



## STATE MEDICAL BOARD OF OHIO

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

February 16, 1996

Stephen J. Weiss, M.D.  
7333 N. Freeway, #100  
Houston, TX 77076

Dear Doctor Weiss:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Melinda R. Early, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 14, 1996, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Thomas E. Gretter, M.D.  
Secretary

TEG:em  
Enclosures

CERTIFIED MAIL RECEIPT NO. P 348 887 352  
RETURN RECEIPT REQUESTED

cc: Nathan L. Dembin, Esq.

CERTIFIED MAIL NO. P 348 887 353  
RETURN RECEIPT REQUESTED

*Mailed 2-20-96*



# STATE MEDICAL BOARD OF OHIO

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

## CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Melinda R. Early, Attorney Hearing Examiner, State Medical Board; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on February 14, 1996, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Stephen J. Weiss, 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)

A handwritten signature in cursive script, appearing to read "Thomas E. Gretter".

Thomas E. Gretter, M.D.  
Secretary

2/15/96

\_\_\_\_\_  
Date



# STATE MEDICAL BOARD OF OHIO

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

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

STEPHEN J. WEISS, M.D.

\*

## ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 14th day of February, 1996.

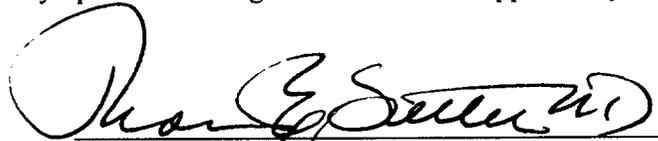
Upon the Report and Recommendation of Melinda R. Early, Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above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

It is hereby ORDERED that:

1. The certificate of Stephen J. Weiss, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of sixty (60) days. Such suspension is STAYED, subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
  - a. Dr. Weiss shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
  - b. Dr. Weiss shall submit quarterly declarations under penalty of Board disciplinary action or falsification pursuant to Section 2921.13, Ohio Revised Code, stating whether there has been compliance with all of the provisions of probation.
  - c. Dr. Weiss shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.
  - d. In the event that Dr. Weiss should leave Ohio for three (3) consecutive months, or reside or practice outside the State, Dr. Weiss must notify the 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, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.

- e. Within thirty (30) days of the effective date of this Order, Dr. Weiss shall submit for the Board's prior approval, the name of a monitoring physician who shall review Dr. Weiss' patient charts and shall submit a written report of such review to the Board on a quarterly basis. Such chart review may be done on a random basis, with the number of charts reviewed to be determined by the Board. It shall be Dr. Weiss' responsibility to ensure that the monitoring physician's quarterly reports are submitted to the Board on a timely basis. In the event that the approved monitoring physician becomes unable or unwilling to so serve, Dr. Weiss shall immediately so notify the Board in writing and shall make arrangements for another monitoring physician as soon as practicable.
  - f. Dr. Weiss, on a quarterly basis, shall provide the Board with acceptable documentation evidencing his continued compliance with the Texas Agreed Order and the Louisiana Consent Order.
  - g. In the event that Dr. Weiss wishes to practice in Ohio, he shall notify the Board, in writing, thirty days in advance, of his intention to commence practice in Ohio. The Board may require whatever monitoring provisions or practice restrictions it deems appropriate to ensure Dr. Weiss' safe practice of medicine.
2. If Dr. Weiss violates probation in any respect, the Board, after giving Dr. Weiss notice and the opportunity to be heard, may set aside the stay order and impose the suspension of Dr. Weiss' certificate.
  3. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Weiss' certificate shall be fully restored.

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



Thomas E. Gretter, M.D.  
Secretary

(SEAL)

2/15/96

\_\_\_\_\_  
Date

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**REPORT AND RECOMMENDATION  
IN THE MATTER OF STEPHEN J. WEISS, M.D.**

The Matter of Stephen J. Weiss, M.D., was heard by Melinda R. Early, Attorney Hearing Examiner for the State Medical Board of Ohio, on November 6, 1995.

**INTRODUCTION**

**I. Basis for Hearing**

A. The State Medical Board of Ohio notified Stephen J. Weiss, M.D., by letter dated July 12, 1995 (State's Exhibit 1), that it intended to determine whether to limit, revoke, suspend, refuse to register or reinstate Dr. Weiss' certificate to practice medicine and surgery, or to reprimand or place him on probation for one or more of the following reasons:

- (1) On or about June 22, 1994, Dr. Weiss entered into an Agreed Order with the Texas State Board of Medical Examiners [Texas Board] which placed Dr. Weiss' license to practice medicine in Texas on probation for five years.
- (2) On or about February 6, 1995, Dr. Weiss entered into a Consent Order with the Louisiana State Board of Medical Examiners [Louisiana Board] which placed Dr. Weiss' Louisiana license to practice medicine on probation for five years. Moreover, the Louisiana Consent Order prohibited Dr. Weiss from practicing medicine in Louisiana for five years. The Louisiana Consent Order was based on the Texas Agreed Order.

The Board alleged that Dr. Weiss' "acts, conduct, and/or omissions" as set forth above, "individually and/or collectively, constitute[d] '(t)he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees,' as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Section 4731.22(B)(6), Ohio Revised Code."

The Board advised Dr. Weiss of his right to request a hearing in this matter.

- B. Nathan L. Dembin, Esq., submitted a written hearing request on behalf of Dr. Weiss, on August 14, 1995. (State's Exhibit 2).

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General of Ohio, by Mary K. Crawford, Assistant Attorney General.
- B. On behalf of the Respondent: Robert D. Noble, Esq.

**EVIDENCE EXAMINED**

I. Testimony Heard

Neither party presented witnesses.

- II. In addition to State's Exhibits 1 and 2, noted above, the following exhibits were identified and admitted into evidence in this Matter:

A. Presented by the State

1. State's Exhibit 3: August 14, 1995, letter from the Board to Mr. Dembin advising that Dr. Weiss' hearing was initially set for August 28, 1995, but further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit 4: August 21, 1995, letter to Mr. Dembin from the Board scheduling the hearing for October 2, 1995. (2 pp.)
3. State's Exhibit 5: August 21, 1995, letter to Mr. Dembin from the Board advising Mr. Dembin that Dr. Weiss could be represented at hearing by an attorney admitted to practice law in Ohio, and also advising of the scheduled hearing date.
4. State's Exhibit 6: September 29, 1995, Entry granting Respondent's Motion for Continuance and rescheduling the hearing for November 6, 1995.

STATE MEDICAL BOARD  
OF OHIO

5. State's Exhibit 7: Certified copy of Dr. Weiss' Texas Agreed Order. (9 pp.)
6. State's Exhibit 8: Certified copy of Dr. Weiss' Louisiana Consent Order. (4 pp.)

B. Presented by the Respondent

Respondent did not present any evidence at hearing.

III. Post Hearing Admissions

- A. Respondent's September 26, 1995, request for continuance is hereby admitted to the record as Board Exhibit A.
- B. As a condition of being granted a continuance of hearing, Dr. Weiss agreed to submit an affidavit stating that he would not practice medicine and surgery in Ohio until after final disposition of the Board's allegations against his certificate. Accordingly, Mr. Dembin's affidavit affirming that Dr. Weiss would not practice in Ohio until final resolution of the Board's allegations, is hereby admitted to the record as Board Exhibit B.
- B. At hearing, the record was kept open to allow Dr. Weiss time to submit an affidavit setting forth his position on the Board's allegations. On November 13, 1995, Dr. Weiss' counsel filed a Motion requesting an extension of time in which to submit Dr. Weiss' affidavit. Accordingly, this motion is hereby admitted to the record as Board Exhibit C. The November 14, 1995, entry granting Dr. Weiss' request for an extension of time in which to file the affidavit is hereby admitted to the record as Board Exhibit D.
- C. The Affidavit in which Dr. Weiss stated his position on the Board's allegations is hereby admitted to the record as Respondent's Exhibit A, as marked by the Attorney Hearing Examiner. The State's Response to Affidavit of Dr. Stephen J. Weiss is admitted to the record as Board Exhibit E.

III. Other Matters - Procedural

- A. At hearing, the State's Representative objected to statements made by Respondent's counsel on the basis that Respondent's counsel was asserting arguments on facts not in evidence. A ruling on the State's

objection was deferred, pending review of Respondent's Affidavit (Respondent's Exhibit A). Following review of Respondent's Exhibit A, the State's objection is overruled. Respondent's counsel's statements, as set forth in the hearing transcript, were considered legal arguments and accorded appropriate weight.

- B. In the November 14, 1995, Entry, the Attorney Hearing Examiner allowed Respondent's counsel until November 17, 1995, to file an affidavit. Additionally, the State's representative was given until November 24, 1995, to file a response to Respondent's affidavit. Although neither party timely filed their respective documents, the documents were accepted and admitted to the record as set forth above.

### SUMMARY OF EVIDENCE

1. On or about January 24, 1994, the Texas Board issued an invitation of "Informal Settlement Conference/Show Compliance Proceeding" to Dr. Weiss. Dr. Weiss, together with counsel, participated in this proceeding on February 24, 1994. Subsequently, the Texas Board investigated additional allegations against Dr. Weiss, similar to the issues and allegations that were the subject of the February 24, 1994, proceeding. Dr. Weiss then entered into an Agreed Order with the Texas Board. The Agreed Order delineated the following findings of fact:
  - a. During the period, November 1988 through September 1992, for numerous patients, Dr. Weiss:
    - a. failed to accurately interpret and record diagnostic findings;
    - b. failed to formulate or document appropriate treatment plans or clinical rationale for subsequent testing;
    - c. recommended surgical intervention even though patients were poor surgical candidates;
    - d. ordered unnecessary referrals for epidural steroid injections, intravenous colchicine injections, and functional capacity evaluations;

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- e. ordered physical therapy for periods of more than one year; and
  - f. considered chemonucleolysis and performed multiple imaging studies in spite of the absence of sufficient objective physical findings, reproducible radiculopathy and previous negative test results.
- b. During the same time period, Dr. Weiss assessed conflicting impairment ratings for several patients.

The Texas Board accordingly concluded that Dr. Weiss violated the Texas Medical Practice Act by “persistently and flagrantly overcharging or overtreating patients” and by failing to “practice medicine in an acceptable manner consistent with public health and welfare.” Thus, pursuant to an Agreed Order, Dr. Weiss was ordered to comply with the following terms and conditions, among others:

- a. Dr. Weiss was required to “obtain a written second opinion on each patient for whom he prescribe[d] physical therapy beyond six (6) weeks in a twelve-month period, including all physical therapy that [was] to be done at a gym, YMCA, or YWCA”;
- b. Dr. Weiss was required to have a radiologist perform and read all discograms he ordered;
- c. Dr. Weiss was required to attend a minimum fifty hours Category I Continuing Medical Education (CME) each year with at least twenty-five credit hours in pain management;
- d. Dr. Weiss was required to maintain patient medical records which “accurately reflect[ed] the patient’s name, the service rendered, the date of the service, and the amount charged or to be billed for the service”;
- e. Dr. Weiss was required to maintain patient medical records for each patient office visit, including, “patient’s name and address, vital statistics, chief complaint of patient, history and physical finding, diagnosis, treatment plan for each patient visit, a notation of all medications prescribed, administered or dispensed, and detailed records of all follow-up visits including date.” Moreover, Dr. Weiss was required to make the patient medical records available to the Texas Board for review;

- f. Dr. Weiss was prohibited from documenting "in any manner on any patient record" any progress notes, evaluations, treatments, opinions, or orders, unless he had "actually personally seen and examined the patient" or unless the patient's chart clearly reflected that he had not personally examined the patient; and
- g. Dr. Weiss was ordered to refrain from prescribing or administering any drugs unless the drug was "medically indicated and [was] prescribed in therapeutic doses." Moreover, Dr. Weiss was prohibited from prescribing any potentially abusive drug without taking a medical history and performing an examination to determine a diagnosis and clinically appropriate treatment plan. Additionally, Dr. Weiss was required to perform "adequate follow-up examinations \* \* \* to determine whether the course of treatment \* \* \* [was] appropriate for the medical condition of the patient and to determine if the drug regimen being prescribed or administered should be modified in any way."

Dr. Weiss knowingly and voluntarily signed the Agreed Order on June 3, 1994.

State's Exhibit [St. Ex.] 7.

- 2. The Louisiana Board investigated the Texas Board's actions against Dr. Weiss' Texas license to practice medicine and determined that there was sufficient cause for Louisiana to file an administrative complaint against Dr. Weiss for having violated the Louisiana Medical Practice Act. The Louisiana Board based its proposed charge against Dr. Weiss on "[T]he refusal of a licensing authority of another state to issue or renew a license, permit, or certificate to practice medicine or osteopathy in that state or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state . . ."

Dr. Weiss entered into a Consent Order with the Louisiana Board, but he did not admit violating the Louisiana Medical Practice Act. Dr. Weiss did however, acknowledge the accuracy of the Louisiana Board's investigative information, and further acknowledged that proof of the investigative information at an administrative evidentiary hearing would establish grounds for discipline.

Under the Louisiana Consent Order, Dr. Weiss' license to practice medicine in Louisiana was placed on probation for five years, subject to his compliance with certain terms, conditions, and limitations. One condition of limitation

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prohibited Dr. Weiss from practicing medicine in Louisiana for five years from the effective date of the Consent Order. St. Ex. 8.

3. In the Affidavit setting forth his positions on the Board's allegations, Dr. Weiss explained that the patients who were the subject of the Texas Agreed Order were patients he treated for workers compensation injuries. Dr. Weiss further explained that the Texas worker compensation system is a "self-administrating" one in that physicians regulate monitoring, treatment, and recovery of the workers compensation claimants. Thus, disputes regarding the extent of the claimant's injury and appropriateness of treatment occur between physicians, rather than physicians and attorneys. Moreover, Dr. Weiss stated that given the nature of the Texas workers compensation program, the Texas Board actively monitors participating physicians. Dr. Weiss further asserted that the Texas Board subjected him to a higher level of scrutiny.

Dr. Weiss stated that although the Texas Board, in the Informal Proceeding, advised him of concerns with his patient care, the Texas Board did not present evidence to support its allegations. Additionally, Dr. Weiss stated that the Texas Board refused to allow him to defend against its allegations. Nevertheless, on the advice of counsel, Dr. Weiss consented to the Agreed Order in order to avoid "costly, timely and disruptive litigation."

Dr. Weiss further stated in his Affidavit that he is currently fully compliant with the Texas Agreed Order. (Respondent's Exhibit A).

### FINDINGS OF FACT

1. On or about June 22, 1994, Dr. Weiss entered into an Agreed Order with the Texas Board which stayed the suspension of his license to practice medicine and placed it on probation for five years. The Texas Agreed Order was based on the Texas Board's findings that Dr. Weiss: failed to accurately interpret and record diagnostic findings; failed to formulate or document appropriate treatment plans or clinical rationale for subsequent testing; recommended surgical intervention on poor surgical candidates; ordered unnecessary referrals; ordered physical therapy for extended periods of time; performed multiple studies in the absence of objective physical findings and prior negative results; and assessed conflicting impairment ratings on several patients. Accordingly, the Texas Board concluded that Dr. Weiss violated the Medical Practice Act of Texas for the "[persistent] and [flagrant] overcharging or overtreating [of] patients" and the "professional failure to practice medicine in an acceptable manner consistent with public health and welfare."

2. On or about February 6, 1995, Dr. Weiss entered into a Consent Order with the Louisiana Board which placed his license to practice medicine in Louisiana on probation for five years. One term of the Consent Order prohibited Dr. Weiss from practicing medicine in Louisiana for five years from the date on which the Consent Order became effective. The Louisiana Consent Order was based on the Texas Agreed Order.

### CONCLUSIONS OF LAW

1. Findings of Fact 1 and 2, above, support a conclusion that Dr. Weiss' acts, conduct, and/or omissions, individually and/or collectively, constitute "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees," as set forth in Section 4731.22(B)(22), Ohio Revised Code, to wit: Section 4731.22(B)(6), Ohio Revised Code.

### PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Stephen J. Weiss, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for a period of sixty (60) days. Such suspension is **STAYED**, subject to the following **PROBATIONARY** terms, conditions, and limitations for a period of at least five years:
  - a. Dr. Weiss shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
  - b. Dr. Weiss shall submit quarterly declarations under penalty of Board disciplinary action or falsification pursuant to Section 2921.13, Ohio Revised Code, stating whether there has been compliance with all of the provisions of probation.
  - c. Dr. Weiss shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise requested by the Board.

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OF OHIO

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- d. In the event that Dr. Weiss should leave Ohio for three (3) consecutive months, or reside or practice outside the State, Dr. Weiss must notify the 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, unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
  - e. Within thirty (30) days of the effective date of this Order, Dr. Weiss shall submit for the Board's prior approval, the name of a monitoring physician who shall review Dr. Weiss' patient charts and shall submit a written report of such review to the Board on a quarterly basis. Such chart review may be done on a random basis, with the number of charts reviewed to be determined by the Board. It shall be Dr. Weiss' responsibility to ensure that the monitoring physician's quarterly reports are submitted to the Board on a timely basis. In the event that the approved monitoring physician becomes unable or unwilling to so serve, Dr. Weiss shall immediately so notify the Board in writing and shall make arrangements for another monitoring physician as soon as practicable.
  - f. Dr. Weiss, on a quarterly basis, shall provide the Board with acceptable documentation evidencing his continued compliance with the Texas Agreed Order and the Louisiana Consent Order.
  - g. In the event that Dr. Weiss wishes to practice in Ohio, he shall notify the Board, in writing, thirty days in advance, of his intention to commence practice in Ohio. The Board may require whatever monitoring provisions or practice restrictions it deems appropriate to ensure Dr. Weiss' safe practice of medicine.
2. If Dr. Weiss violates probation in any respect, the Board, after giving Dr. Weiss notice and the opportunity to be heard, may set aside the stay order and impose the suspension of Dr. Weiss' certificate.

3. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Weiss' certificate shall be fully restored.

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

  
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Melinda R. Early  
Attorney Hearing Examiner



# STATE MEDICAL BOARD OF OHIO

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

## EXCERPT FROM THE DRAFT MINUTES OF FEBRUARY 14, 1995

### REPORTS AND RECOMMENDATIONS

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

Dr. Stienecker asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: William H. Allen, Jr., M.D.; Carolyn T. Beyer, D.O.; John B. Gardiner, D.O.; Stephen W. Gilreath, M.D.; Alexander D. Hassard, M.D.; Neal E. Holleran, M.D.; Peter M. Ilievski, M.D.; James L. Kegler, M.D.; Albert S. Miller, M.D.; Venus Navarro-Julian, M.D.; Moorthy S. Ram, M.D.; Ronald J. Richter, M.D.; Arvind M. Talati, M.D.; and Stephen J. Weiss, M.D.

A roll call was taken:

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

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

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

Mr. Sinnott - aye  
Dr. Garg - aye  
Dr. Steinbergh - aye  
Dr. Stienecker - aye

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

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

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REPORT AND RECOMMENDATION IN THE MATTER OF STEPHEN J. WEISS, M.D.

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**DR. GARG MOVED TO APPROVE AND CONFIRM MS. EARLY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF STEPHEN J. WEISS, M.D. DR. BHATI SECONDED THE MOTION. A vote was taken:**

VOTE:

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

The motion carried.



## STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-9344

July 12, 1995

Stephen J. Weiss, M.D.  
7333 N. Freeway, #100  
Houston, TX 77076

Dear Doctor Weiss:

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

- (1) On or about June 22, 1994, you entered into an Agreed Order (a copy of which is attached hereto and fully incorporated herein) with the Texas State Board of Medical Examiners (hereafter Texas Board) in which your license was placed on probation for five (5) years. The Agreed Order was based on the Texas Board's findings that you failed to accurately interpret and record diagnostic findings; failed to formulate or document appropriate treatment plans or clinical rationale for subsequent testing; recommended surgical intervention on poor surgical candidates; ordered unnecessary referrals; ordered physical therapy for extended periods; performed multiple studies in the absence of objective physical findings and previous negative results; and assessed conflicting impairment ratings on several patients.

Further, on or about February 6, 1995, you entered into a Consent Order with the Louisiana State Board of Medical Examiners placing your Louisiana license on probation for five (5) years. The terms of the Order prohibited you from the practice of medicine in Louisiana for five (5) years. The Louisiana Consent Order was based on the prior Agreed Order with the Texas Board.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "(t)he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Section 4731.22(B)(6), Ohio Revised Code.

Mailed 7/13/95

July 12, 1995

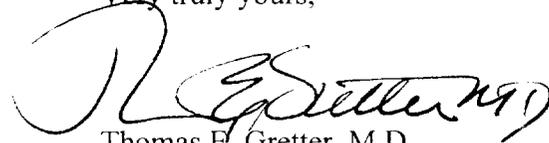
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "T. E. Gretter, M.D.", written in a cursive style.

Thomas E. Gretter, M.D.  
Secretary

TEG/bjm  
Enclosures

CERTIFIED MAIL # P 348 886 921  
RETURN RECEIPT REQUESTED

rev.2/15/95



- September 
4. On numerous patients between approximately November, 1988 and approximately ~~May~~, 1992, Respondent:
    - a. failed to accurately interpret and record diagnostic findings;
    - b. failed to formulate or document appropriate treatment plans or clinical rationale for subsequent testing;
    - c. recommended surgical intervention even though patients were poor surgical candidates;
    - d. ordered unnecessary referrals for epidural steroid injections, intravenous colchicine injections, and functional capacity evaluations;
    - e. ordered physical therapy for periods of more than a year; and
    - f. considered chemonucleolysis and performed multiple imaging studies in spite of the absence of sufficient objective physical findings, reproducible radiculopathy and previous negative test results.
  
  5. On several patients between between November, 1988 and ~~May~~ <sup>approximately September</sup> 1992, Respondent assessed conflicting impairment ratings. 

CONCLUSIONS OF LAW

1. Based on the above Findings of Fact, the Board concludes Respondent has violated the Medical Practice Act of Texas ("the Act"), V.A.C.S., article 4495b, Section 3.08(4)(G) persistently and flagrantly overcharging or overtreating patients; and Section 3.08(18) professional failure to practice medicine in an acceptable manner consistent with public health and welfare.
2. These violations subject Respondent to discipline under Section 4.12 of the Act.
3. Section 4.02(h) of the Act authorizes the Board to make a disposition of this matter by an agreed order.

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent's license to practice medicine in Texas is suspended; however, the suspension is stayed and Respondent is placed on probation for five (5) years effective the date of the signing of this Order by the Board's presiding officer, under the following terms and conditions:

- A. Respondent shall obtain a written second opinion on each patient for whom he prescribes physical therapy beyond six (6) weeks in a twelve-month period, including all physical therapy that is to be done at a gym, YMCA, or YWCA.
- B. All discograms ordered by Respondent shall be performed and read by a radiologist.
- C. Respondent shall attend at least fifty (50) hours per year of Continuing Medical Education (CME) approved for Category I credits by the American Medical Association or by the American Osteopathic Association; one-half of which shall be in the area of pain management. Each year Respondent shall submit to the Board proof of the prior year's CME attendance by the Order's anniversary date. Respondent shall immediately submit proof to the Board of CME hours attended in the current year even though such may not meet the 50 hour requirement. A copy of the attendance certificate issued or a detailed report which can be verified by the Board shall satisfy this requirement.
- D. Respondent shall utilize a system of patient record keeping to ensure that all patient records accurately reflect the patient's name, the service rendered, the date of the service, and the amount charged or to be billed for the service.

- E. Respondent shall maintain adequate medical records on all patient office visits. These records will include, at a minimum, the patient's name and address, vital statistics, chief complaint of patient, history and physical findings, diagnosis, treatment plan for each patient visit, a notation of all medications prescribed, administered or dispensed, and detailed records of all follow-up visits including date. Respondent shall make patient medical records available for copying and evaluation by investigators, consultants, or staff of the Board.
- F. Respondent shall not sign or indicate directly or indirectly in any manner on any patient record including, but not limited to, physician progress notes any visit, evaluation, medical treatment, medical opinion, or medication order unless Respondent has, on the date indicated or noted on the patient's records, actually personally seen and examined the patient; unless the patient's chart clearly reflects Respondent did not personally examine the patient. Respondent shall not "back date" any patient entry or record. If it should later become necessary to make a retroactive correcting or clarifying entry, the entry will specifically note the date and time the later entry was actually made.
- G. Respondent shall refrain from the prescription or administration of any drug for any patient unless the drug is medically indicated and is prescribed in therapeutic doses. Respondent shall not prescribe, administer, or dispense any drug with a potential for abuse to any person unless there is a legitimate medical and therapeutic need after the Respondent has taken an appropriate medical history and conducted an examination which is clinically adequate to determine a proper diagnosis and course of treatment.

Respondent shall conduct adequate follow-up examinations on all patients to determine whether the course of treatment, including the prescribing of drugs, is appropriate for the medical condition of the patient and to determine if the drug regimen being prescribed or administered should be modified in any way.

- H. Respondent shall give a copy of this Order to all hospitals and health care entities where he has privileges.
- I. Respondent shall cooperate with the Board, its attorneys, investigators, compliance officers, and other employees and agents, to verify that Respondent has complied and is in compliance with this Order.
- J. Respondent shall advise the Board of any change of address, mailing or office, within (10) days of such occurrence.
- K. The time period of this Order shall be extended for any period of time in which Respondent subsequently resides or practices medicine outside the State of Texas, is in official retired status with the Board, or for any period during which Respondent's license is subsequently cancelled for nonpayment of licensure fees. If Respondent leaves Texas to live or practice medicine elsewhere, Respondent shall immediately notify the Board in writing of the dates of Respondent's departure from and subsequent return to Texas. Upon Respondent's return to practice in Texas or Respondent's relicensure, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order when Respondent left the practice of medicine in Texas, retired, or had his license cancelled for nonpayment of licensure fees.

L. Respondent shall comply with all the provisions of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, and other statutes regulating the practice of medicine, as is required by law for physicians licensed by the Board.

Any violation of the terms, conditions, and requirements of this Order shall constitute evidence of unprofessional or dishonorable conduct that is likely to deceive, defraud, or injure the public within Section 3.08(4) of the Act, and may result in disciplinary action pursuant to Section 4.01(a) of the Act.

The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for 12 months following entry of this Order. If, after the passage of the 12 month period, Respondent wishes to seek amendment or termination of these conditions, he may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition. Petitions for modifying or terminating may be filed only once a year thereafter.

In regard to all terms and conditions of this Agreed Order, Respondent waives any further hearings or appeal to the Board or to any court regarding this Order and the terms thereunder. Nothing in this paragraph shall be deemed a waiver of Respondent's rights under rule, statute, or the United States or Texas Constitutions to appeal any decision or action which may later be taken by the Board subsequent to this Order, except as Respondent may have agreed herein. Respondent agrees that this Order is a final Order.

THIS ORDER IS A PUBLIC RECORD.

I, STEPHEN JOEL WEISS, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE.

DATED: June 3, 1994

Stephen Joel Weiss MD  
STEPHEN JOEL WEISS, M.D.  
RESPONDENT

STATE OF Texas

COUNTY OF TARRANT

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BEFORE ME, on this day personally appeared Stephen Joel Weiss, M.D., known to me, who, first, being duly sworn, signed the foregoing Agreed Order in my presence.

SIGNED on this the 3rd day of June, 1994.

[Signature]  
Notary Public, in and for  
the State of Texas

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Notary Seal

SIGNED AND ENTERED by the Presiding Officer of the Texas State Board of Medical Examiners on this 22nd day of June, 1994.

[Signature]  
John M. Lewis, M.D.,  
President, Texas State Board  
of Medical Examiners

STATE MEDICAL BOARD  
OF OHIO  
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