prescription for 10 Valtrex 500 mg, with one refill. Dr. Belmonte testified that the issuer’s signature on that prescription was his. Printing on the prescription indicates that the prescription was filled. (St. Ex. 11; Tr. Vol. I at 47-48)

Dr. Belmonte testified that he could not explain that prescription. Dr. Belmonte stated that the only prescription for Valtrex that he had ever written had been for a co-worker, and that he had written her name on that prescription. Dr. Belmonte further testified that he could not recall ever having written a prescription for Valtrex for himself. Moreover, Dr. Belmonte testified that neither he nor anyone in his family needs Valtrex. Finally, Dr. Belmonte testified that he would never have written a prescription for himself and had it filled at a pharmacy that was next door to where he worked. (Tr. Vol. I at 59-62)

2001 DEC -7 A 8: 34

Dr. Belmonte's Prescription Blanks Printed in the Name of Jose Martinez, M.D.

13. Dr. Belmonte testified that he had had prescription forms printed in the name of another physician, Jose Martinez, M.D., using an address of 5880 Munger Road, Dayton, Ohio, 45459. Dr. Belmonte testified that 5880 Munger Road was Dr. Belmonte's old address. Further, Dr. Belmonte testified that he had written two DEA registration numbers on the back of the Jose Martinez prescription pad, neither of which had been Dr. Belmonte's number. Dr. Belmonte stated:

These are the numbers that the pharmacist had put on those prescriptions. Because like let's say to give you example, I write a prescription for Lipitor, you know, which sent in the pharmacy, he would put in there—on the bottle, they put the DEA number. And they came up with these numbers. I don't know where they got them. But I just noted it down. And I put—I wrote those numbers there.

(St. Ex. 14; Tr. Vol. I at 48-49) Moreover, Dr. Belmonte testified that he could not "remember exactly" whether he had ever written these numbers on a prescription. Dr. Belmonte testified that he may have used one of the numbers when refilling "a prescription where the pharmacist had already used that number." Dr. Belmonte later testified that he may have used the numbers "once or twice[, but] only for some prescription that they had already used it." Finally, Dr. Belmonte testified that he did not know to whom the DEA registration numbers belonged, or if they belonged to anyone. (St. Ex. 14; Tr. Vol. I at 49-51)

Dr. Belmonte acknowledged that he had signed the name of Jose Martinez, M.D., to prescriptions. Dr. Belmonte further testified that he had been aware, prior to having the prescription pads printed, that there is a real person named Jose Martinez who is a physician. (Tr. Vol. I at 51-52)

Dr. Belmonte's Prescriptions to Himself and Patient A Using the Jose Martinez, M.D., Prescription Pad

14. Using the prescription forms that Dr. Belmonte had printed in the name of Jose Martinez, M.D., and signing the prescriptions either "J. Martinez" or "Jose Martinez," Dr. Belmonte issued the following prescriptions to himself:

Date	Medication
8/6/99	60 Celexa 20 mg, with 12 refills
12/28/99	100 Effexor XR 150 mg; and 100 Effexor XR 75 mg, with 12 refills
12/28/99	60 Atenolol 50 mg, with 12 refills

2001 DEC -7 A 8: 34

1/5/00	100 Claritin-D 24 Hour, with 12 refills
1/5/00	60 Atenolol 50 mg, with 12 refills
1/5/00	60 Aldactazide 25-25, with 12 refills
2/29/00	30 Zyrtec 10 mg, with 12 refills
3/30/00	60 Toradol 10 mg, with 12 refills
4/24/00	100 Amoxil 500 mg, with 6 refills
6/12/00	100 Lasix 40 mg, with 12 refills
6/12/00	100 Slow-K 8 mEq, with 12 refills

(St. Exs. 12A through 12K) Further, printing on these prescriptions indicates that these prescriptions were filled. (St. Exs. 12A through 12K) [Note that Dr. Belmonte had not written any DEA registration numbers on these prescriptions; however, DEA registration numbers were printed on the back of several of these prescriptions by the pharmacies. (St. Exs. 12A through 12K)]

Dr. Belmonte acknowledged that he had written the prescriptions noted above for himself. Dr. Belmonte further acknowledged that such conduct had violated the permanent limitation on his license against prescribing for himself or family members. In addition, Dr. Belmonte acknowledged that it had been fraud for him to sign another person's name to the prescriptions. Nevertheless, Dr. Belmonte testified that he had only written prescriptions for medications that had been previously prescribed to him by other physicians. Moreover, Dr. Belmonte testified, "Had I been able to go to a physician, they would have been writing these things for us. But I could not get to a physician first because we did not have transportation. Second, I could not find somebody who would accept Medicaid close enough to us[.]" (Tr. Vol. I at 57-58)

Dr. Belmonte acknowledged that he did not need to write a prescription for himself for Claritin because of a life-threatening emergency. (St. Ex. 12D; Tr. Vol. I at 57)

- Using the prescription forms that Dr. Belmonte had printed in the name of Jose Martinez, M.D., and signing the prescriptions either "J. Martinez" or "Jose Martinez," Dr. Belmonte wrote the following prescriptions for Patient A:

Date	Medication
8/6/99	100 Prozac 20 mg, with 12 refills
8/6/99	12 Modicon 0.5/35-28, with no refills
8/6/99	12 Necon 1/50-28, with no refills
8/6/99	12 Necon 1/50-28, with no refills
12/28/99	12 Necon 1/50-28, with 1 refill
12/28/99	60 Accupril 20 mg, with 12 refills
12/29/99	60 Atenolol 50 mg, with 12 refills

2001 DEC -7 A 8: 34

1/5/00	100 Claritin-D 24 Hour, with 12 refills
1/5/00	60 Atenolol 50 mg, with 12 refills
1/5/00	60 Aldactazide 25-25, with 12 refills
2/29/00	30 Zyrtec 10 mg, with 12 refills
3/30/00	100 Iberet-Folic-500, with 4 refills
3/30/00	6 Necon 1/50-28, with 2 refills
4/14/00	60 Toradol 10 mg, with 12 refills
4/25/00	6 Ovrал-28, with 3 refills
6/12/00	100 Estrace 2 mg, with 4 refills

(St. Exs. 10A-10P) Dr. Belmonte acknowledged that he had written the prescriptions listed above for Patient A using the prescription pad he had had printed in the name of Jose Martinez, M.D., and that he had signed Dr. Martinez' name to the prescriptions. Further, printing on these prescriptions indicates that these prescriptions were filled. (Tr. Vol. I at 52-54)

A DEA registration number of BT1790167 is written on the March 30, 2000, prescription for 6 Necon 1/20-28. (St. Ex. 10M) Dr. Belmonte testified that he had written that number on the prescription. Dr. Belmonte testified that he had copied the number from one that a pharmacy had placed on one of his prescription bottles. Dr. Belmonte further testified that he did not know to whom, if anybody, the DEA number belonged. Dr. Belmonte noted that another DEA registration number had been written on the March 30, 2000, prescription for 100 Iberet-Folic-500, but that that number was not in his handwriting. Neither number matches the numbers on the back of the Martinez prescription pad. (St. Exs. 10L and 10M; St. Ex. 14, Tr. Vol. I at 53-54)

16. Dr. Belmonte testified that he had believed that he had written the prescriptions for Patient A because of a life-threatening emergency. Dr. Belmonte testified that Patient A had suffered from excessive vaginal bleeding, and that Dr. Belmonte had had a disagreement concerning Patient A's care with Patient A's treating physician. Accordingly, Dr. Belmonte testified that he had issued prescriptions to Patient A for birth control pills that he stated were effective in controlling her bleeding. (Tr. Vol. I at 54-56)

Dr. Belmonte testified concerning Patient A's ill health and hospitalizations, and stated that it was because of the severity of her illness that he felt it necessary to prescribe for her. Dr. Belmonte testified that Patient A suffers from diabetes, advanced vascular problems, severe atherosclerotic retinopathy, ocular hypertension, glaucoma, and plaque formations in the carotid arteries. Dr. Belmonte further testified that Patient A suffers from partial blindness in both eyes. Moreover, Dr. Belmonte testified that Patient A's medications were important because without them Patient A could develop a stroke and lose her eyesight. (Tr. Vol. I at 190-197)

2001 DEC -7 A 8:34

Dr. Belmonte testified that Patient A had been hospitalized in August 1999 and, at that time, "her blood count was very low, it was half of the normal," and her blood pressure was high. Dr. Belmonte further testified that Patient A had been suffering from vaginal bleeding, and that Patient A's gynecologist had been prescribing Provera to stop the bleeding, which was not effective. Dr. Belmonte testified that, in the hospital, Patient A was kept on Provera for a time, which was later changed to Meclomen, which was also ineffective. Dr. Belmonte testified that Patient A was finally placed on birth control pills that stopped the bleeding. Dr. Belmonte testified that he believes that this provided justification for the birth control pills that he had previously prescribed for Patient A. (Respondent's Exhibit [Resp. Ex.] C; Tr. Vol. I at 197-202)

Dr. Belmonte acknowledged that during the time that he prescribed medication to Patient A she had been under the care of another physician. (Tr. Vol. I at 203)

17. In his closing argument, Dr. Belmonte stated that, during a time when Patient A had been suffering from bleeding, Patient A's gynecologist had "persisted on" prescribing Provera to Patient A, which was ineffective. Dr. Belmonte stated that he and Patient A had not wanted to offend and possibly lose the gynecologist by suggesting that they try something else, so Dr. Belmonte "decided to step in." Dr. Belmonte stated that he "knew that using birth control pills was another way of stopping dysfunctional bleeding," and he wanted to control the bleeding until a hysterectomy could be performed on Patient A. (Tr. Vol. II at 65-67) Dr. Belmonte stated:

I had prescription pads printed using a different doctor's name as I was afraid that if I used my own name the pharmacist would not fill out the scripts. * * * An Ohio licensed physician on Medicaid writing prescriptions for [Patient A and himself] would be very suspicious. We could not afford to dally spending precious time clearing it up with the proper authorities and we certainly could not afford to pay for our own scripts if I had written them on my own prescription pads. So that was why I used fictitiously a different doctor's name.

Since time was of the essence I did what I did because of multiple reasons, especially since it affected a potential life-threatening situation for [Patient A] and myself.

All of these things happening at the same time also pushed us to the brink of severe depression. We also both have multiple medical conditions but at that time could not find a family physician within a reasonable distance from where we live who was willing to take Medicaid and take care of us.

[Patient A] has diabetes mellitus controlled by multiple doses of Humulin R, has hypertension, arteriosclerosis, borderline glaucoma with a

2001 DEC -7 A 8: 34

partial ischemic infarct in her left optic disc and ischemic neuropathy on her right eye. Thus she was in danger of losing her sight if her conditions were not treated properly.

She also had—she also has chronic lymphedema in both lower extremities, periodic low output cardiac failure secondary to chronic, recurrent vaginal bleeding, chronic severe anemia, chronic nasal abnormality, chronic nasal allergies, chronic depression, hypercholesterolemia, and gastroesophageal reflux disease.

I have hypertension. [I have had two episodes of hypertensive emergencies for which I was hospitalized in an intensive care unit.] I also have chronic nasal allergies, periodic episodes of chronic asthma, chronic depression, gastroesophageal reflux disease, hypertriglyceridemia, and hypercholesterolemia.

* * *

These are the reasons why I took the liberties of writing these different scripts in our name using a different physician's name. All these medications were necessary and most of the time were related to life-threatening conditions.

* * *

All I did was write the same scripts, aside from the birth control pills, that our previous doctors had been writing for us all along. I just continued them until we were able to get another family physician. Therefore, I do not believe that I committed fraud much less trying to obtain dangerous drugs.

(Tr. Vol. II at 67-70)

Dr. Belmonte testified that circumstances forced him to do what he did. Dr. Belmonte stated:

I'm just trying to show evidence why I was forced to do this. Although [Patient A] was not dying, you know, from this condition, she could develop very serious consequences. And since I could not get a doctor to prescribe them, I was forced to make this terrible crime. And like I said, I admit I forged, I committed fraud by, you know, having a doctor's prescription and all that. I'm not denying that. I never denied that from

the beginning. I admitted that. I'm just trying to show you why it was—I was forced to do that.

(Tr. Vol. I at 197)

Dr. Belmonte's Declarations of Compliance

18. Pursuant to paragraph 4.b. of the December 11, 1989, Board Order, Dr. Belmonte periodically signed and submitted to the Board declarations of compliance. Dr. Belmonte submitted Declarations of Compliance to the Board dated January 13 and July 7, 1998; October 29, 1999; and January 11, April 3, and October 5, 2000. Each Declaration of Compliance stated:

I hereby declare that I have continued to comply with all the probationary terms, conditions and limitations imposed upon me by the State Medical Board of Ohio.

I understand and acknowledge that this declaration, if false, may subject me to additional disciplinary action by the State Medical Board of Ohio and may additionally subject me to criminal prosecution under Section 2921.13, Ohio Revised Code.

(St. Exs. 5A through 5F) Dr. Belmonte acknowledged that he had signed and submitted these declarations when, in fact, he had not been in compliance with the Board's Order.
(Tr. Vol. I at 62-64)

Dr. Belmonte's 2001 Criminal Conviction

19. Gregory A. McGlaun testified that he is an Enforcement Investigator with the Board. Investigator McGlaun testified that he became involved in Dr. Belmonte's case upon receiving a complaint that Dr. Belmonte had been using a fictitious name to obtain drugs.
(Tr. Vol. I at 88-89)

Investigator McGlaun testified that, during the course of his investigation, he checked pharmacies in the area for suspicious prescriptions. Investigator McGlaun testified that he found prescriptions in the name of Jose Martinez, M.D., for an address on Munger Road that Investigator McGlaun knew to be an old address for Dr. Belmonte. Investigator McGlaun further testified that he contacted the Board's office and learned that there were two physicians named Jose Martinez in Ohio—one in the Cleveland area and one in Cincinnati. Neither had an address on Munger Road in Dayton, Ohio.
(Tr. Vol. I at 89-90)

2001 DEC -7 A 8:35

Investigator McGlaun testified that, during his check of area pharmacies, he visited a CVS pharmacy in Fairborn. Investigator McGlaun learned that that pharmacy had filled prescriptions for Dr. Belmonte that were waiting to be picked up. Investigator McGlaun further testified that, after consulting with his supervisor, he reported the matter to William Wertz, a detective with the City of Fairborn Police Department. (Tr. Vol. I at 90-91, 100-101)

Investigator McGlaun testified that he is required by law to report felony offenses. In addition, Investigator McGlaun testified that it is the policy of the Board to contact law enforcement authorities if there is reason to believe that a felony has been committed. Investigator McGlaun testified that he had no contact with the Greene County Prosecuting Attorney concerning the criminal offenses for which Dr. Belmonte was to be charged. (Tr. Vol. I at 90-94, 100-101)

20. William Wertz testified that he is a detective with the City of Fairborn Police Department. Detective Wertz testified that he is assigned to a multi-agency task force, which includes detectives from other police agencies, and that he primarily investigates narcotics violations. (Tr. Vol. I at 64-67)

Detective Wertz testified that he became involved in Dr. Belmonte's case on June 28, 2000. On that date, Detective Wertz received a telephone call from Investigator McGlaun informing him that Dr. Belmonte "had dropped off some forged prescriptions" at an area pharmacy. Detective Wertz was to receive a call from the pharmacist when Dr. Belmonte returned to pick up the prescriptions. Detective Wertz received the call the following day. Detective Wertz testified that uniformed police detained Dr. Belmonte at the pharmacy until Detective Wertz arrived. When Detective Wertz arrived, Detective Wertz obtained the prescriptions and the medication that Dr. Belmonte had tried to pick up. (St. Ex. 14; Tr. Vol. I at 67-68)

Detective Wertz testified that Dr. Belmonte's wife had been waiting in a parked vehicle outside the pharmacy, and that she consented to a search of the vehicle. Detective Wertz testified that the police found a pad of prescriptions in the glove box of the vehicle with some of the prescription blanks filled out. (St. Ex. 14; Tr. Vol. I at 68-70)

Detective Wertz testified that he prepared a report of the incident which was forwarded to the prosecutor's office. The prosecutor then determined what charges would be pursued against Dr. Belmonte. (Tr. Vol. I at 70)

21. On July 10, 2000, an Indictment was filed in the Greene County Court of Common Pleas, charging Dr. Belmonte with six counts of violating Section 2925.22(A), Ohio Revised Code, Deception to Obtain a Dangerous Drug, a felony of the fifth degree. All counts concerned conduct that had occurred on June 28, 2000, and involved prescriptions for medications written for either Dr. Belmonte or Patient A in the name of Jose

2001 DEC -7 A 8: 35

Martinez, M.D. [Note that these are different prescriptions from those contained in State's Exhibits 10A through 10P, and 12A through 12K.] (St. Exs. 6 and 14)

On March 5, 2001, Dr. Belmonte entered a plea of "No Contest" to the Indictment. The court accepted Dr. Belmonte's plea and found him guilty of all counts. The court further ordered a pre-sentence investigation and scheduled a sentencing hearing. (St. Ex. 6)

On April 12, 2001, the court sentenced Dr. Belmonte to five years of community control. In addition to the conditions of basic probation supervision, the court ordered that Dr. Belmonte "not perform any duties in the health care profession to include, but not be limited to dispensing medication, without the prior approval of the State Medical Board and the Adult Probation Department." Moreover, the court ordered that Dr. Belmonte pay no less than ten dollars per month until his court costs have been paid. Finally, the court ordered that violation of community control requirements could result in Dr. Belmonte's incarceration for eleven months on each count, to be served consecutively for a total term of incarceration of sixty-six months. (St. Ex. 6)

22. Dr. Belmonte testified that he believes that Board staff "had decided to get the [felony convictions] so that way the Medical Board has no other choice but to revoke my license. Because I know and everybody knows that if it is a felony, you know, my license would be revoked[.]" (Tr. Vol. I at 206-207)
23. Dr. Belmonte testified that his attorney had advised him to plead no contest to the charges in Greene County with an eye toward a subsequent appeal. However, Dr. Belmonte testified that, following his conviction, he could not afford an attorney to handle that appeal. (Tr. Vol. I at 207)

Additional Information

24. As rebuttal for Dr. Belmonte's testimony that he and Patient A could not find a physician close to them who accepted Medicaid, the State provided documentation from Daniel R. Hecht, Health Services Policy Specialist, Ohio Job and Family Services, concerning the number of active Medicaid providers in Dr. Belmonte's geographical area. Mr. Hecht stated that, in "SFY 2000," 145 providers in Greene County submitted Medicaid claims, 227 providers in Clark County submitted Medicaid claims, 128 providers in Miami County submitted Medicaid claims, and 1390 providers in Montgomery County submitted Medicaid claims. (St. Ex. 15)

Dr. Belmonte testified that it had nevertheless been difficult for him and Patient A to find a provider that was close to them, because they did not have their own transportation, and there is no public transportation where they live. Dr. Belmonte testified that the closest physicians who accepted Medicaid patients were approximately ten miles away. Finally,

2001 DEC -7 A 8: 35

Dr. Belmonte stated that “the ones who were practical and close to us, you know, we had already gone to them and we could not find anybody else.” (Tr. Vol. II at 31-32)

25. Dr. Belmonte testified that the December 11, 1989, Board Order stated that, upon his completing probation, his certificate would be fully restored, without any limitation. Further, when Dr. Belmonte was asked if he was currently under probation, he replied, “I was. Not anymore. * * * I mean my probation was supposed to have ended January of 2001.” However, Dr. Belmonte acknowledged that he had not received anything from the Board informing him that his probation had ended, and stated, “Like I said, this thing came up before the end of my probation.” (Tr. Vol. I at 38-39)
26. Dr. Belmonte testified that he had applied for licensure with the Idaho State Board of Medicine, and that he had truthfully informed that board of his criminal and professional disciplinary history. (Resp. Ex. E; Tr. Vol. II at 27-30)
27. Dr. Belmonte stated in his closing argument that he has never engaged in any illegal or immoral practices of medicine in order to enrich himself. Dr. Belmonte further stated that he has never knowingly practiced bad medicine or harmed a patient. Moreover, Dr. Belmonte stated that he has always been a caring and competent physician who has placed his patients’ welfare above all else while caring for them. (Tr. Vol. II at 74)

FINDINGS OF FACT

1. On December 11, 1989, the Board entered an Order [Board Order] revoking the certificate of Rogel R. Belmonte, M.D., to practice medicine and surgery in the State of Ohio, stayed the revocation, and suspended Dr. Belmonte’s certificate for a period of at least two years with conditions for reinstatement. The Board Order was based upon Dr. Belmonte’s purchase of large quantities of controlled substances for treatment of Patient A, and Dr. Belmonte’s failure to maintain dispensing records or an inventory system to account for the controlled substances purchased.

On January 18, 1996, the Board restored Dr. Belmonte’s certificate, subject to the limitations and probationary terms contained in the December 11, 1989, Board Order. Dr. Belmonte’s certificate remains under probation.

2. Paragraph 3 of the Board Order provides that, “[u]pon reinstatement, Dr. Belmonte’s license shall be permanently limited as follows: Dr. Belmonte shall refrain from prescribing, dispensing, or administering any and all medications for his wife, for himself, and any other family members except in life-threatening emergency situations.”

A. On December 5, 1997, Dr. Belmonte prescribed for himself 10 Valtrex 500 mg, with one refill. This prescription was presented to a pharmacy and filled.

2001 DEC -7 A 8: 35

- B. In or about 1999, Dr. Belmonte had prescription forms printed with the name of Jose Martinez, M.D., 5880 Munger Road, Dayton, Ohio, 45459.

Using the prescription forms that Dr. Belmonte had had printed in the name of Jose Martinez, M.D., and signing the prescriptions either "J. Martinez" or "Jose Martinez," Dr. Belmonte issued the following prescriptions to himself, which were filled:

Date	Medication
8/6/99	60 Celexa 20 mg, with 12 refills
12/28/99	100 Effexor XR 150 mg; and 100 Effexor XR 75 mg, with 12 refills
12/28/99	60 Atenolol 50 mg, with 12 refills
1/5/00	100 Claritin-D 24 Hour, with 12 refills
1/5/00	60 Atenolol 50 mg, with 12 refills
1/5/00	60 Aldactazide 25-25, with 12 refills
2/29/00	30 Zyrtec 10 mg, with 12 refills
3/30/00	60 Toradol 10 mg, with 12 refills
4/24/00	100 Amoxil 500 mg, with 6 refills
6/12/00	100 Lasix 40 mg, with 12 refills
6/12/00	100 Slow-K 8 mEq, with 12 refills

- C. Using the prescription forms that Dr. Belmonte had had printed in the name of Jose Martinez, M.D., and signing the prescriptions either "J. Martinez" or "Jose Martinez," Dr. Belmonte issued the following prescriptions to Patient A, a family member, which were filled:

Date	Medication
8/6/99	100 Prozac 20 mg, with 12 refills
8/6/99	12 Modicon 0.5/35-28, with no refills
8/6/99	12 Necon 1/50-28, with no refills
8/6/99	12 Necon 1/50-28, with no refills
12/28/99	12 Necon 1/50-28, with 1 refill
12/28/99	60 Accupril 20 mg, with 12 refills
12/29/99	60 Atenolol 50 mg, with 12 refills
1/5/00	100 Claritin-D 24 Hour, with 12 refills
1/5/00	60 Atenolol 50 mg, with 12 refills
1/5/00	60 Aldactazide 25-25, with 12 refills
2/29/00	30 Zyrtec 10 mg, with 12 refills
3/30/00	100 Iberet-Folic-500, with 4 refills

2001 DEC -7 A 8: 35

3/30/00	6 Necon 1/50-28, with 2 refills
4/14/00	60 Toradol 10 mg, with 12 refills
4/25/00	6 Ovrall-28, with 3 refills
6/12/00	100 Estrace 2 mg, with 4 refills

Dr. Belmonte wrote a DEA registration number of BT1790167 on the March 30, 2000, prescription for 6 Necon 1/20-28. Dr. Belmonte had copied that number from one of his prescription bottles, and did not know to whom that number belonged.

- D. The evidence is insufficient to support a finding concerning the allegations as to the specific pharmacies at which the above prescriptions had been filled.
- E. The evidence is insufficient to support a finding concerning the allegation that Dr. Belmonte had used various DEA registration numbers in the prescriptions that he issued to himself.
3. Although Dr. Belmonte failed to comply with the probationary terms, conditions, and limitations imposed upon him by the Board Order, Dr. Belmonte signed and submitted to the Board declarations of compliance attesting that he had continued to comply with that Board Order. Dr. Belmonte submitted such declarations to the Board dated January 13 and July 7, 1998; October 29, 1999; and January 11, April 3, and October 5, 2000.
4. On June 4, 1998, Dr. Belmonte signed and submitted an application for the renewal of his certificate to practice medicine in Ohio. By signing the application, Dr. Belmonte certified, "under penalty of loss of [his] right to practice in the State of Ohio, * * * that the information provided on this application is true and correct in every respect." Further, Dr. Belmonte answered, "No," to question 1 on that application, which asked, "At any time since signing your last application for renewal of your certificate have you * * * [b]een found guilty of, or pled guilty or no contest to a felony or misdemeanor."
- In fact, on September 17, 1996, in the Tuscarawas County Court of Common Pleas, Dr. Belmonte pleaded guilty to violating Section 2913.02, Ohio Revised Code, Theft, a felony of the fourth degree. The court accepted Dr. Belmonte's plea and passed sentence on December 19, 1996. The conduct underlying Dr. Belmonte's guilty plea was that, on or about August 2, 1994, Dr. Belmonte had deposited a check for \$2,500.00 into his account at Bank One of Uhrichsville, Ohio, to be drawn from his account at another bank. The account on which the check was to be drawn had insufficient funds.
5. Based on the facts set forth in Findings of Fact 2 through 4, Dr. Belmonte failed to comply with paragraph 4.a of the Board Order, which states that "Dr. Belmonte shall obey all federal, state, and local laws and all rules governing the practice of medicine in Ohio."

2001 DEC -7 A 8:35

6. On March 5, 2001, in the Greene County Common Pleas Court, Dr. Belmonte entered a plea of "No Contest" to six counts of violating Section 2925.22(A), Ohio Revised Code, Deception to Obtain a Dangerous Drug, a felony of the fifth degree. The court accepted Dr. Belmonte's plea and found him guilty of all counts.

CONCLUSIONS OF LAW

1. The conduct of Rogel R. Belmonte, M.D., as set forth in Findings of Fact 2.A, 2.B, 2.C, 3, 4, and 5, constitutes "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

With regard to the December 5, 1997, prescription for Valtrex, as described in Findings of Fact 2.A, Dr. Belmonte stated that he could not recall having written such a prescription, and that neither he nor anyone in his family had a need for Valtrex. Nevertheless, Dr. Belmonte also testified that the signature appearing on the prescription is his. Therefore, such conduct violated paragraph 3 of the December 11, 1989, Board Order.

In addition, with regard to the prescriptions for himself and Patient A, as described in Findings of Fact 2.B and 2.C, Dr. Belmonte argued that he had done so due to the severe health problems from which he and Patient A suffer. Dr. Belmonte further argued that he had been forced to issue these prescriptions because he and Patient A were not close to any physicians who accepted Medicaid patients. These arguments are unpersuasive. Although it is undisputed that Patient A suffers from serious medical conditions, she had been under the care of another physician during the time that Dr. Belmonte obtained medication for her using fraudulent prescriptions; Dr. Belmonte simply disagreed with the treatment that was being provided by the other physician. Further, even if one were to accept that the medications that Dr. Belmonte prescribed for himself and Patient A were necessary and related to life-threatening emergencies, nothing excuses his use and signing of prescription blanks printed in another physician's name. Therefore, such conduct violated paragraphs 3 and 4.a of the December 11, 1989, Board Order.

Dr. Belmonte further argued at hearing that his felony conviction for Theft, as described in Findings of Fact 4, had not constituted a violation of paragraph 4.a of the Board Order. Dr. Belmonte argued that the December 11, 1989, Board Order had required him to obey only those laws that relate to the practice of medicine, and that that requirement had taken effect only upon his reinstatement. However, although the conduct that gave rise to Dr. Belmonte's conviction for Theft had occurred during his suspension and prior to his probationary conditions taking effect, Dr. Belmonte's plea of guilty to and conviction for that offense occurred after the Board had restored his certificate and during his probationary period. A plea of guilty to or conviction for a felony violates Section 4731.22(B)(9), Ohio

2001 DEC -7 A 8: 36

Revised Code. Therefore, this conduct violated paragraph 4.a of the December 11, 1989, Board Order.

Finally, in addition to the Theft conviction itself, Dr. Belmonte failed to notify the Board of the conviction on his 1998 renewal application. Such conduct constituted a violation of paragraph 4.a of the December 11, 1989, Board Order.

2. The conduct of Dr. Belmonte, as set forth in Findings of Fact 2.B and 2.C, constitutes “[c]omission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, Deception to Obtain a Dangerous Drug.
3. The conduct of Dr. Belmonte, as set forth in Findings of Fact 2.B and 2.C, constitutes “[c]omission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.
4. The conduct of Dr. Belmonte, as set forth in Findings of Fact 2.B and 2.C, constitutes “[c]omission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.31, Ohio Revised Code, Forgery.
5. The conduct of Dr. Belmonte, as set forth in Findings of Fact 3, constitutes “[c]omission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2921.13, Ohio Revised Code, Falsification.
6. The conduct of Dr. Belmonte, as set forth in Findings of Fact 3 with regard to conduct occurring on or after March 9, 1999, constitutes “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the Board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect on or after March 9, 1999.
7. The conduct of Dr. Belmonte, as set forth in Findings of Fact 3 with regard to conduct occurring prior to March 9, 1999, constitutes “publishing a false, fraudulent, deceptive, or misleading statement,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect prior to March 9, 1999.

8. With regard to his responses on his 1998 renewal application as described in Findings of Fact 4, Dr. Belmonte stated that he had believed that the Theft offense that he had pleaded guilty to and been convicted of was a misdemeanor rather than a felony, and implied that he had not been required to disclose it. This argument is without merit. First, the question on the renewal card had asked Dr. Belmonte about either a felony *or a misdemeanor*. Second, the State presented convincing evidence that the crime to which Dr. Belmonte had pleaded guilty was a felony.

Further, Dr. Belmonte stated that the conduct giving rise to his Theft conviction had been committed in 1994, prior to the Board's restoration of his certificate; therefore, he had not been required to notify the Board of his conviction on his 1998 renewal application. Nevertheless, this argument is not persuasive because the question on the renewal application was directed toward the plea or the conviction itself, not toward the underlying conduct. Dr. Belmonte's plea of guilty to and conviction for Theft occurred in 1996, after the Board had restored his certificate, and during the relevant renewal period.

In addition, Dr. Belmonte testified that he did not notify the Board of his Theft conviction because he had believed that the prosecutor would do so. This argument is also without merit. When Dr. Belmonte completed and signed his 1998 renewal application, he was required to provide accurate information. He failed to do so.

Accordingly, the conduct of Dr. Belmonte, as set forth in Findings of Fact 4, constitutes "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect prior to March 9, 1999.

9. For the reasons addressed above in Conclusions of Law 8, the conduct of Dr. Belmonte, as set forth in Findings of Fact 4, constitutes "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board," as that clause is used in Section 4731.22(A), Ohio Revised Code, as in effect prior to March 9, 1999.
10. Dr. Belmonte's plea of guilty and judicial finding of guilt, as set forth in Findings of Fact 4, constitutes "[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, as in effect prior to March 9, 1999.

Dr. Belmonte argued that the December 11, 1989, Board Order had required him to obey only those laws that relate to the practice of medicine, and that that requirement had taken effect only upon his reinstatement. This argument is not persuasive. First, although Dr. Belmonte's conduct that gave rise to his conviction for Theft had occurred during his suspension, his plea of guilty to and conviction for that offense occurred after the Board had restored his certificate. Further, even if one were to accept Dr. Belmonte's strained reading of paragraph 4.a of the Board Order, Section 4731.22(B)(9), Ohio Revised Code, authorizes the Board to take action against a physician for any felony, regardless of

2001 DEC -7 A 8: 36

whether the felony relates to the practice of medicine, and regardless of anything that might be contained in a Board Order.

11. The judicial finding of guilt concerning Dr. Belmonte, as set forth in Findings of Fact 6, constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony,” as that clause is used in Section 4731.22(B)(9), Ohio Revised Code, to wit: Section 2925.22(A), Deception to Obtain a Dangerous Drug. Note that the prescriptions that gave rise to this judicial finding of guilt are not the same prescriptions that constituted the violation of 4731.22(B)(10), Ohio Revised Code, as described in Conclusions of Law 2.

* * * * *

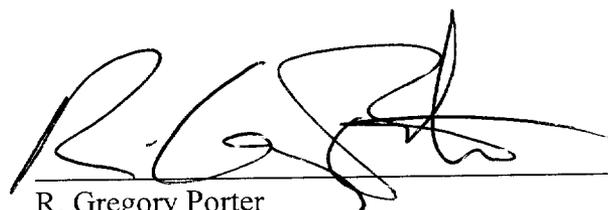
Because of the scope of Dr. Belmonte’s violations, and the fact that Dr. Belmonte has a previous disciplinary history with the Board, the severest sanction is merited in this case.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Rogel R. Belmonte, 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 Board.



R. Gregory Porter
Attorney Hearing Examiner



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

EXCERPT FROM THE DRAFT MINUTES OF JANUARY 9, 2002

REPORTS AND RECOMMENDATIONS

Dr. Somani announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Somani 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 matter of Rogel R. Belmonte, M.D.; Joel B. Burrell, M.D.; Ralph B. Monnett, Jr., M.D.; and Gerald Rowland, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Somani	- aye

Dr. Somani 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. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye

Dr. Garg - aye
Dr. Steinbergh - aye
Dr. Somani - aye

Dr. Somani noted that, in accordance with the provision in Section 4731.22(F)(2), 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 these matters.

Dr. Somani stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

ROGEL R. BELMONTE, M.D.

.....

DR. TALMAGE MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ROGEL R. BELMONTE, M.D. DR. STEINBERGH SECONDED THE MOTION.

.....

A vote was taken on Dr. Talmage's motion to approve and confirm:

Vote:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Stienecker	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye
Dr. Somani	- aye

The motion carried.



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

August 3, 2001

Rogel Belmonte, M.D.
162 Loretta Avenue #3
Fairborn, OH 45324-2552

Dear Doctor Belmonte:

Enclosed please find a Notice of Dismissal of Specified Allegations and Order to Issue Amended Notice of Opportunity for Hearing filed on behalf of the State Medical Board of Ohio on August 3, 2001. In accordance with this Order, the Notice of Opportunity for Hearing issued to you on December 13, 2000 has been amended and a copy incorporating those amendments has been included with this mailing.

Pursuant to Rule 4731-13-17, OAC, this amended notice supercedes the Notice of Opportunity for Hearing issued to you on December 13, 2000. Further, pursuant to that rule and Chapter 119., ORC, you have a right to request a hearing in this matter. If you choose to exercise that right, your request for hearing must be made in writing and must be received in the offices of the State Medical Board of Ohio within thirty (30) days of the date of mailing of this notice.

If you have any questions regarding the Amended Notice, you may contact me directly at 614/387-0794.

Very truly yours,

A handwritten signature in cursive script that reads "Sherri Warner".

Sherri Warner
Public Services Administrator

encl.

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
 :
 :
 ROGEL BELMONTE, M.D. :

NOTICE OF DISMISSAL OF SPECIFIED ALLEGATIONS
AND
ORDER TO ISSUE AMENDED NOTICE OF OPPORTUNITY FOR HEARING

This matter is before the undersigned for the purpose of clarifying the allegations set forth in the State Medical Board of Ohio's December 13, 2000 notice of opportunity for hearing in the above captioned matter, in view of the issuance of a second notice of opportunity for hearing to Rogel Belmonte, M.D., on June 13, 2001. The Medical Board's record documents that Dr. Belmonte timely exercised his right to be heard in both instances. Accordingly, a consolidated hearing is currently scheduled to commence on August 27, 2001.

At this juncture, the undersigned deem it appropriate to revise the December 13, 2000 Notice to more precisely reflect the later-occurring event that led to the issuance of the June 13, 2001 Notice--specifically, the issuance of a March 5, 2001 Judgment Entry by the Court of Common Pleas of Greene County, Ohio, which encompassed a number of the allegations in the December 13, 2000 Notice and served as the foundation for the Board's June 13, 2001 Notice.

It is therefore Ordered that the December 13, 2000 Notice be amended to reflect dismissal and deletion of the following provisions in order to eliminate redundancy, to more clearly delineate the substance of the separate Notices issued to Dr. Belmonte and to otherwise comport with state and federal law pertaining to this matter: notation at the end of paragraph 2(B) of prescriptions dated 6/27/00; notation at the end of paragraph 2(C) of prescriptions dated 6/27/00; and paragraph (5).

Pursuant to Rule 4731-13-17(G), OAC, Dr. Belmonte must file a new request if he wishes to have a hearing on the allegations set forth in the Amended Notice. Such request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the mailing of the Amended Notice.

So ORDERED this 3rd day of August, 2001.



Anand G. Garg, M.D.
Secretary



Raymond J. Albert
Supervising Member



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

AMENDED NOTICE OF OPPORTUNITY FOR HEARING

August 3, 2001

Rogel Belmonte, M.D.
162 Loretta Ave. #3
Fairborn, Ohio 45324-2552

Dear Doctor Belmonte:

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, permanently 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 December 6, 1989, the State Medical Board of Ohio (hereinafter "Board") entered an Order (copy attached hereto and incorporated herein) revoking your certificate to practice medicine and surgery in the State of Ohio, staying such revocation, and suspending your certificate for a minimum of two years with conditions for reinstatement. The Board Order was based upon your purchasing large quantities of controlled substances for treatment of your wife, and failing to maintain dispensing records or an inventory system to account for the controlled substances purchased.

On or about January 17, 1996, your license to practice medicine and surgery in the State of Ohio was reinstated subject to limitations and probationary terms contained in the Board Order. You currently remain under probation.

- (2) Paragraph (3) of the Board Order provides that your license shall be permanently limited as follows: you shall refrain from prescribing, dispensing, or administering any and all medications for your wife, yourself, and any other family members except in life-threatening emergency situations.
 - (A) On or about December 5, 1997, you prescribed Valtrex 500 mg., # 10 (ten), one refill, to yourself.

Mailed 8-3-01

- (B) In or about 1999, you had prescription forms printed with the heading, "JOSE MARTINEZ, M.D., 5880 MUNGER RD., DAYTON, OH 45459." You completed the prescription forms, as listed below, using various DEA numbers, and signed "J. Martinez" or "Jose Martinez" on the signature lines. You issued the following prescriptions to yourself:

Date Written	Drug and Quantity	Refills	Pharmacy
8/6/99	Celexa 20 mg. #60	12	Pharmx
12/28/99	Effexor XR 150 mg. # 100 and Effexor XR 75 mg. # 100	12	Wal-Mart
12/28/99	Atenolol 50 mg. # 60	12	Wal-Mart
1/5/00	Claritin-D 24 hour # 100	12	Pharmx
1/5/00	Atenolol 50 mg. # 60	12	Pharmx
1/5/00	Aldactazide 25/25 # 60	12	Pharmx
2/29/00	Zyrtec 10 mg. # 30	12	Kroger
3/30/00	Toradol 10 mg. #60	12	Pharmx
4/24/00	Amoxil 500 mg. # 100	6	Pharmx
6/12/00	Lasix 40 mg. # 100	12	Rite Aid
6/12/00	Slow K 8 mEq # 100	12	Rite Aid

- (C) Using the prescription forms as referenced in paragraph (B) above, you issued the following prescriptions to Patient A (as identified on the attached Patient Key - Key confidential and not subject to public disclosure), who is also a family member:

Date Written	Drug and Quantity	Refills	Pharmacy
8/6/99	Prozac 20 mg. # 100	12	Pharmx
8/6/99	ModiCon .5/35-28 # 12	0	Pharmx
8/6/99	Necon 1/50-28 # 12	0	Pharmx
8/6/99	Necon 1/50-28 # 12	0	Kroger
12/28/99	Necon 1/50-28 # 12	1	Wal-Mart

12/28/99	Accupril 20 mg. #60	12	Wal-Mart
12/28/99	Atenolol 50 mg. #60	12	Wal-Mart
1/5/00	Claritin-D 24 hour # 100	12	Pharmx
1/5/00	Atenolol 50 mg. # 60	12	Pharmx
1/5/00	Aldactazide 25/25 # 60	12	Pharmx
2/29/00	Zyrtec 10 mg. # 30	12	Kroger
3/30/00	Iberet-Folic 500 # 100	4	Rite Aid
3/30/00	Necon 1/50-28 # 6	2	Rite Aid
4/14/00	Toradol 10 mg. # 60	12	Pharmx
4/25/00	Ovral-28 # 6	3	Wal-Mart
6/12/00	Estrace 2 mg. # 100	4	Kroger

- (3) Although you failed to comply with the probationary terms, conditions and limitations imposed upon you by the Board Order referenced above, you submitted quarterly declarations attesting that you had continued to comply with the Order, on or about January 13, 1998, July 7, 1998, October 29, 1999, January 11, 2000, April 3, 2000, and October 5, 2000.
- (4) On or about June 4, 1998, you submitted an application for renewal of your certificate (hereinafter "renewal application") to the Board. The renewal application contained a certification signed by you that stated, "I certify, under penalty of loss of my right to practice in the state of Ohio . . . that the information provided on this application for renewal is true and correct in every respect." On the renewal application, you answered "NO" to the following question:

At any time since signing your last application for renewal of your certificate have you [b]een found guilty of, or pled guilty or no contest to a felony or misdemeanor[?]

In fact, on or about September 17, 1996, you pleaded guilty to the charge of THEFT, a felony of the fourth degree, in violation of Section 2913.02, Ohio Revised Code, in the Court of Common Pleas of Tuscarawas County, Ohio. The act underlying your guilty plea was that, on or about August 2, 1994, you deposited a \$2,500 check into your account at Bank One of Uhrichsville, Ohio,

to be drawn from your account at another bank; the account on which the check was to be drawn had insufficient funds.

- (5) The term of probation set forth in paragraph (4)(a) of the Board Order required you to obey all federal, state, and local laws and all rules governing the practice of medicine in Ohio. Based on the information in paragraphs (2), (3) and (4) above, you failed to comply with this probationary term.

Your acts, conduct, and/or omissions as alleged in paragraphs (2)(A), (2)(B), (2)(C), (3), (4) and (5) above, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts conduct, and/or omissions as alleged in paragraph (2)(B) and (2)(C) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, Deception to obtain a dangerous drug.

Further, your acts conduct, and/or omissions as alleged in paragraph (2)(B) and (2)(C) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal processing of drug documents.

Further, your acts conduct, and/or omissions as alleged in paragraphs (2)(B) and (2)(C) above, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.31, Ohio Revised Code, Forgery.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute “[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2921.13, Ohio Revised Code, Falsification.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or

a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect March 9, 1999.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (3) and (4) above, individually and/or collectively, constitute “publishing a false, fraudulent, deceptive, or misleading statement,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect prior to March 9, 1999.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute “fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board,” as that clause is used in Section 4731.22(A), Ohio Revised Code, as in effect prior to March 9, 1999.

Further, your plea of guilty or the judicial finding of guilt as alleged in paragraph (4) 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, as in effect prior to March 9, 1999.

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, if you timely request a hearing, 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 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice

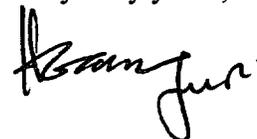
ROGEL BELMONTE, M.D.

Page 6

and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Anand Garg".

Anand G. Garg, M.D.
Secretary

AGG/emb
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5148 3268
RETURN RECEIPT REQUESTED



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/466-3934 • Website: www.state.oh.us/med/

NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

June 13, 2001

Rogel R. Belmonte, M.D.
162 Loretta Ave. #3
Fairborn, Ohio 45324-2552

Dear Doctor Belmonte:

In accordance with Sections 2929.24 and/or 3719.12, Ohio Revised Code, the Office of the Prosecuting Attorney of Greene County, Ohio, reported that on or about March 5, 2001, in the Court of Common Pleas of Greene County, Ohio, you pleaded no contest to and were found guilty of six felony counts of Deception to Obtain a Dangerous Drug, in violation of Section 2925.22(A), Ohio Revised Code.

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:

- (1) On or about March 5, 2001, in the Court of Common Pleas of Greene County, Ohio, you pleaded no contest to and were found guilty of six felony counts of Deception to Obtain a Dangerous Drug, in violation of Section 2925.22(A), Ohio Revised Code. Copies of the Indictment, No Contest Petition and Judgment Entry are attached hereto and incorporated herein.

Mailed 6-14-01

Suspension
Rogel R. Belmonte, M.D.
Page 2

The judicial finding of guilt as alleged in paragraph (1) above constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction for, a felony,” as that clause is used in Section 4731.22(B)(9), 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, if you timely request a hearing, 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 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/emb

Suspension
Rogel R. Belmonte, M.D.
Page 3

Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 6076
RETURN RECEIPT REQUESTED

No. SEC

JULY
COMMON PL

GREENE

THE STATE

VS

EL. BELMONTE

violation

SECTION 2925

Attorney

A TRUE

Grand Jury

of indictment four

Grand Jury at th

the Grand Jury

OTHERS, SPRINGFIELD

COUNT IV: ROGEL BELMONTE, 162 Loretta, Apt. 3, Fairborn, Ohio, on or about June 28, 2000, in Greene County, Ohio, did, by deception, procure the administration of, a prescription for, or the dispensing of, a dangerous drug or did possess an uncompleted preprinted prescription blank used for writing a prescription for a dangerous drug, to wit: Prilosec, contrary to and in violation of Section 2925.22(A) of the Ohio Revised Code and against the peace and dignity of the State of Ohio. (Deception to Obtain Dangerous Drug, a felony of the fifth degree)

COUNT V: ROGEL BELMONTE, 162 Loretta, Apt. 3, Fairborn, Ohio, on or about June 28, 2000, in Greene County, Ohio, did, by deception, procure the administration of, a prescription for, or the dispensing of, a dangerous drug or did possess an uncompleted preprinted prescription blank used for writing a prescription for a dangerous drug, to wit: Lipitor, contrary to and in violation of Section 2925.22(A) of the Ohio Revised Code and against the peace and dignity of the State of Ohio. (Deception to Obtain Dangerous Drug, a felony of the fifth degree)

COUNT VI: ROGEL BELMONTE, 162 Loretta, Apt. 3, Fairborn, Ohio, on or about June 28, 2000, in Greene County, Ohio, did, by deception, procure the administration of, a prescription for, or the dispensing of, a dangerous drug or did possess an uncompleted preprinted prescription blank used for writing a prescription for a dangerous drug, to wit: Prozac, contrary to and in violation of Section 2925.22(A) of the Ohio Revised Code and against the peace and dignity of the State of Ohio. (Deception to Obtain Dangerous Drug, a felony of the fifth degree)

William J. Schenck

Prosecuting Attorney

[Signature]

Assistant Prosecutor

Ann Curtis
Grand Jury Foreman

IN THE COURT OF COMMON PLEAS OF GREENE COUNTY, OHIO

STATE OF OHIO

FILED

CASE NO. 2000CR

430

Plaintiff,

2001 MR -5 PM 3:31

TERRI A. MAZUR, CLERK
COMMON PLEAS COURT
GREENE COUNTY, OHIO

-vs-

NO CONTEST PETITION

ROGEL BELMONTE

Defendant.

The Defendant represents to the Court under the penalty of perjury:

1. My full name is ROGEL BELMONTE. I am presently 55 years of age and I have completed 19 years of school and I (am) ~~(am not)~~ able to read and understand the English language. I request that all proceedings against me be in my true name.

2. I (am) ~~(am not)~~ a U.S. citizen. If you are not a citizen of the United States you are hereby advised that conviction of the offense to which you are pleading No Contest may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

3. I am represented by attorney JAMES C. STATON and I am totally satisfied with the legal services I received.

4. I have received a true copy of the indictment/information at least 24 hours before being called upon to plead. I have read or had read to me the indictment/information and have discussed it with my lawyer and I fully understand the charge(s) and the elements contained within the charge(s) made against me.

5. I have told my lawyer all the facts and circumstances known to me about the charge(s) made against me in the indictment/information and I believe that my lawyer is fully informed on all such matters.

6. I understand that a plea of "No Contest" is not an admission of the truth of the facts alleged in the indictment/ information and such plea or admission shall not be used against me in any subsequent civil or criminal proceeding, and that the Court need not take any testimony except in murder cases. (Ohio Criminal Rule 11 (C)(3) and (4)).

7. My lawyer has counseled with me and advised me as to the nature of the charge(s), the elements contained therein, and all the lesser included charge(s) and on all possible defenses that I might have in this case. I am satisfied that my lawyer has done what I have requested him/her to do and with the advice and counsel I have received from him/her as given to me.

Def. RPB

CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL
FILED 3-7-01
CERTIFIED THIS 12 DAY OF April 2001
Donna B. ...
DEPUTY CLERK OF COURTS, GREENE COUNTY, OHIO

8. I know that I may plead "Not Guilty" to any charge(s) made against me. If I plead "Not Guilty" the Constitution guarantees me the following:

- (a) A right to a speedy and public trial by a jury or by the Court.
- (b) A right to confront the witnesses against me.
- (c) A right to compulsory process for obtaining witnesses in my favor.
- (d) A right to have the State prove my guilt beyond a reasonable doubt.
- (e) A right not to be compelled to testify against myself.
- (f) A right to appeal any Judgment of this Court to the Court of Appeals.
- (g) A right to have the assistance of a lawyer at all stages of the proceedings.
- (h) A right to have the charge(s) considered by the Grand Jury of Greene County, if pleading no contest by way of a Bill of Information.

9. I know that a plea of "No Contest" shall constitute an admission from which the judge may make a finding of guilty or not guilty from the explanation of circumstances, and if guilty be found, impose or continue for sentence accordingly. Such plea shall not be construed to import an admission of any fact at issue in the criminal charge in any subsequent action or proceeding, whether civil or criminal.

10. My lawyer informed me that the maximum punishment which the law provides for the offense(s) charged in the indictment/information is 6 years/~~months~~ of imprisonment (of which 0 years is mandatory time for which there is no possibility of judicial release). The maximum fine is \$ 15,000.00, (of which \$ 0 is mandatory). There is also a possibility that I will be required to pay restitution or other costs associated with this offense.

(I further understand my driver's license will be suspended for not less than six (6) months or more than five (5) years.)

I understand that any prison term would be the time I serve, without good time reduction. If I commit crimes in prison, I know I can have my time increased administratively by intervals of 30, 60, or 90 days up to an additional 50% of my prison term.

If I am sent to prison and serve my full sentence, I understand that upon my release I (will/may) be subject to up to five (5) years of post-release control. If I violate any post-release control sanction or any law, the parole authority could impose more restrictive sanctions, increase the length of the post-release control, or return me to prison for up to nine (9) months

at a time, up to a maximum 50% of my prison term. If a violation of the sanction is a felony, In addition to being prosecuted and sentenced for the new felony, I may receive a prison term from the court for the violation of the post-release control sanction itself.

11. I know that the Trial Judge must orally inform me of my rights, laws, and punishment that I subject myself to by my plea of "No Contest", and if applicable, that I (am)(am not) eligible for probation consideration pursuant to Ohio Criminal Rule Section 11.

12. If I am presently on probation or parole, in this or any other Court or State, I know that by pleading "No Contest" in this matter, my probation or parole may be revoked and I may be required to serve imprisonment in the case for which I am on probation or parole in addition to any sentence imposed upon me in this case and that by law the sentence will be served consecutively.

13. I declare that no officer of this Court or any attorney has promised or suggested that I will receive a lighter sentence, probation, or any other form of leniency in exchange for my "No Contest" plea, and if any one did make such a promise or suggestion I know that he or she had no authority to do so. I also declare that I have not been coerced or threatened to get me to plead "No Contest".

14. I understand that there (is) (is not) an underlying agreement upon which this plea is based and it is as follows:

In return for the Defendant's plea, the State of Ohio recommends community control.

15. I know that the sentence I will receive is solely a matter within the control of the Judge. I request leniency, but I am prepared to accept any punishment permitted by law which this Court sees fit to impose. I respectfully request the Court to consider, in mitigation of punishment, that I have voluntarily entered a plea of "No Contest".

16. I am not under the influence of alcohol or drugs and I am not under a doctor's care. The only drugs, medicines, pills or alcohol that I have taken within the last seven (7) days are:

Over-the-counter medicine and vitamins

(if none, so state)

None of these drugs, medicines, pills or alcohol effect my ability to read and understand the provisions of this form.

17. I understand that I (am) (am not) eligible to be given a community control sanction for up to five (5) years instead of a prison term or upon the granting of judicial release. I understand that if I violate any condition of such community sanction the court could impose a longer time under the same sanction, impose a more restrictive sanction or send me to prison for a term or remainder of the term selected at sentencing.

Def. PAB

18. I OFFER MY PLEA OF "NO CONTEST" FREELY, I DID VOLUNTARILY AND OF MY OWN ACCORD WITH FULL UNDERSTANDING OF ALL MATTERS SET FORTH IN THE INDICTMENT/INFORMATION AND IN THIS PETITION.

Signed by me in open court in the presence of my attorney this 5th day of April

2001.

Rogel R. Belmonte
Petitioner/Defendant

CERTIFICATE OF COUNSEL

The undersigned, as Lawyer and Counselor for the above named Defendant, Rogel R. Belmonte, HEREBY CERTIFIES:

1. I have read and fully explained to the Defendant the allegations contained in the indictment in this case.
2. To the best of my knowledge and belief the statements, representations and declarations made by the Defendant in the foregoing petition are in all respects accurate and true.
3. I explained the maximum penalty for each count to the Defendant.
4. The plea of "No Contest" offered by the Defendant accords with my understanding of the facts he related to me and is consistent with my advise to the Defendant.
5. In my opinion the plea of "No Contest" offered by the Defendant is voluntarily and understandingly made. I recommend that the Court accept the plea of "No Contest" and enter its findings on the record.

Signed by me in open Court in the presence of the Defendant above named and after full discussion of the contents of this certification with the Defendant, this 5th day of April
2001.

[Signature]
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF GREENE COUNTY, OHIO

STATE OF OHIO

CASE NO: 2000 CR 430

FILED

Plaintiff,

2001 MR -5 PM 3:31

-vs-

ROGEL BELMONTE

TERRI A. MAZUR, CLERK
COMMON PLEAS COURT
GREENE COUNTY, OHIO

JUDGMENT ENTRY
(Acceptance of No Contest
Plea and Finding of Guilty)

Defendant.

This matter came on to be heard on March 5 2001
The Defendant, ROGEL BELMONTE was present in open Court with his/her
counsel of record, JAMES C. STATON

The Court finds that the Defendant has presented his/her "No Contest Petition" and his/her
counsel of record has completed the "Certificate of Counsel" which are ordered filed in this case.

The Court, pursuant to Criminal Rule 11, has orally advised the Defendant of the effects
of his/her plea, that the Court may proceed with Judgment and Sentence immediately and has
informed the Defendant of the rights which he/she will waive by entering this plea.

The Court finds this plea has been voluntarily made.

IT IS THE ORDER OF THIS COURT that the plea of "No Contest" to Section
2925.22(A)-6 Cts. of the Ohio Revised Code, Dec. to Obtain Dang. Drug (6 Cts)
~~an felony/misdemeanor~~ of the fifth degree, be accepted, the Defendant
is found guilty and the transcript of this proceeding is to be made and filed with the Clerk.

The matter is referred to the Adult Probation Department for a pre-sentence investigation
and report and set for final disposition at 11:00 A.M., on the 12th day of April
2001.

Adolf X. Tornichio
Assistant Prosecuting Attorney

David Reid

[Signature]
Attorney for Defendant

Rogel R. Belmonte
Defendant

CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL
FILED 3-5-01
CERTIFIED THIS 12 DAY OF April 2001
[Signature]
DEPUTY CLERK OF COURTS, GREENE COUNTY, OHIO

OHIO STATE MEDICAL BOARD
FEB 21 2001

INTERIM AGREEMENT
between
ROGEL R. BELMONTE, M.D.
and
THE STATE MEDICAL BOARD OF OHIO

Rogel R. Belmonte, M.D., hereby agrees that, until the allegations contained in the Medical Board's December 14, 2000 Notice of Opportunity for Hearing have been fully resolved by the Board, he shall not practice medicine in the State of Ohio and shall comply in all respects with the terms of the Board's December 6, 1989 Order. Dr. Belmonte further agrees that any violation of these limitations shall subject him to disciplinary action pursuant to Section 4731.22, Ohio Revised Code.

The State Medical Board of Ohio, by its acceptance of this Interim Agreement, hereby agrees not to object through its counsel to the granting of a continuance of the hearing on the above referenced allegations until a date in July 2001, in accordance with the Entry filed by Chief Attorney Hearing Examiner R. Gregory Porter on February 2, 2001.

This Interim Agreement shall not be construed as an admission by Rogel R. Belmonte, M.D., of the allegations contained in the December 14, 2000 Notice of Opportunity for Hearing.

This Interim Agreement shall become effective immediately upon the last date of signature below.

Rogel R. Belmonte Rogel R. Belmonte, M.D.
Anand G. Garg, M.D. Anand G. Garg, M.D., Secretary
State Medical Board of Ohio TAD

Raymond J. Albert Raymond J. Albert, Supervising Member
State Medical Board of Ohio TAD



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

December 13, 2000

Rogel Belmonte, M.D.
162 Loretta Ave. #3
Fairborn, Ohio 45324-2552

Dear Doctor Belmonte:

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, permanently 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 December 6, 1989, the State Medical Board of Ohio (hereinafter "Board") entered an Order (copy attached hereto and incorporated herein) revoking your certificate to practice medicine and surgery in the State of Ohio, staying such revocation, and suspending your certificate for a minimum of two years with conditions for reinstatement. The Board Order was based upon your purchasing large quantities of controlled substances for treatment of your wife, and failing to maintain dispensing records or an inventory system to account for the controlled substances purchased.

On or about January 17, 1996, your license to practice medicine and surgery in the State of Ohio was reinstated subject to limitations and probationary terms contained in the Board Order. You currently remain under probation.

- (2) Paragraph (3) of the Board Order provides that your license shall be permanently limited as follows: you shall refrain from prescribing, dispensing, or administering any and all medications for your wife, yourself, and any other family members except in life-threatening emergency situations.
 - (A) On or about December 5, 1997, you prescribed Valtrex 500 mg., # 10 (ten), one refill, to yourself.
 - (B) In or about 1999, you had prescription forms printed with the heading, "JOSE MARTINEZ, M.D., 5880 MUNGER RD., DAYTON, OH 45459." You completed the prescription forms, as listed below, using

Mailed 12-14-00

various DEA numbers, and signed "J. Martinez" or "Jose Martinez" on the signature lines. You issued the following prescriptions to yourself:

Date Written	Drug and Quantity	Refills	Pharmacy
8/6/99	Celexa 20 mg. #60	12	Pharmx
12/28/99	Effexor XR 150 mg. # 100 and Effexor XR 75 mg. # 100	12	Wal-Mart
12/28/99	Atenolol 50 mg. # 60	12	Wal-Mart
1/5/00	Claritin-D 24 hour # 100	12	Pharmx
1/5/00	Atenolol 50 mg. # 60	12	Pharmx
1/5/00	Aldactazide 25/25 # 60	12	Pharmx
2/29/00	Zyrtec 10 mg. # 30	12	Kroger
3/30/00	Toradol 10 mg. #60	12	Pharmx
4/24/00	Amoxil 500 mg. # 100	6	Pharmx
6/12/00	Lasix 40 mg. # 100	12	Rite Aid
6/12/00	Slow K 8 mEq # 100	12	Rite Aid
6/27/00	Lipitor 10 mg. # 30 and Accupril 20 mg. # 60	12	CVS
6/27/00	Prozac 20 mg. # 100 and Prilosec 20 mg. # 60	12	CVS

- (C) Using the prescription forms as referenced in paragraph (B) above, you issued the following prescriptions to Patient A (as identified on the attached Patient Key - Key confidential and not subject to public disclosure), who is also a family member:

Date Written	Drug and Quantity	Refills	Pharmacy
8/6/99	Prozac 20 mg. # 100	12	Pharmx
8/6/99	ModiCon .5/35-28 # 12	0	Pharmx
8/6/99	Necon 1/50-28 # 12	0	Pharmx
8/6/99	Necon 1/50-28 # 12	0	Kroger

12/28/99	Necon 1/50-28 # 12	1	Wal-Mart
12/28/99	Accupril 20 mg. #60	12	Wal-Mart
12/28/99	Atenolol 50 mg. #60	12	Wal-Mart
1/5/00	Claritin-D 24 hour # 100	12	Pharmx
1/5/00	Atenolol 50 mg. # 60	12	Pharmx
1/5/00	Aldactazide 25/25 # 60	12	Pharmx
2/29/00	Zyrtec 10 mg. # 30	12	Kroger
3/30/00	Iberet-Folic 500 # 100	4	Rite Aid
3/30/00	Necon 1/50-28 # 6	2	Rite Aid
4/14/00	Toradol 10 mg. # 60	12	Pharmx
4/25/00	Ovral-28 # 6	3	Wal-Mart
6/12/00	Estrace 2 mg. # 100	4	Kroger
6/27/00	TrusOpt 2% eye drops # 1 and Timolol .5% eye drops # 1	12	CVS
6/27/00	Insulin Syringes .5 cc. box # 1 and Prilosec 20 mg. # 60	12	CVS
6/27/00	Trazodone HCL tablets # 100 and Lipitor 10 mg. # 30	12	CVS
6/27/00	Humulin R U-100 Vial # 3 and Extactech RSG# 1	12	CVS

- (3) Although you failed to comply with the probationary terms, conditions and limitations imposed upon you by the Board Order referenced above, you submitted quarterly declarations attesting that you had continued to comply with the Order, on or about January 13, 1998, July 7, 1998, October 29, 1999, January 11, 2000, April 3, 2000, and October 5, 2000.
- (4) On or about June 4, 1998, you submitted an application for renewal of your certificate (hereinafter "renewal application") to the Board. The renewal application contained a certification signed by you that stated, "I certify, under penalty of loss of my right to practice in the state of Ohio . . . that the information provided on this application for renewal is true and correct in every respect." On the renewal application, you answered "NO" to the following question:

At any time since signing your last application for renewal of your certificate have you [b]een found guilty of, or pled guilty or no contest to a felony or misdemeanor[?]

In fact, on or about September 17, 1996, you pleaded guilty to the charge of THEFT, a felony of the fourth degree, in violation of Section 2913.02, Ohio Revised Code, in the Court of Common Pleas of Tuscarawas County, Ohio. The act underlying your guilty plea was that, on or about August 2, 1994, you deposited a \$2,500 check into your account at Bank One of Uhrichsville, Ohio, to be drawn from your account at another bank; the account on which the check was to be drawn had insufficient funds.

- (5) On or about April 13, 2000, you submitted a Physician Certification of Medication Dependency for the Disability Assistance Program form, listing yourself as the client/patient, to the Greene County Department of Job and Family Services. You wrote what was purported to be the signature of I.T. Hernandez, M.D., on the form and completed the sections of the form entitled "Statement of Medical Condition: Must be completed by treating physician," and "Statement of Certification: To be completed by treating physician."
- (6) The term of probation set forth in paragraph (4)(a) of the Board Order required you to obey all federal, state, and local laws and all rules governing the practice of medicine in Ohio. Based on the information in paragraphs (2), (3), (4) and (5) above, you failed to comply with this probationary term.

Your acts, conduct, and/or omissions as alleged in paragraphs (2)(A), (2)(B), (2)(C), (3), (4), (5) and (6) above, individually and/or collectively, constitute a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Further, your acts conduct, and/or omissions as alleged in paragraph (2)(B) and (2)(C) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, Deception to obtain a dangerous drug.

Further, your acts conduct, and/or omissions as alleged in paragraph (2)(B) and (2)(C) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal processing of drug documents.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2)(B), (2)(C) and (5) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.31, Ohio Revised Code, Forgery.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2921.13, Ohio Revised Code, Falsification.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect March 9, 1999.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (3) and (4) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect prior to March 9, 1999.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code, as in effect prior to March 9, 1999.

Further, your plea of guilty or the judicial finding of guilt as alleged in paragraph (4) 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, as in effect prior to March 9, 1999.

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.

ROGEL BELMONTE, M.D.

Page 6

You are further advised that, if you timely request a hearing, 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 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/krt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 3884
RETURN RECEIPT REQUESTED

IN THE COURT OF APPEALS OF OHIO

FILED
COURT OF APPEALS
FRANKLIN COUNTY

TENTH APPELLATE DISTRICT

1991 AUG 12 PM 4: 25

WILLIAM S. ENRIGHT
CLERK OF COURTS

In the Matter of the Appeal of :
Rogel R. Belmonte, M.D., :
Appellant-Appellant, :
v. :
State of Ohio, State Medical Board, :
Appellee-Appellee. :

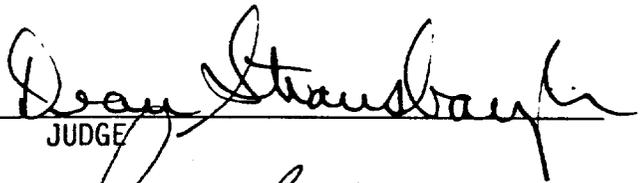
89-01-12-8994

No. 91AP-608

(REGULAR CALENDAR)

JOURNAL ENTRY OF DISMISSAL

The parties, through counsel, having filed an agreement of voluntary dismissal, the same is approved and this appeal is hereby dismissed with appellant to be assessed any costs in excess of Forty (\$40.00) Dollars.



JUDGE



JUDGE



cc: Terry Tataru, Esq.
Lisa A. Sotas, AAG

STATE OF OHIO
91 SEP 11 1991

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
GENERAL DIVISION

91 AP-608

ROGEL R. BELMONTE, M.D.,

Appellant,

v.

STATE OF OHIO
STATE MEDICAL BOARD,

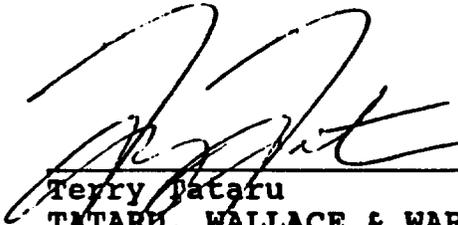
Appellee.

Case No. 89CV-12-8994
Judge McGrath

NOTICE OF APPEAL

Notice is hereby given that Rogel R. Belmonte, M.D., Appellant, hereby appeals to the Court of Appeals, Franklin County, Ohio, Tenth Appellate District, from the Judgment Entry filed in this action on the 29th day of April, 1991.

Respectfully submitted:



Terry Dataru (TAT01)
TATABO, WALLACE & WARNER
181 East Livingston Avenue
Columbus, Ohio 43215
(614) 221-3821
Attorney for Appellant

FILED
COURT OF APPEALS
FRANKLIN COUNTY, OHIO
1991 MAY 29 AM 11:46
THOMAS J. ENRIGHT
CLERK OF COURTS

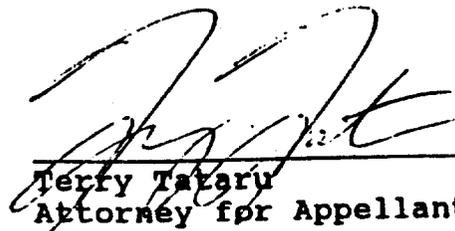
FILED
COURT OF APPEALS
FRANKLIN COUNTY, OHIO
91 MAY 29 AM 11:46
THOMAS J. ENRIGHT
CLERK OF COURTS

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Appeal was mailed by U.S. mail, postage prepaid, to Lisa A. Sotas, Assistant Attorney General, Health, Education & Human Services Section, State Office Tower, 15th Floor, 30 East Broad Street,

RECEIVED
ATTORNEY GENERAL'S OFFICE
JUN 3 1991
HEALTH, EDUCATION & HUMAN SERVICES SECTION

Columbus, Ohio 43266-0410, on the 29th day of May, 1991.



Terry Tataru
Attorney for Appellant

(TAT01)

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
GENERAL DIVISION

91 AP-608

ROGEL R. BELMONTE, M.D., :
Appellant, :
v. :
STATE OF OHIO :
STATE MEDICAL BOARD, :
Appellee. :

Case No. 89CV-12-8994
Judge McGrath

INSTRUCTIONS TO CLERK

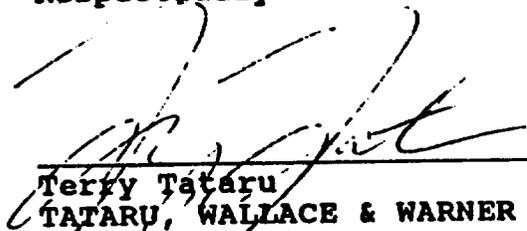
To: Thomas J. Enright, Clerk
Court of Common Pleas
369 South High Street
Franklin County, OH 43215

FILED
COMMON PLEAS COURT
FRANKLIN COUNTY, OHIO
91 MAY 29 AM 11:17
THOMAS J. ENRIGHT
CLERK OF COURTS

Rogel R. Belmonte, M.D., Appellant herein, hereby requests the Clerk of Courts to certify and transmit the original papers and exhibits thereto filed in the Trial Court; the transcript of proceedings and record certified by Appellee, The State of Ohio, State Medical Board, including exhibits; and a certified copy of the docket and journal entries prepared by the Clerk of the Trial Court in this case to the Clerk of the Court of Appeals of Franklin County, Ohio, Tenth Appellant District, pursuant to Appellant Rules

FILED
COURT OF APPEALS
FRANKLIN COUNTY, OHIO
1991 MAY 29 AM 11:46
THOMAS J. ENRIGHT
CLERK OF COURTS

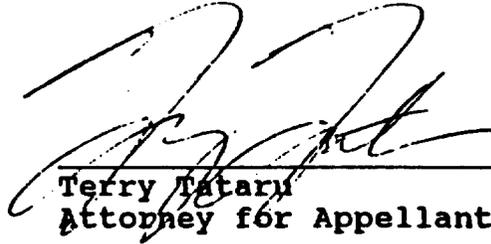
Respectfully submitted:



Terry Tataru (TAT01)
TATARU, WALLACE & WARNER
151 East Livingston Avenue
Columbus, Ohio 43215
(614) 221-3821
Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Appeal was mailed by U.S. mail, postage prepaid, to Lisa A. Sotas, Assistant Attorney General, Health, Education & Human Services Section, State Office Tower, 15th Floor, 30 East Broad Street, Columbus, Ohio 43266-0410, on the 29th day of May, 1991.



Terry Tataru
Attorney for Appellant

(TAT01)

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
ISS: APR 12 PM 3:03

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

ROGEL R. BELMONTE, M.D.,]	CASE NO. 89CV-12-8994
Appellant,]	JUDGE McGRATH
vs.]	
STATE OF OHIO,]	
STATE MEDICAL BOARD,]	
Appellee,]	

DECISION

Rendered this 9th day of April, 1991.

McGRATH, J.

The instant action comes for consideration upon appeal of Dr. Rogel Belmonte, M.D. from a decision of the State of Ohio Medical Board dated December 6, 1989. That decision adopted the report of hearing examiner Fishel and the Board imposed among other restrictions, a two year suspension of Dr. Belmonte's license to practice.

Although Appellant has requested an oral hearing, the record and legal arguments submitted are sufficient to render judgment in this action. Dr. Belmonte seeks to have the Court reverse, vacate, or modify the order predominately upon the basis that the sanctions ordered by the Board are too harsh. Appellant also asserts that he should have been given an opportunity to contest evidence presented before the Board by stipulation. It is the contention of Appellant that he did not fully understand the scope and gravity of the hearing of October 10, 1989 and that it was an abuse of discretion

to proceed forward, as well as to admit and rely upon, evidence that Appellant had never agreed to as far as truthfulness.

It should first be noted that hearsay evidence may be admitted at the administrative level. See Erdeljohn v. Ohio State Board of Pharmacy (1978) 38 Ohio misc. 2d 1. Further, Appellant has offered nothing that would persuade the Court that the evidence admitted was inaccurate. To the contrary, the record and legal memoranda leaves no doubt that Dr. Belmonte treated his wife with controlled substances without the use of reasonable care in the drugs administration. Dr. Belmonte further failed to maintain proper records of dispensing and he purchased an inordinately large number of dosages of Acetaminophen w/codeine (4,000 dosage units), Tylenol w/ codeine (100 dosage units), and valium (1500 dosage units). These drugs were purchased from September 1988 to December 1988. Appellant has responded that the large numbers were purchased on the basis of convenience. Dr. Belmonte also testified that he had flushed 2,00 to 2,500 of the Acetaminophen tablets down the toilet because they made his wife drowsy and he therefore replaced that drug with the purchase of the Tylenol w/ codeine tablets.

It is uncontested that Appellant maintained no records as to his wife's treatment or administration of the drugs to her. Appellant's response is that she took them as needed when she felt a migraine headache coming on.

The above facts would not have been altered by any proffered new evidence or by representation of counsel. Dr. Belmonte admitted these matters under oath. The effect of these facts must

therefore be weighed against the conduct prescribed or proscribed by statute.

R.C. 4731.22 provides the grounds for discipline of a medical doctor admitted to Ohio practice. Appellant was charged with violating the following statutory regulations.

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

(6) 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:

(10) Commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed:

(12) Commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice:

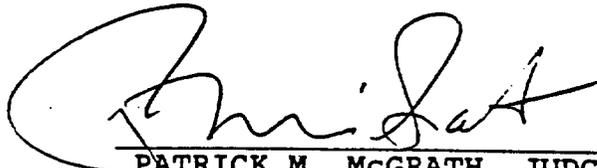
(20) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board:

The undisputed facts establish the correctness of the Board's decision as to each of these charges. There is more than reliable, substantial and probative to support the Board's decision as to the above violations.

Appellant also asserts that the penalty levied against him was too severe. The Court is not generally entitled to review the appropriateness of a penalty or sanctions ordered by an

administrative agency. Henry's Cafe, Inc. v. the Board of Liquor Control (1959) 170 Ohio St. 233, Joseph Neff v. Adjacent General, 83 App-8104, unreported Franklin County Court of Appeals, February 28, 1984, 1984 Opinions 1.

The decision of the Board is found to be supported by reliable, substantial and probative and further in accordance with the law. Counsel for Appellee shall prepare a judgment entry AFFIRMING the decision.



PATRICK M. McGRATH, JUDGE

Appearances:

TERRY TATARU, ESQ.
Counsel for Appellant

RACHEL L. BELENKER, ESQ., AAG
Counsel for Appellee



Attorney General
Lee Fisher

STATE MEDICAL BOARD
OF OHIO

91 MAR 12 AM 8:50

March 11, 1991

Terry Tataru
Tataru, Wallace & Warner
181 East Livingston Avenue
Columbus, Ohio 43215

Re: Rogel R. Belmonte, M.D.

Dear Mr. Tataru:

Please take notice that suspension of the State Medical Board of Ohio's Order will be terminated by operation of R.C. §119.12 on March 15, 1991.

Very truly yours,

ATTORNEY GENERAL LEE FISHER

A handwritten signature in cursive script that reads "Lisa A. Sotos".

LISA A. SOTOS
Assistant Attorney General
Health, Education, and Human
Services Section
30 E. Broad St., 15th Floor
Columbus, Ohio 43266-0410
(614) 466-8600

LAS:pjh:7500S

JUR
12/15/89
LOL

STATE MEDICAL BOARD

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

89 DEC 15 PM 1:39

In the Matter of the Appeal of:

ROGEL R. BELMONTE, M.D. :
560 River Road :
Canal Fulton, OH 44614, :

Appellant, :

v. : Case No.

STATE OF OHIO :
State Medical Board :
17th Floor :
77 South High Street :
Columbus, OH 43266-0315, :

Appellee. :

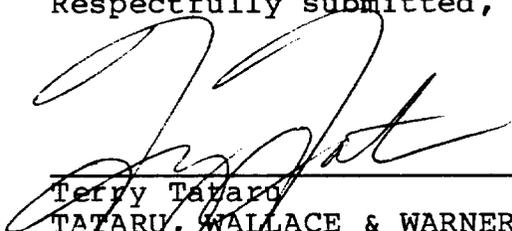
NOTICE OF APPEAL

Notice is hereby given that Rogel R. Belmonte, M.D., Appellant, hereby appeals to the Court of Common Pleas, Franklin County, Ohio, pursuant to Section 119.12, Revised Code, from the Order of the State Medical Board of Ohio, mailed December 11, 1989, approving and confirming the Report and Recommendation of Joan Irwin Fishel, Attorney Hearing Examiner, and revoking Appellant's Certificate to Practice Medicine and Surgery in the State of Ohio, a copy of which is attached hereto as "Exhibit A".

Appellant further appeals from the Board's failure to rule on his Motion for Rehearing or to Reopen the Record for Presentation of Additional Evidence; and the Board's failure to consider Appellant's Objections to Report and Recommendation of Hearing Examiner.

Appellant appeals on the grounds that said orders or acts of the Board are not supported by reliable, probative, and substantial evidence; are not in accordance with law; and are unconstitutional as applied to Appellant.

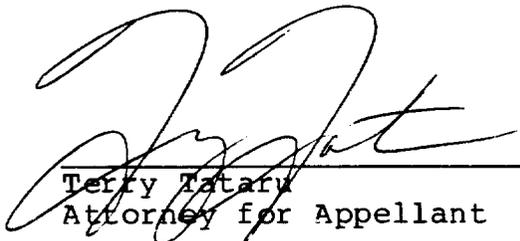
Respectfully submitted,



Terry Tataru (TAT01)
TATARU, WALLACE & WARNER
181 East Livingston Avenue
Columbus, Ohio 43215
(614) 221-3821
Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Appeal was hand delivered to the Offices of the State of Ohio, State Medical Board, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0315, and to Lauren M. Ross, Esq., Assistant Attorney General, 16th Floor, State Office Tower, 30 East Broad Street, Columbus, Ohio 43266-0410, this 15th day of December, 1989.



Terry Tataru
Attorney for Appellant

STATE MEDICAL BOARD
89 DEC 15 PM 1:39

LOL
113190
NRN

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
OF OHIO

In the Matter of the Appeal of:

90 JAN -2 PM 2:12

ROGEL R. BELMONTE, M.D. :

Appellant, :

v. :

JUDGE MCGRATH

STATE OF OHIO :
State Medical Board :

Appellee. :

RECEIVED
ATTORNEY GENERAL'S OFFICE
DEC 26 1989
HEALTH, EDUCATION &
HUMAN SERVICES SECTION

ORDER

Appellant's Motion for Suspension of Order came on for hearing on December 15, 1989. Upon the arguments presented, the Court FINDS that Appellant's motion is well taken. It is therefore hereby ORDERED that the Order of Appellee revoking and suspending Appellant's Certificate to Practice Medicine and Surgery in the State of Ohio is suspended pending determination of this appeal, in accordance with the provisions of Section 119.12, Revised Code.

It is further ORDERED that this suspension shall terminate upon the filing of a final decision or order in this pending appeal by this court, or fifteen (15) months following the filing of the Notice of Appeal to this court, whichever occurs first.

It is further ORDERED that Appellant shall refrain from prescribing, dispensing, or administering any and all medications for his wife, himself, and any other family members except in life-threatening emergency situations, during the period of this stay.

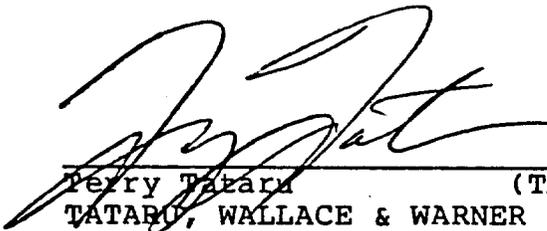
FILED
89 DEC 15 PM 3:08
CLERK OF COURTS
FRANKLIN COUNTY, OHIO
TODMAN J. HERRITT

It is further ORDERED that Appellant shall refrain from prescribing, dispensing, or administering any and all Controlled Substances except as a physician in an emergency room setting, during the period of this stay.

IT IS SO ORDERED.

15/ Mc Grath
JUDGE

APPEARANCES:


Perry Tatar (TAT01)
TATAR, WALLACE & WARNER
181 East Livingston
Columbus, Ohio 43215
(614) 221-3821
Attorney for Appellant

ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL

Lauren M. Ross as to form only
Lauren M. Ross *per facsimile authorization*
Assistant Attorney General
30 East Broad, 16th Floor
Columbus, Ohio 43266-0410
(614) 466-8600
Attorneys for Appellee

STATE OF OHIO
THE STATE MEDICAL BOARD
77 South High Street
17th Floor
Columbus, Ohio 43266-0315

(614)466-3934

December 8, 1989

Rogel R. Belmonte, M.D.
560 River Road
Canal Fulton, Ohio 44614

Dear Doctor Belmonte:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Joan Irwin Fishel, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on December 6, 1989, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board.

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

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

THE STATE MEDICAL BOARD OF OHIO


Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 055 327 437
RETURN RECEIPT REQUESTED

cc: Terry Tataru, Esq.

CERTIFIED MAIL RECEIPT NO. P 055 327 438
RETURN RECEIPT REQUESTED

Mailed December 11, 1989

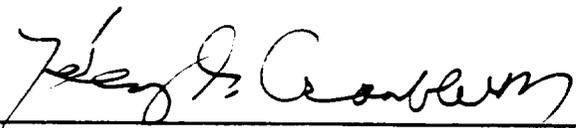
STATE OF OHIO
STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Joan Irwin Fishel, Attorney Hearing Examiner, State Medical Board; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on December 6, 1989, including Motions approving and confirming said Report and Recommendation as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Rogel R. Belmonte, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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

(SEAL)



Henry G. Cramblett, M.D.
Secretary

12 11 89

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

★

★

ROGEL R. BELMONTE, M.D.

★

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 6th day of December, 1989.

Upon the Report and Recommendation of Joan Irwin Fishel, Attorney 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 for the above date.

It is hereby ORDERED that:

1. The certificate of Rogel R. Belmonte, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is stayed, and Dr. Belmonte's certificate is hereby suspended for an indefinite period of time, but not less than two (2) years.
2. The State Medical Board shall not consider reinstatement of Dr. Belmonte's certificate to practice medicine and surgery in Ohio unless and until all of the following minimum requirements are met:
 - a. Dr. Belmonte shall submit an application for reinstatement accompanied by appropriate fees. Dr. Belmonte shall not make such application for at least two (2) years from the effective date of this Order.
 - b. Dr. Belmonte shall provide documentation of successful completion of a minimum of thirty hours per year of continuing medical education courses in the areas of pharmacology, chronic pain management and chemical dependency recognition and management. Such courses are to be approved in advance by the Board and shall not count toward fulfillment of the continuing medical education required by Section 4731.281, Ohio Revised Code.

STATE MEDICAL BOARD
DEC 15 PM 1:03

Rogel R. Belmonte, M.D.

- c. Since Dr. Belmonte will not have been engaged in the active practice of medicine or surgery for a period in excess of two (2) years prior to the application for reinstatement of his certificate, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.
3. Upon reinstatement, Dr. Belmonte's license shall be permanently limited as follows: Dr. Belmonte shall refrain from prescribing, dispensing, or administering any and all medications for his wife, himself, and any other family members except in life-threatening emergency situations.
4. Upon reinstatement, Dr. Belmonte's license shall be subject to the following probationary terms, conditions, and limitations, in addition to the limitation listed in paragraph 3, for a period of five (5) years:
 - a. Dr. Belmonte shall obey all federal, state, and local laws and all rules governing the practice of medicine in Ohio.
 - b. Dr. Belmonte shall submit quarterly declarations under penalty of perjury stating that there has been compliance with all the terms of probation.
 - c. Dr. Belmonte shall appear in person for interviews before the full Board or its designated representatives at six (6) month intervals, or as otherwise requested by the Board.
 - d. In the event that Dr. Belmonte should leave Ohio for three (3) consecutive months, or to reside or practice outside the State, Dr. Belmonte must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.

Rogel R. Belmonte, M.D.

- e. Dr. Belmonte shall be permanently ineligible to reapply for or to hold registration with the United States Drug Enforcement Administration and shall not prescribe, dispense, administer, or possess any controlled substances, except for those prescribed for his own use by another so authorized by law.
5. If Dr. Belmonte violates the terms of this Order in any respect, the Board, after giving Dr. Belmonte notice and an opportunity to be heard, may set aside this Stay Order and impose the revocation of his certificate.
6. Upon successful completion of his probation, Dr. Belmonte's license, as limited under paragraph 3 of this Order, will be fully restored.

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

(SEAL)



Henry G. Cramblett, M.D.
Secretary

12/11/89

Date

STATE MEDICAL BOARD
89 DEC 15 PM 1:39

REPORT AND RECOMMENDATION
IN THE MATTER OF ROGEL R. BELMONTE, M.D.

The Matter of Rogel R. Belmonte, M.D., came on for hearing before me, Joan Irwin Fishel, Esq., Hearing Examiner for the State Medical Board of Ohio, on October 10, 1989.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter dated July 12, 1989 (State's Exhibit #1), the State Medical Board notified Rogel R. Belmonte, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio due to his purchase from the Interstate Drug Exchange of 4000 dosage units of acetaminophen with codeine (1 gr.), 1000 dosage units of Tylenol with codeine #4, and 1500 dosage units of Valium (10 mg.) between September, 1988 and December, 1988. Further, upon questioning by Board investigators in January, 1989 and May, 1989, Dr. Belmonte indicated that the drugs had been purchased for use by Patient 1 (so identified to protect patient confidentiality) for headaches and that he had not kept any dispensing records or inventory system accounting for these drugs.

The Board alleged that these acts, conduct, and/or omissions constituted:

1. "Failure to use reasonable care discrimination in the administration of drugs," as that clause is used Section 4731.22(B)(2), Ohio Revised Code;
2. "A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in Section 4731.22(B)(6), Ohio Revised Code;
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), to wit: Rule 4731-11-02(D), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, a violation of any provision of that Rule also violates Sections 4731.22(B)(2) and 4731.22(B)(6), Ohio Revised Code;

89 DEC 15 PM 1:39

STATE MEDICAL BOARD

89 NOV -7 PM 1:06

4. "Commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03, Ohio Revised Code, Trafficking in Drugs; and
 5. "Commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 3719.07, Ohio Revised Code, Records of Controlled Substances.
- B. By letter received by the State Medical Board on August 11, 1989 (included within State's Exhibit #2), Dr. Belmonte requested a hearing.

II. Appearances

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by Lauren M. Ross, Assistant Attorney General
- B. Rogel R. Belmonte, M.D., having been advised of his right to representation, appeared on his own behalf without counsel.

III. Testimony Heard

- A. Presented by the State
 1. Rogel R. Belmonte, M.D., as on cross-examination
 2. John W. Rohal, Assistant Director, State Medical Board of Ohio
- B. Presented by the Respondent
 1. Rogel R. Belmonte, M.D.

IV. Exhibits Examined

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

- A. Presented by the State
 - * 1. State's Exhibit #1-A: The patient key in this Matter.

STATE MEDICAL BOARD

99109-7 101 1016

2. State's Exhibit #2: A compilation of jurisdictional exhibits, including:
 - a. Dr. Belmonte's request for hearing;
 - b. August 15, 1989, letter to Dr. Belmonte from the State Medical Board advising that a hearing initially set for August 25, 1989, was postponed pursuant to Section 119.09, Ohio Revised Code;
 - c. August 30, 1989, letter to Dr. Belmonte from the State Medical Board scheduling the hearing for October 10, 1989;
 - d. Notice of Appearance filed by Assistant Attorney General Ross on September 19, 1989;
 - e. Letter from Dr. Belmonte to the State Medical Board received by the Board on September 25, 1989, wherein he requests a continuance of his hearing;
 - f. Memorandum in Opposition to Belmonte's Request for a Continuance, filed by Assistant Attorney General Ross on October 3, 1989; and
 - g. Entry dated October 3, 1989, denying Dr. Belmonte's request for a continuance.
3. State's Exhibit #3: Three purchase reports from the Interstate Drug Exchange showing Dr. Belmonte's purchases of controlled substances from that company in September, October, and December, 1988.
4. State's Exhibit #4: Computer printout from the Interstate Drug Exchange showing Dr. Belmonte's drug purchases from that company from September, 1988 through December, 1988.
- * 5. State's Exhibit #5: Report of Investigation of Harold E. May, Investigator for the State Medical Board of Ohio, filed on January 31, 1989, reporting on his conversation with Dr. Belmonte.
- * 6. State's Exhibit #6: Report of Investigation of Peter J. Vitucci, Investigator for the State Medical Board of Ohio, filed on May 1, 1989, reporting on his attempts to reach Dr. Belmonte and his conversation with Dr. Belmonte on May 1, 1989.

STATE MEDICAL BOARD
DEC 15 04:39

89 NOV -7 PM 11:06

B. Presented by the Respondent

Respondent presented no exhibits in this Matter.

NOTE: THOSE EXHIBITS MARKED WITH AN ASTERISK HAVE BEEN SEALED TO PROTECT PATIENT CONFIDENTIALITY

V. Other Matters

For the Board's own information, the following items are hereby admitted into the record on the Hearing Examiner's motion:

1. Board Exhibit #1: Excerpts from the Physicians' Desk Reference (1988) for Tylenol with codeine #4 and Valium.
2. Section 2925.03, Ohio Revised Code.
3. Section 3719.07, Ohio Revised Code.

FINDINGS OF FACT

1. Dr. Belmonte made the following purchases of controlled substances from the Interstate Drug Exchange at the times and in the amounts indicated:

<u>DATE</u>	<u>ITEM ORDERED</u>	<u>DOSAGE UNITS</u>
September 1988	Acetaminophen w/codeine (1 gr.)	1000 dosage units
	Valium (10 mg.)	500 dosage units
October 1988	Acetaminophen w/codeine (1 gr.)	3000 dosage units
December 1988	Tylenol w/codeine #4	1000 dosage units
	Valium (10 mg.)	1000 dosage units

When asked at hearing, and when interviewed by Board Investigators, Dr. Belmonte stated that these drugs, all in tablet form, had been purchased for his wife, Patient 1 (so identified to protect patient confidentiality), who suffered from migraine headaches. He had ordered the drugs in these quantities because it had been convenient.

These facts are established by State's Exhibits 3, 4, 5, and 6 and by the testimony of Dr. Belmonte (Tr. 10, 14, 20).

2. According to the 1988 Physicians' Desk Reference (PDR), with which Dr. Belmonte stated he was familiar, Tylenol with codeine #4 is a Schedule III controlled substance, indicated for the relief of mild to moderately severe pain. One tablet contains 60 mg. of codeine phosphate and 300 mg. of acetaminophen. The PDR warns that psychic dependence, physical dependence and tolerance may develop upon repeated administration of this drug. The usual adult dosage is one tablet every four hours, as required. The documents in evidence from the Interstate Drug Exchange indicate that acetaminophen with codeine is a Schedule III controlled substance. According to the 1988 PDR, Valium, a Schedule IV controlled substance, is indicated for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. Its effectiveness in long-term use (greater than four (4) months) has not been assessed. The usual adult dosage is one tablet two to four times daily. For both Tylenol with codeine and Valium, the PDR warns about possible combined effects when taking more than one central nervous system depressant.

These facts are established by Board Exhibit #1, State's Exhibits #3 and #4, and the testimony of Dr. Belmonte (Tr. 10-13).

3. Dr. Belmonte testified that his wife had suffered from severe migraine headache attacks, and continues to suffer from them. His testimony was not clear on when these attacks had begun, but it would appear that they had begun in the late 1970's. The attacks, which occurred about once a week and had lasted two to three days, completely incapacitated Mrs. Belmonte. At different times over the years, she had seen neurologists, psychologists, and psychiatrists for this problem, some of whom had prescribed antidepressants for her.

Dr. Belmonte testified that, at one point, a neurologist had attributed Mrs. Belmonte's headaches to the extreme toxemia with resultant cerebral edema that she had suffered during her last two pregnancies. However, her headaches had persisted after her pregnancies. Dr. Belmonte partially attributed his wife's headaches to personal problems. At hearing, he described the difficulties his wife had had in adjusting to cultural differences (Dr. Belmonte is Filipino and his wife is not), and the difficulties his wife had had in making friends in his professional circle. There is no evidence in the record of any objective clinical data supporting the diagnosis of migraine headaches.

These facts are established by the testimony of Dr. Belmonte (Tr. 20-22, 31- 32).

4. In 1981 or 1982, Dr. Belmonte had begun treating his wife for migraine headaches because he had felt that "she needed something more than what was being given to her." (Tr. 22). His "treatment" consisted of making controlled substances available to her. At first, this had been intermittent; he would dispense drugs to her after she had shown no improvement with one physician or psychologist and then, after awhile, he would advise her to see someone else. However, since 1986, Mrs. Belmonte has not seen anyone else for treatment of her headaches. Dr. Belmonte testified that he had given his wife a physical examination "years ago" and that he had not given her one lately.

89 NOV -7 PM 1:27

Dr. Belmonte testified that his wife did not use the Tylenol (or acetaminophen) and Valium daily. She would start taking both of them when she felt an attack coming on and discontinue when she felt it had subsided. She would take 6 to 10 Tylenol (or acetaminophen) tablets per day during an attack and an unspecified number of Valium tablets. Dr. Belmonte testified that he had formerly doled the tablets out to his wife; however, in December, 1987, he had begun working as an emergency room physician and he had not had the time to do so. Since that time, Dr. Belmonte has allowed his wife to take the Tylenol (or acetaminophen) with codeine and Valium when she has felt she needed it, guarding against misuse by counting the number of the pills about once a month. The investigative report of May, 1989, (State's Exhibit #6), indicates that Dr. Belmonte had admitted to the Board Investigator that his wife had developed some tolerance to these drugs and that it had seemed that she was addicted; however, she had never displayed withdrawal symptoms when she had not been taking them.

These facts are established by the testimony of Dr. Belmonte (Tr.26-27, 30-33, 35) and State's Exhibit #6.

5. Dr. Belmonte kept no records regarding his receipt or dispensing of the three controlled substances that he had purchased from the Interstate Drug Exchange. Furthermore, he kept no individual patient record for his wife reflecting his treatment of her with these controlled substances.

These facts are established by the testimony of Dr. Belmonte (Tr. 14) and State's Exhibit #6.

6. Dr. Belmonte testified that the generic acetaminophen with codeine had made Mrs. Belmonte drowsy. This fact had necessitated his ordering of Tylenol with codeine #4. He had flushed 2000 to 2500 tablets of the acetaminophen down the toilet in November or December, 1988. Dr. Belmonte testified that he and his wife had contacted another physician for her care, as had been suggested by the Board Investigator in January, 1989, however, Mrs. Belmonte had not yet consulted with that physician since she still had medication. Mrs. Belmonte had still been taking the Valium and Tylenol as of the hearing, and Dr. Belmonte indicated that she would continue to do so until her supply had run out.

These facts are established by the testimony of Dr. Belmonte (Tr. 15-16, 20, 24-25).

7. Dr. Belmonte currently works as an emergency room physician at Lodi Community Hospital and Morrow County Hospital in Ohio.

These facts are established by the testimony of Dr. Belmonte (Tr. 29).

CONCLUSIONS

1. The acts, conduct, and/or omissions of Rogel R. Belmonte, M.D., as set forth in the above Findings of Fact, constitute:
 - a. "Failure to use reasonable care discrimination in the administration of drugs," as that clause is used in Section 4731.22(B)(2), Ohio Revised Code; and
 - b. "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.

Dr. Belmonte chose to treat his wife's apparently chronic condition through the use of controlled substances. Those facts alone, the family relationship, the long-term nature of the condition, and the addictive substances, could constitute a failure to use reasonable care in the administration of drugs and practice below minimal standards. Dr. Belmonte guaranteed such a conclusion by coupling his decision to treat his wife with his: failure to obtain independent, documented clinical evidence of the etiology of her headaches by performing or ordering diagnostic tests; failure to engage in ongoing physical examinations in order to monitor her reaction to these addictive drugs; failure to maintain control over the amount of drugs ingested; failure to be aware of, or concerned by, the additive effect of the combined usage of two central nervous system depressants; and failure to keep and maintain an accurate record of his treatment. He further violated the above statutes by allowing his wife to continue taking the Tylenol (or acetaminophen) and the Valium even after he became aware of the fact that she had developed a high degree of tolerance to them.

2. Dr. Belmonte's admitted failure to maintain any records regarding his dispensing of controlled substances to his wife, as set forth in Finding of Fact #5, constitutes:
 - a. "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), to wit: Rule 4731-11-02(D), Ohio Administrative Code; and
 - b. "Commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 3719.07, Ohio Revised Code, Records of Controlled Substances.

STATE MEDICAL BOARD
89 DECEMBER 11 1989

Rule 4731-11-02(D) provides that a physician must complete and maintain accurate medical records reflecting his examination, evaluation, and treatment of all his patients. Further, these patient records must reflect the utilization of any controlled substances, including an indication of the diagnosis and the purpose for which the controlled substance is utilized. The importance of accurate and complete individual patient records for any patient prescribed controlled substances cannot be over emphasized. Only with a complete and accurate record can a patient's use of and response to these addictive drugs be properly monitored. Only with a complete and accurate patient record can another physician step in and understand the patient's treatment history and continue appropriate care. As is set forth in Rule 4731-11-02(F), the failure to keep a complete and accurate patient record reflecting the use of controlled substances constitutes a failure to use reasonable care discrimination in the administration of drugs, Section 4731.22(B)(2), Ohio Revised Code, and a departure from minimal standards of care, Section 4731.22(B)(6), Ohio Revised Code, as well as constituting a violation of the Rule itself.

Section 3719.07, Ohio Revised Code further requires every practitioner to keep a record of all controlled substances received by him and dispensed by him other than by prescription. Controlled substances, because of their high potential for abuse, must be carefully inventoried and their dispensing carefully monitored. Only a properly maintained controlled substance record or log will prevent illegal diversion or improper prescribing. A violation of Section 3719.07, Ohio Revised Code, constitutes a first degree misdemeanor. [Section 3719.99(C), Ohio Revised Code.]

3. The acts, conduct and/or omissions of Dr. Belmonte, as set forth in Finding of Fact #1, constitute "commission of an act that constitutes a felony in this State regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03, Ohio Revised Code, "No person shall knowingly...[p]ossess a controlled substance in an amount equal to or exceeding three times the bulk amount." Bulk amount of a Schedule III or IV controlled substance is defined in Section 2925.01(E)(8), Ohio Revised Code, as an amount equal to or exceeding 30 times the maximum daily dosage. Dr. Belmonte was in possession of more than three times the bulk amount of acetaminophen with codeine, Tylenol with codeine #4, and Valium. Dr. Belmonte's conduct in treating his wife would make him ineligible for the exemption in Section 2925.03 for practitioners acting in conformance with Chapter 4731. A violation of Section 2925.03 constitutes a third degree felony [Section 2925.03(D)(4)].

* * * * *

If there had ever been an objective, arms-length physician-patient relationship between Dr. Belmonte and his wife, it was certainly gone by December, 1987, when Dr. Belmonte relinquished control of the drugs to his wife. Mrs. Belmonte had unrestricted access to these addictive substances. Dr. Belmonte appeared unconcerned that his wife had become addicted to these narcotic substances and was content to allow her continued use until the supply was depleted. There is nothing in the record, however, to indicate that Dr. Belmonte's lack of objectivity and poor judgment extends beyond his treatment of his wife. Dr. Belmonte has been cooperative and forthright and has agreed to refrain from continued treatment of his wife.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Rogel R. Belmonte, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED. Such revocation is stayed, and Dr. Belmonte's certificate is hereby suspended for an indefinite period of time, but not less than two (2) years.
2. The State Medical Board shall not consider reinstatement of Dr. Belmonte's certificate to practice medicine and surgery in Ohio unless and until all of the following minimum requirements are met:
 - a. Dr. Belmonte shall submit an application for reinstatement accompanied by appropriate fees. Dr. Belmonte shall not make such application for at least two (2) years from the effective date of this Order.
 - b. Dr. Belmonte shall provide documentation of successful completion of a minimum of thirty hours per year of continuing medical education courses in the areas of pharmacology, chronic pain management, and chemical dependency recognition and management. Such courses are to be approved in advance by the Board and shall not count toward fulfillment of the continuing medical education required by Section 4731.281, Ohio Revised Code.
 - c. Since Dr. Belmonte will not have been engaged in the active practice of medicine or surgery for a period in excess of two (2) years prior to the application for reinstatement of his certificate, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.

STATE MEDICAL BOARD
SECRETARY
PH 11-17

85 NOV -7 PM 1:27

3. Upon reinstatement, Dr. Belmonte's license shall be permanently limited as follows: Dr. Belmonte shall refrain from prescribing, dispensing, or administering any and all medications for his wife, himself, and any other family members except in life-threatening emergency situations.
4. Upon reinstatement, Dr. Belmonte's license shall be subject to the following probationary terms, conditions, and limitations, in addition to the limitation listed in paragraph 3, for a period of five (5) years:
 - a. Dr. Belmonte shall obey all federal, state, and local laws and all rules governing the practice of medicine in Ohio.
 - b. Dr. Belmonte shall submit quarterly declarations under penalty of perjury stating that there has been compliance with all the terms of probation.
 - c. Dr. Belmonte shall appear in person for interviews before the full Board or its designated representatives at six (6) month intervals, or as otherwise requested by the Board.
 - d. In the event that Dr. Belmonte should leave Ohio for three (3) consecutive months, or to reside or practice outside the State, Dr. Belmonte must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.
 - e. Dr. Belmonte shall be permanently ineligible to reapply for or to hold registration with the United States Drug Enforcement Administration and shall not prescribe, dispense, administer, or possess any controlled substances, except for those prescribed for his own use by another so authorized by law.
5. If Dr. Belmonte violates the terms of this Order in any respect, the Board, after giving Dr. Belmonte notice and an opportunity to be heard, may set aside this Stay Order and impose the revocation of his certificate.
6. Upon successful completion of his probation, Dr. Belmonte's license, as limited under paragraph 3 of this Order, will be fully restored.

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


Joan Irwin Fishel
Attorney Hearing Examiner

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

July 12, 1989

Rogel R. Belmonte, M.D.
560 River Road
Canal Fulton, OH 44614

Dear Doctor Belmonte:

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

1. You purchased the following controlled substances during the times and in the amounts indicated below:

September, 1988	acetaminophen with codeine (1 gr)	1,000 D.U.
	Valium (10 mg)	500 D.U.
October, 1988	acetaminophen with codeine (1 gr)	3,000 D.U.
December, 1988	Tylenol with codeine #4	1,000 D.U.
	Valium (10 mg)	1,000 D.U.

Upon questioning by Board investigators in January, 1989 and May, 1989 you indicated that these drugs were purchased for use by Patient 1 (identified in the attached patient key, not subject to public disclosure) for headaches. You further indicated that you do not have any dispensing records or any inventory system by which you could account for these drugs.

Such acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs," as that clause is used in Section 4731.22(B)(2), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

July 12, 1989

Further, your failure to maintain records as alleged in paragraph (1) above 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), to wit: Rule 4731-11-02(D), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, a violation of any provision of that rule also violates Sections 4731.22(B)(2) and 4731.22(B)(6), Ohio Revised Code.

Further, such acts, conduct and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitutes "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03, Ohio Revised Code, (Trafficking in Drugs).

Further, your failure to maintain records as alleged in paragraph (1) above, constitutes "commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 3719.07, Ohio Revised Code, (Records of controlled substances).

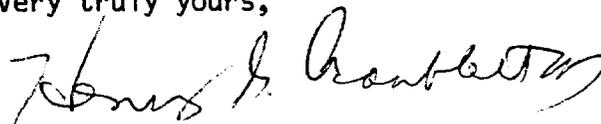
Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, that request must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

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 the agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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



Henry G. Cramblett, M.D.
Secretary

HGC:jmb
Encls.

CERTIFIED MAIL #P 569 363 964
RETURN RECEIPT REQUESTED