verified/es

STATE OF OHIO
THE STATE MEDICAL BOARD OF OHIO
65 SOUTH FRONT STREET
SUITE 510
COLUMBUS, OHIO 43266-0315

September 11, 1987

Prasad J. Athota, M.D.
4021 Harrison Avenue
Cincinnati, Ohio 45211

Dear Doctor Athota:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Lauren Lubow, Hearing Officer, State Medical Board; and a certified copy of the Motions by the State Medical Board, meeting in regular session on September 9, 1987, adopting the Findings of Fact and Conclusions of the Hearing Officer, and adopting a modified Order.

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 by WS

Henry G. Cramblett, M.D.
Secretary

HGC:em
Enclosures

CERTIFIED MAIL NO. P 158 073 917
RETURN RECEIPT REQUESTED

cc: Jerome C. Randolph, Esq.

CERTIFIED MAIL NO. P 158 073 918
RETURN RECEIPT REQUESTED

Mailed 9/12/87

STATE MEDICAL BOARD OF OHIO

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 Lauren Lubow, Hearing Officer, State Medical Board of Ohio; and attached copy of Motions by the State Medical Board, meeting in regular session on September 9, 1987, adopting the Findings and Conclusions of Lauren Lubow, Esq., and adopting a modified Order, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Prasad J. Athota, 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 and in its behalf.

(SEAL)

Henry G. Cramblett, M.D.
Secretary

September 11, 1987
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

PRASAD J. ATHOTA, M.D. *

ENTRY OF ORDER

This Order came on for consideration before the State Medical Board of Ohio the 9th day of September, 1987.

Upon the Report and Recommendation of Lauren Lubow, Hearing Officer, State Medical Board, in this matter designated pursuant to R.C. 119.09, a true copy of which is attached hereto and incorporated herein, and upon the modification, 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 9th day of September, 1987.

It is hereby ORDERED:

That the license of Prasad J. Athota, M.D., to practice medicine and surgery in the State of Ohio be REVOKED. Such revocation is ordered stayed, and the Respondent is hereby placed on probation for a term of five (5) years, provided he complies with the following terms and conditions:

1. Dr. Athota shall abstain completely from the personal use of alcohol.

2. Dr.Athota shall abstain completely from the personal use of drugs, except those available for purchase over the counter, or those prescribed, administered, or dispensed to Dr. Athota by another [illegible] authorized by law who has full knowledge of Dr. Athota's history of chemical dependency.

3. Dr. Athota shall submit to random urine screenings for drugs on a weekly basis or as otherwise directed by the Board. Dr. Athota shall ensure that all screening reports are forwarded directly to the Board on a monthly basis.

   Dr. Athota shall submit the required urine

specimens to a supervising physician to be approved by the Board. The supervising physician shall ensure that the urine specimens are selected for screening on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over all specimens is maintained. In the event that the designated supervising physician becomes unable or unwilling to serve, Dr. Athota must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.

4. The Board retains the right to require Dr. Athota to submit blood or urine specimens for analysis upon request and without prior notice.

5. Dr. Athota shall appear in person for interviews before the Board, or its designated representative at three (3) month intervals, or as otherwise requested by the Board.

6. Within thirty (30) days of the effective date of this Order, Dr. Athota shall undertake and maintain participation in an alcohol and drug rehabilitation program acceptable to the Board, such as A.A., N.A., or Cadaceus, no less than three (3) times per week.

   At his appearance before the Board or its designated representative, Dr. Athota shall submit documentary evidence of continuing compliance with these programs.

7. Dr. Athota shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all of the conditions of this Order.

8. In the event that Dr. Athota should leave Ohio for three (3) consecutive months, or reside or practice outside the State of Ohio, Dr. Athota 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.

9. Dr. Athota shall obtain the approval of the Board for any medical practice or employment related to the health care field. The Board shall consider, among other factors, the adequacy and continuity of supervision and the feasability of restricted access to controlled substances, which will ensure protection of the public, prior to approval or disapproval of the proposed employment.

10. Within thirty (30) days of the effective date of this Order, Dr. Athota shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the full Board, Dr. Athota shall undergo and continue psychiatric treatment no less than twice per month, or as otherwise directed by the Board. Dr. Athota shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board.

11. In the event that Dr. Athota violates the terms of his probation in any respect, the Board, after giving Dr. Athota notice and the opportunity to be heard, may set aside the stay and impose the revocation of Dr. Athota's medical license.

12. Upon successful completion of this probation, Dr. Athota's certificate to practice medicine and surgery in the State of Ohio shall be fully restored.

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

(SEAL)

Henry G. Cramblett, M.D.
Secretary

September 11, 1987
Date

STATE OF OHIO
THE STATE MEDICAL BOARD

REPORT AND RECOMMENDATION
IN THE MATTER OF PRASAD J. ATHOTA, M.D.

OHIO
MEDICAL BOARD

'87 AUG 26 P5:19

The Matter of Prasad J. Athota, M.D., came on for hearing before me, Lauren Lubow, Hearing Officer for the State Medical Board of Ohio, on July 25, 1986.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Mode of Conduct

A. During the course of this hearing, the rules of evidence were relaxed and both the State and the Respondent were given great latitude in demonstrating the relevancy and materiality of testimony and exhibits offered, as well as in attempting to discredit testimony and evidence presented by the opposing party.

II. Appearance of Counsel

A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by Christopher Culley, Esq., Assistant Attorney General.

B. On behalf of the Respondent, Prasad J. Athota, M.D.: Jerome C. Randolph, Esq.

III. Jurisdiction

This matter was heard pursuant to the authority granted to the State Medical Board of Ohio by Chapters 4731. and 119., Ohio Revised Code, and Chapter 4731-1 through 4731-11 of the Ohio Administrative Code.

IV. Basis for Hearing

By letter of April 29, 1986, the State Medical Board notified Prasad J. Athota, M.D., that it proposed to take disciplinary action against his license to practice medicine and surgery in the State of Ohio. The Board alleged that:

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1. On or about March 28, 1986, Dr. Athota was charged by bill of information in Hamilton County, Ohio, with two (2) counts of violating Section 2925.23(B)(1), Ohio Revised Code, Illegal Processing of Drug Documents, felonies of the third degree. These charges alleged that Dr. Athota intentionally made false prescriptions for 30 capsules of Percodan, a Schedule II controlled substance, on both November 16, 1985, and February 8, 1986. On or about April 4, 1986, Dr. Athota entered a plea of guilty to said charges and filed a motion with the Hamilton County Court of Common Pleas requesting treatment in lieu of conviction. That motion alleged, in part, that his drug dependence or the danger of his becoming drug dependent was a factor leading to the criminal activity with which he was charged.

2. Further, that Dr. Athota's acts in violating Section 2925.23(B)(1), Ohio Revised Code, as alleged constituted violations of the following provisions of Section 4731.22(B), Ohio Revised Code:

   a. 4731.22(B)(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;"

   b. 4731.22(B)(3) - "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;"

   c. 4731.22(B)(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;"

   d. 4731.22(B)(15), as in effect prior to March 17, 1987 - "inability to practice according to acceptable and prevailing standards of care by reason of illness, excessive use of alcohol, excessive use of controlled substances, drugs, or chemicals, or as a result of a mental or physical condition."

3. The Board's letter further notified Dr. Athota of the requirement under Section 3719.121, Ohio Revised Code, that a practitioner's license be suspended if he is addicted or becomes addicted to controlled substances.

V. Testimony Heard

The testimony of Prasad J. Athota, M.D., and Sagi Raju, M.D., both on direct and as on cross examination was reviewed, considered and weighed as to the probative value to be given the same.

VI. Exhibits Examined

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A. Presented by the State

1. State's Exhibit #1: April 29, 1986 citation letter and notice of opportunity for hearing from the State Medical Board to Prasad J. Athota, M.D.

2. State's Exhibit #2: May 8, 1986 letter from Jerome C. Randolph, Esq., Attorney for Dr. Athota, requesting a hearing in this matter.

3. State's Exhibit #3: May 12, 1986 letter from the State Medical Board to Jerome C. Randolph, Esq., acknowledging the request for hearing, scheduling the hearing and thereafter continuing the same pursuant to Section 119.09, Ohio Revised Code.

4. State's Exhibit #4: May 16, 1986 letter from the State Medical Board to Jerome C. Randolph, Esq., scheduling Dr. Athota's hearing for July 29, 1986.

5. State's Exhibit #5: July 9, 1986 letter from Jerome C. Randolph, Esq., to the Board confirming the rescheduling of Dr. Athota's hearing from July 29, 1986 to July 25, 1986.

6. State's Exhibit #6: A certified copy of a Bill of Information filed in the Court of Common Pleas, Hamilton County, Ohio (Case No. B861245) charging Prasad J. Athotha, M.D., with two counts of Illegal Processing of Drug Documents in violation of Section 2925.23(B)(1), Ohio Revised Code.

7. State's Exhibit #7: A certified copy of a Waiver of Indictment form filed in Case No. B861245, Court of Common Pleas, Hamilton County, Ohio.

8. State's Exhibit #8: (Consisting of three (3) separate documents), as follows:

   Document #I: A copy of a Motion filed on behalf of Prasad J. Athota by James N. Perry, Esq., in Case No. B861245, Court of Common Pleas, Hamilton, County, Ohio requesting Prasad J. Athota be granted treatment in lieu of conviction.

Document #II: March 29, 1986 letter from S. S. Raju, M.D., to James N. Perry, Esq., acknowledging Mr. Perry as counsel for Dr. Athota, stating that Dr. Athota was a person who was drug dependent or in danger of becoming drug dependent, and advising that Dr. Athota was presently under Dr. Raju's care.

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Document #III: A copy of a "Plea of Guilty Under Information" form filed in Case No. B861245, Court of Common Pleas, Hamilton County, Ohio, signed by Prasad J. Athota and his counsel and entering a plea of guilty to two counts of illegal processing of drug documents.

9. State's Exhibit #9: A certified copy of the probation report of Prasad J. Athota filed in Case No. B861245, Court of Common Pleas, Hamilton County, Ohio, with a copy of a letter dated April 21, 1986 from Sagi S. Raju, M.D., to Mr. James N. Perry, Esq., attached thereto.

10. State's Exhibit #10: A certified copy of an "Entry Finding Defendant Eligible For Treatment In Lieu of Conviction, Staying Proceedings, and Ordering Period of Rehabilitation" filed in Case No. B861245, Court of Common Pleas, Hamilton County, Ohio.

11. State's Exhibit #11: Copies of thirteen prescriptions forms for prescriptions written by Dr. Athota.

B. Presented by the Respondent

1. Respondent's Exhibit A: A copy of laboratory findings of a complete blood count and chemistry profile, including urine testing, conducted March 27, 1986 and April 4, 1986 at the Department of Laboratory Medicine, Providence Hospital, Cincinnati, Ohio on the subject, Prasad Athota, revealing the presence of caffeine and nicotine in the urine.

2. Respondent's Exhibit B: A copy of laboratory findings from urine sample testing on Prasad Athota for dates of May 27, 1986 and June 18, 1986, analyzed at Providence Hospital, Cincinnati, Ohio, and revealing the presence of caffeine and nicotine in the urine.

3. Respondent's Exhibit C: Respondent at hearing proffered a letter from Dr. Corwin Smith, M.D., Chairman of the Impaired Physicians Committee, Ohio State Medical Association, marked for identification purposes as Respondent's Exhibit C. However, said exhibit was not admitted into evidence.

VII. Post-Hearing Additions to the Record

At the close of the proceedings on July 25, 1986, an additional hearing date was scheduled for September 16, 1986, with the understanding that in the interim Dr. Athota would undergo psychiatric evaluation and a report of same would be forwarded to the Board.

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Subsequently, on September 8, 1986, Dr. Athota was admitted to Shepherd Hill Hospital for evaluation. Following a determination that he was chemically dependent, Dr. Athota was admitted for inpatient treatment, and the hearing was continued to accomodate same.

On October 23, 1986, a Motion for Closure of Record and Conclusion of Proceedings was filed on behalf of the State requesting that the record be closed following submission of evaluation reports from Shepherd Hill Hospital and closing arguments. No response to the motion was filed by the Respondent. By Order dated November 17, 1986, the State's Motion was granted and the evaluation of Dr. Athota submitted by Dr. Paul C. Redmond was made a part of the record. No closing arguments were submitted by either party, and the record in this matter was formally closed on November 28, 1986.

In addition to Dr. Redmond's report, both the Motion for Closure of Record and Conclusion of Proceedings and the Order granting said Motion are hereby incorporated into the record of these proceedings.

FINDINGS OF FACT

1. Prasad J. Athota, M.D., has been duly licensed to practice medicine and surgery by the State Medical Board of Ohio since 1976.

   (This fact is established by the testimony of Respondent at page 19, line 9 through page 20, line 20, inclusive of the transcript).

2. During 1983 Prasad J. Athota, M.D., started personally using various scheduled drugs beginning with Tylenol with codeine, and thereafter proceeding to use of Quaalude, Ritalin and Percodan.

   (This fact is established by the testimony at page 21, line 12 through page 25, line 12 and at page 34, line 10 through 19 of the transcript).

3. During the course of treating a patient for back and neck problems, Respondent wrote a prescription for Percodan for the patient's own use. Thereafter, Respondent requested of and obtained from said patient Percodan for Respondent's use.

These facts are established by the testimony of Respondent at page 27, line 15 through page 29, line 1 of the transcript).

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4. In order to obtain drugs for his personal use, Prasad J. Athota, M.D., wrote numerous false prescriptions, including those written on November 16, 1985 and April 4, 1986, in the names of several third parties.

(This fact is established by State's Exhibit #11 and the testimony of Prasad J. Athota, M.D., at page 36, line 11 through page 37, line 1 of the transcript).

5. By his own admission, Respondent's writing of prescriptions for Percodan, Ritalin and Quaalude in the names of third parties but for his own use was done for other than legal and legitimate therapeutic purposes.

(This fact is established by the testimony of Prasad J. Athota, M.D., at page 55, line 13 through line 16 of the transcript).

6. By his own admission, the conduct of Prasad J. Athota, M.D., in writing prescriptions in the names of other persons, for his own use, constituted a failure to conform to minimal standards of care of similar practitioners under similar circumstances.

(This fact is established by reference to the testimony of Prasad J. Athota, M.D., at page 55, line 17 through page 56, line 3 of the transcript).

7. The Respondent engaged in the simultaneous use of Percodan and alcohol, which use reached a peak between late 1985 and early 1986. During this period of time he was taking four to six Percodan a day, three to four days a week, in addition to drinking two to three cocktails, two to three times per week.

(These facts are established by Respondent's testimony at page 31, line 17 through page 32, line 23 and at page 47, line 11 through line 20 of the transcript).

8. By his admission, the Respondent administered Percodan to himself out of habit and primarily for the purpose of consumption, rather than for the relief of pain or any other demonstrated medically therapeutic purpose.

(These facts are established by the Respondent's testimony at page 48, line 1 through page 49, line 19 of the transcript).

9. On or about March 28, 1986, Respondent was charged in the Court of Common Pleas, Hamilton County, Ohio, by a Bill of Information, with two counts of Illegal Processing of Drug Documents, a felony, in violation of Section 2925.23(B)(1), Ohio Revised Code.

(This fact is established by State's Exhibits #1 and #6 and Respondent's testimony at page 21, line 3 through line 11 of the transcript).

10. On or about April 4, 1986, Prasad J. Athota, M.D., entered a plea of guilty to two counts of Illegal Processing of Drug Documents.

(This fact is established by State's Exhibits #1 and #8, (Document III), and the testimony of Prasad J. Athota, M.D., at page 21, line 3 through 11 of the transcript).

11. The Respondent did not take drugs on days during which he was performing or scheduled to perform surgery.

(This fact is established by the testimony of Respondent at page 53, line 19 through page 54, line 6 of the transcript and is further corroborated by the testimony of Dr. Raju at page 114, line 18 through 22 of the transcript).

12. On those occasions when the Respondent had ingested drugs prior to being summoned to perform emergency surgery, the Respondent declined to accept said request and directed the matter be referred out to another physician.

This fact is established by reference to the testimony of Respondent at page 66, line 9 through line 22 of the transcript).

13. Excepting the instant proceeding, during the periods from early to mid-1983 through early 1986, the Respondent was not made the subject of any complaint, lawsuits, or allegations relating to his conduct or performance as an emergency practice physician or as a surgeon by any patients, hospitals, or boards.

(These facts are established by the testimony at pages 66, line 9 through page 67, line 16 and page 113, line 14 through page 114, line 2 of the transcript).

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CONCLUSIONS OF LAW

1. The Respondent's conduct in illegally processing drug documents, and his pattern of using controlled substances in conjunction with alcohol, when coupled with his self-administration of Percodan due to drug dependency, leads the Hearing Officer to conclude that Prasad J. Athota, M.D., violated Section 4731.22(B)(2), Ohio Revised Code, by failing to use reasonable care discrimination in the administration of drugs.

2. The conduct of Prasad J. Athota, M.D., in illegally processing drug documents when coupled with his admission at page 55 of the transcript leads the Hearing Officer to conclude hold that Prasad J. Athota, M.D., violated Section 4731.22(B)(3), Ohio Revised Code, by prescibing and thereafter self-administering drugs for other than legal and legitimate therapeutic purposes.

3. The testimony of Respondent establishes that he undertook the treatment and care of a patient with back and neck problems, and that he prescribed Percodan during the course of said treatment. It can reasonably be inferred from the surrounding circumstances and facts that the Respondent prescribed to the patient only that amount of Percodan which in the opinion of the Respondent was medically necessary for the treatment of the patient's condition, and no greater amount. Thereafter, the Respondent requested of and received from the patient Percodan for Respondent's own use, thereby sacrificing the degree of potential pain relief available to the patient in favor of making Percodan available for the Respondent's personal use. Such conduct clearly constitutes a departure from and a failure to conform to minimal standards of care of similar practitioners under the same or similar circumstances, in contravention of Section 4731.22(B)(6), Ohio Revised Code.

4. Dr. Prasad Athota's admitted chemical dependency, as well as his guilty plea to charges of illegally processing drug documents, gave this Board sufficient basis for questioning his ability to practice medicine. However, his subsequent treatment and monitoring, documented in Dr. Redmond's report, provide adequate assurance that Dr. Athota is currently able to practice according to acceptable and prevailing standards of care. Accordingly, this Hearing Officer finds no violation of Section 4731.22(B)(15), as in effect prior to March 17, 1987.

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PROPOSED ORDER

It is hereby ORDERED that the license of Prasad J. Athota, M.D., to practice medicine and surgery in the State of Ohio be REVOKED. Such revocation is ordered stayed, and the Respondent is hereby placed on probation for a term of five (5) years, provided he complies with the following terms and conditions:

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1. Dr. Athota shall immediately surrender his United States Drug Enforcement Administration Certificate. Further, Dr. Athota shall be ineligible to hold and shall not apply for, registration with the United States Drug Enforcement Administration to prescribe, dispense, or administer controlled substances without prior approval of the State Medical Board of Ohio.

2. Dr. Athota shall abstain completely from the personal use of alcohol.

3. Dr. Athota shall abstain completely from the personal use of drugs, except those available for purchase over the counter, or those prescribed, administered, or dispensed to Dr. Athota by another so authorized by law who has full knowledge of Dr. Athota's history of chemical dependency.

4. Dr. Athota shall submit to random urine screenings for drugs on a weekly basis or as otherwise directed by the Board. Dr. Athota shall ensure that all screening reports are forwarded directly to the Board on a monthly basis.

   Dr. Athota shall submit the required urine specimens to a supervising physician to be approved by the Board. The supervising physician shall ensure that the urine specimens are selected for screening on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over all specimens is maintained. In the event that the designated supervising physician becomes unable or unwilling to serve, Dr. Athota must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable.

5. The Board retains the right to require Dr. Athota to submit blood or urine specimens for analysis upon request and without prior notice.

6. Dr. Athota shall appear in person for interviews before the Board, or its designated representative at three (3) month intervals, or as otherwise requested by the Board.

7. Within thirty (30) days of the effective date of this Order, Dr. Athota shall undertake and maintain participation in an alcohol and drug rehabilitation program acceptable to the Board, such as A.A., N.A., or Caduceus, no less than three (3) times per week.

   At his appearances before the Board or its designated representative, Dr. Athota shall submit documentary evidence of continuing compliance with these programs.

8. Dr. Athota shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all of the conditions of this Order.

9. In the event that Dr. Athota should leave Ohio for three (3) consecutive months, or reside or practice outside the State of Ohio, Dr. Athota 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.

10. Dr. Athota shall obtain the approval of the Board for any medical practice or employment related to the health care field. The Board shall consider, among other factors, the adequacy and continuity of supervision and the feasability of restricted access to controlled substances, which will ensure protection of the public, prior to approval or disapproval of the proposed employment.

11. Within thirty (30) days of the effective date of this Order Dr. Athota shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the full Board, Dr. Athota shall undergo and continue psychiatric treatment no less than twice per month, or as otherwise directed by the Board. Dr. Athota shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board.

12. In the event that Dr. Athota violates the terms of his probation in any respect, the Board, after giving Dr. Athota notice and the opportunity to be heard, may set aside the stay and impose the revocation of Dr. Athota's medical license.

13. Upon successful completion of this probation, Dr. Athota's certificate to practice medicine and surgery in the State of Ohio shall be fully restored.

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OHIO STATE MEDICAL BOARD

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

Lauren Lubow
Hearing Examiner
State Medical Board of Ohio

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EXCERPT FROM THE MINUTES OF SEPTEMBER 9, 1987

REPORTS AND RECOMMENDATIONS

Mr. Culley and Ms. Nester left the meeting at this time.

Dr. Stephens asked if each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Dr. Roy D. Goodwin, Dr. Bashar Kahaleh, Dr. Prasad Athota, Dr. Robert Green, Dr. Joseph C. Woofter, Dr. Nilda Lopez-Mata, and Dr. Robert L. Westerheide. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Buchan	- aye
	Dr. Lovshin	- aye
	Dr. Rothman	- nay
	Dr. Rauch	- aye
	Mr. Albert	- aye
	Dr. O'Day	- aye
	Ms. Rolfes	- aye
	Mr. Johnston	- abstain
	Dr. Stephens	- aye

Dr. Rothman stated that he will abstain from matters concerning Dr. Joseph C. Woofter and Dr. Robert L. Westerheide because he did not read the materials.

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REPORT AND RECOMMENDATION IN THE MATTER OF PRASAD ATHOTA, M.D.

Dr. Stephens stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and order in the above matter. No objections were voiced by Board Members present.

Dr. Stephens stated that it is his understanding that Dr. Athota wishes to move for admission of additional evidence in the nature of a followup report from Dr. Paul Redmond and a letter from Dr. David S. Williams. Dr. Athota stated that this is correct.

DR. LOVSHIN MOVED TO GRANT DR. ATHOTA'S REQUEST FOR ADMISSION OF ADDITIONAL EVIDENCE TO THE RECORD. DR. ROTHMAN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Buchan	- abstain
	Dr. Lovshin	- aye
	Dr. Rothman	- aye
	Dr. Rauch	- aye
	Mr. Albert	- aye
	Dr. O'Day	- aye

Ms. Rolfes	- aye
Mr. Johnston	- abstain

The motion carried.

At this time Dr. Athota distributed copies of evidence he wished to submit to the Board Members, and time was taken to read the information.

Dr. Stephens advised that Dr. Athota has also submitted a request to address the Board. He added that three affirmative votes are necessary to grant this request.

DR. BARNES MOVED TO GRANT DR. ATHOTA'S REQUEST TO ADDRESS THE BOARD. DR. BUCHAN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:

Dr. Cramblett	- abstain
Dr. Lancione	- aye
Dr. Barnes	- aye
Dr. Buchan	- aye
Dr. Lovshin	- aye
Dr. Rothman	- aye
Dr. Rauch	- aye
Mr. Albert	- aye
Dr. O'Day	- aye
Ms. Rolfes	- aye
Mr. Johnston	- abstain

The motion carried.

Mr. Culley returned to the meeting at this time.

Dr. Stephens advised Dr. Athota that there is no court reporter present, but instead the Board's minutes serve as the Board's official record of the meeting. He asked if Dr. Athota had any objection to the absence of a court reporter. Dr. Athota stated that he did not.

Dr. Athota stated that there has been a mistake. He stated that he cannot undo what has been done, but he realizes that what happened was the consequence of a disease. He did not realize this at the time. Dr. Athota stated that he is willing to take responsibility for his actions and is willing to comply with the Board's restrictions. He asked that the Board permit him to keep his D.E.A. Dr. Athota stated that he had been off surgical practice for a year and reentered it six months ago. He stated that he would lose his hospital privileges if his D.E.A. were removed. Dr. Athota stated that he would work around it, if the Board decides to take those privileges from him.

Dr. Athota stated that he does feel good about himself, and he appreciates the Board's indulgence. He stated that when the Board suggested he go to Shepherd Hill before, he thought he was being persecuted, but now he feels that it was the best four months of his life.

Dr. Rauch asked Dr. Athota if he could work around not having a D.E.A. Dr. Athota stated that he could if he just did general practice and not surgery. Dr. Rauch suggested that the attending physician could write orders for prescriptions. Dr. Athota stated that most hospitals require an unrestricted D.E.A. for staff privileges.

Dr. Barnes stated that it is very close to impossible to carry on a surgical practice without a D.E.A. A physician would have to find someone else to write his postoperative orders.

In response to Dr. Lancione's questions, Dr. Athota stated that his last episode with drugs or alcohol was in February, 1986. He is working his program one day at a time, and is doing all right today.

Ms. Rolfes suggested that the Board could issue an order permitting Dr. Athota the use of his D.E.A. in restricted settings, such as in a hospital.

Dr. Buchan stated that that would make it difficult for the physician to treat the patient after the patient is released from the hospital.

DR. BARNES MOVED TO APPROVE AND CONFIRM MS. LUBOW'S FINDINGS OF FACT IN THE MATTER OF PRASAD ATHOTA, M.D. DR. O'DAY SECONDED THE MOTION. A roll call vote was taken:

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

The motion carried.

DR. BARNES MOVED TO APPROVE AND CONFIRM MS. LUBOW'S CONCLUSIONS IN THE MATTER OF PRASAD ATHOTA, M.D. DR. BUCHAN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Buchan	- aye
	Dr. Lovshin	- aye
	Dr. Rothman	- aye
	Dr. Rauch	- aye
	Mr. Albert	- aye
	Dr. O'Day	- aye

Ms. Rolfes	- aye
Mr. Johnston	- abstain

The motion carried.

DR. BARNES MOVED TO APPROVE AND CONFIRM MS. LUBOW'S PROPOSED ORDER IN THE MATTER OF PRASAD ATHOTA, M.D. DR. O'DAY SECONDED THE MOTION.

Dr. Buchan asked if Dr. Athota was in private, solo practice. Dr. Stephens stated that he is.

DR. BARNES MOVED TO AMEND MS. LUBOW'S PROPOSED ORDER IN THE MATTER OF PRASAD ATHOTA, M.D. BY DELETING PARAGRAPH NUMBER 1 OF THE PROPOSED ORDER. DR. O'DAY SECONDED THE MOTION.

Dr. Barnes stated that it serves in Dr. Athota's best interest to let him practice surgery unfettered. The loss of his D.E.A. would cause additional anxiety for him. Dr. Barnes noted that every letter the Board has received regarding Dr. Athota has shown he is doing well. Permitting him to practice surgery in a normal manner would be more to his benefit than requiring a restricted license.

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

ROLL CALL VOTE:

Dr. Cramblett	- abstain
Dr. Lancione	- aye
Dr. Barnes	- aye
Dr. Buchan	- aye
Dr. Lovshin	- aye
Dr. Rothman	- aye
Dr. Rauch	- aye
Mr. Albert	- aye
Dr. O'Day	- aye
Ms. Rolfes	- aye
Mr. Johnston	- abstain

The motion carried.

DR. O'DAY MOVED TO APPROVE AND CONFIRM MS. LUBOW'S PROPOSED ORDER AS AMENDED. DR. BARNES SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:

Dr. Cramblett	- abstain
Dr. Lancione	- aye
Dr. Barnes	- aye
Dr. Buchan	- aye
Dr. Lovshin	- aye
Dr. Rothman	- aye
Dr. Rauch	- aye
Mr. Albert	- aye
Dr. O'Day	- aye

Ms. Rolfes	- aye
Mr. Johnston	- abstain

The motion carried.

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

April 29, 1986

Prasad J. Athota, M.D.
4021 Harrison Avenue
Cincinnati, OH 45211

Dear Doctor Athota:

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 28, 1986, you were charged by bill of information in Hamilton County, Ohio, with two (2) counts of violating Section 2925.23(B)(1), Ohio Revised Code, Illegal Processing of Drug Documents, each said count constituting a felony of the third degree. Said charges alleged that you intentionally made false prescriptions for the Schedule II Controlled Substance, Percodan, in the amount of thirty (30) capsules on November 16, 1985, and in the amount of thirty (30) capsules on February 8, 1986. On or about April 4, 1986, you entered a plea of guilty to said charges and filed with the Hamilton County Court of Common Pleas a motion requesting treatment in lieu of conviction. Said motion alleged, inter alia, that your drug dependence or danger of becoming drug dependent was a factor leading to the criminal activity with which you were charged.

Your acts in violating Section 2925.23(B)(1), Ohio Revised Code, as alleged in the above paragraph (1) individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease," as that clause is used in Section 4731.22(B)(
Ohio Revised Code.

Further, such acts, individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimat therapeutic purposes," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

Further, such acts, individually and/or collectively, constitute "a departure from, or the failure to conform to, minimal standards of care of similar practition 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.

Further, such acts, individually and/or collectively, suggest that you are unable to practice according to acceptable and prevailing standards of care by reason of illness, excessive use of alcohol, excessive use of controlled substances, drugs, or chemicals, or as a result of a mental or physical condition, in violation of Section 4731.22(B)(15), Ohio Revised Code.

The State Medical Board is required by Section 3719.121, Ohio Revised Code, to suspend the license or registration of any practitioner who is or becomes addicted to the use of controlled substances until such practitioner offers satisfactory proof to the Board that he is no longer addicted to the use 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 made within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Henry G. Cramblett, M.D.
Secretary

HGC:jmb

Enclosures:

CERTIFIED MAIL #P 569 363 445
RETURN RECEIPT REQUESTED