The court document for this date cannot be found in the records of the Ohio State Medical Board.

IN THE COURT OF APPEALS
TENTH APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO

IN THE MATTER OF:	:	
DONALD R. WILLIAMS, M.D.	::	CASE NO. 89 AP 777
	:	
(State Medical Board of Ohio,	:	
	:	
Defendant-Appellant).	:	

FILED
COURT OF APPEALS
FRANKLIN CO. OHIO
1990 JUN 14 PM 3: 49
THOMAS J. EMIGH
CLERK OF COURTS

NOTICE OF APPEAL TO THE SUPREME COURT OF OHIO

The Defendant-Appellant, Ohio State Medical Board, hereby gives notice of appeal to the Supreme Court of Ohio from the judgment rendered by the Court of Appeals of Franklin County, Ohio entered on May 15, 1990 affirming the judgment of the Court of Common Pleas for Franklin County, Ohio. The case did not originate in the Court of Appeals, but does present a question of great general interest. A copy of the Journal Entry of the Court of Appeals of Franklin County, Ohio is attached hereto.

Respectfully submitted,

ANTHONY J. CELEBREZZE, JR.
Attorney General

STEVEN P. DLOTT
Assistant Attorney General
Health, Education and Human
Services Section
30 East Broad Street, 15th Floor
Columbus, Ohio 43266-0410
(614) 466-8600

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Notice of Appeal to the Supreme Court of Ohio was sent via regular United States Mail this 14 day of June,, 1990 to Earl Jay Maiman and Louis F. Solimine, Paxton & Seasongood, 1700 Central Trust Tower, Cincinnati, Ohio 45202.

STEVEN P. DLOTT
Assistant Attorney General

9659S

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

In the Matter of:	:	
Donald R. Williams, M.D.,	:	
(State Medical Board of Ohio,	:	No. 89AP-777
Defendant-Appellant).	:	(REGULAR CALENDAR)

O P I N I O N

Rendered on May 15, 1990

PAXTON & SEASONGOOD, MR. EARLE JAY MAIMAN and MR. LOUIS F. SOLIMINE, for appellee.

MR. ANTHONY J. CELEBREZZE, JR., Attorney General, MR. STEVEN P. DLOTT and MR. JOHN C. DOWLING, for appellant.

APPEAL from the Franklin County Common Pleas Court.

BRYANT, J.

Defendant-appellant, State Medical Board of Ohio, appeals from a judgment of the Franklin County Common Pleas Court reversing appellant's order suspending plaintiff-appellee's medical license for a three-year probationary period. Appellant sets forth a single assignment of error:

> "The court of common pleas erred by ruling that the board's order is not supported by reliable, probative and substantial evidence and is not in accordance with law."

By letter dated March 12, 1987, appellant notified appellee that his prescribing practices allegedly violated several provisions of R.C. 4731.22(B): (1) that he had failed to use reasonable care

discrimination in administering drugs, or had failed to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease, (2) that he was selling, prescribing or giving away or administering drugs other than for legal or legitimate therapeutic purposes, and (3) that his prescribing practices were a departure from, or a failure to conform to, the minimal standards of care of similar practitioners under the same or similar circumstances, whether or not any patient sustained actual injury. Included in the letter were a list of patients, the dates on which appellee had prescribed a controlled substance, primarily Biphetamine, to each patient, and the amount of the controlled substance prescribed on each date. Biphetamine is a Schedule II FDA-approved prescription drug used for the suppression of appetite in connection with the treatment of obesity.

A hearing on the foregoing charges was held before a hearing officer of the State Medical Board of Ohio. Appellant presented appellee's testimony as on cross-examination, as well as a number of exhibits, including the patient records for fifty-one patients which formed the basis for the information contained in appellant's March 12, 1987 letter to appellee. Appellant also presented excerpts from the 1979 Physicians' Desk Reference regarding Biphetamine, an excerpt from the 1979 Physicians' Desk Reference regarding Obetrol, and an excerpt from Facts and Comparisons regarding amphetamines.

Appellee presented not only his own testimony, but that of Eljorn Don Nelson, a doctor of pharmacology, John P. Morgan, M.D., and Sister Mary George Boklege, president of the Clermont Mercy Hospital in

Batavia, Ohio, as well as various articles and treatises pertaining to the prescription of drugs for purposes of weight control.

Based on the evidence presented to her, the hearing officer prepared a written report, including findings of fact and conclusions of law. The hearing officer's findings of fact are essentially as follows:

> 1. Appellee wrote or otherwise authorized prescriptions for the patients at issue.
>
> 2. With noted exceptions, appellee prescribed either Biphetamine or Obetrol for those patients for purposes of weight control. Generally, he continued such treatment over extended periods of time, often for well over a year, but each patient was required to return for weight and usually blood pressure checks in order to obtain additional prescriptions. In the case of four separate patients, amphetamines were prescribed for weight control over periods from seven to nine years.
>
> 3. Appellee was aware that the Physicians' Desk Reference recommended that Biphetamine or Obetrol be used for control of obesity only as a short-term adjunct to a regimen of weight reduction.
>
> 4. Upon beginning a weight control program with his patients, appellee gave the patient diet information in addition to a drug prescription. He discussed exercise and sometimes behavior modification with the patients. His therapeutic regimen was based on the oral history given by the patient. As a result, he often prescribed Schedule II amphetamines at the outset of treatment because the patient related the ineffectiveness of other past medications.
>
> 5. Appellee first became aware of appellant's November 1986 rule concerning the prescription of controlled substances for weight control sometime around the last week of December 1986. See Ohio Adm. Code 4731-11-03. Since that time, appellee has discontinued prescribing Schedule II controlled substances for purposes of weight control in accordance with the rule.

Based thereon, the hearing examiner concluded that appellee's patient records "fail to reflect that he selected treatment modalities based upon individual evaluation" of the patients at issue. In particular, the hearing officer noted that appellee "utilized long-term treatment with amphetamines in cases of mild, as well as severe, obesity"; and that such "treatment was generally continued, apparently without regard to the amount of weight the patient lost or gained." Although noting several of appellee's contentions, and giving passing reference to the testimony of Dr. Morgan, the hearing officer concluded that:

> "Dr. Williams' prescribing practices not only disregarded the recognized risks of long-term amphetamine use, but also bore no perceivable relationship to the severity of the obesity or to the significance of results achieved from such therapy. Such practice, even when no harm to patients is shown, simply falls below minimal standards of care for medical practitioners. Furthermore, such prescribing for purposes of maintaining weight or preventing possible weight increases, especially for those patients who had not been diagnosed as obese (Patients 29, 31, 32, and 55), has no legitimate therapeutic purpose. ***"

Based thereon, the hearing officer determined that appellee had in fact violated the provisions of R.C. 4731.22(B) as alleged in appellant's March 12, 1987 letter. She further recommended that appellee's license to practice medicine be revoked, but that the revocation be stayed subject to a probationary term of three years with certain terms and conditions, including a requirement that appellee keep a log of all controlled substances prescribed, dispensed, or administered during the probationary period.

The board as a whole considered the hearing examiner's report and recommendation, and adopted the report, including the findings of fact

and conclusions of law. However, contrary to the recommendation of the hearing officer, the board revoked appellee's license for a period of three years, and stayed the revocation pending a suspension for a minimum of one year, to be followed by a probationary term of not less than five years on certain terms and conditions, including a permanent suspension of appellee's ability to prescribe, administer, dispense, order, or possess controlled substances.

Appellee appealed to the common pleas court, which, on review of the transcript of the proceedings before the medical board, found the board's order not to be supported by reliable, substantial, and probative evidence and not in accordance with law. Appellant appeals therefrom, contending that the common pleas court erred in its determination.

We begin our analysis with the Supreme Court's pronouncement in Univ. of Cincinnati v. Conrad (1980), 63 Ohio St. 2d 108, which described the standard of review in appeals pursuant to R.C. 119.12. As the Supreme Court noted:

> "In Andrews v. Bd. of Liquor Control (1955), 164 Ohio St. 275, paragraph one of the syllabus, this court held that a Court of Common Pleas must, in an appeal pursuant to this section, appraise all the evidence 'as to credibility of witnesses, the probative character of the evidence and the weight to be given it, and, if from such a consideration it finds that the *** [administrative] order is not supported by reliable, probative, and substantial evidence and is not in accordance with law, the court is authorized to reverse, vacate, or modify the order ***.' ***.
>
> "***
>
> "In Andrews, this court acknowledged that determining whether an agency order is supported by reliable, probative and substantial evidence

> essentially is a question of the absence or presence of the requisite quantum of evidence. Although this in essence is a legal question, inevitably it involves a consideration of the evidence, and to a limited extent would permit a substitution of judgment by the reviewing Common Pleas Court. Id. at 110-111.

Once the trial court has made its determination, our review is limited:

> "*** As we have noted time and again, the role of an appellate court, in reviewing a determination of a court of common pleas on reliable, probative and substantial evidence, is to determine if the lower court abused its discretion. ***" Hartzog v. Ohio State Univ. (1985), 27 Ohio App. 3d 214, 216.

Hence the issue before the medical board was whether appellee's prescribing of Schedule II controlled substances for purposes of weight control fell below the reasonable standard of care and had no legitimate therapeutic purpose. The issue presented to the common pleas court was whether the medical board's determination was supported by substantial, reliable, and probative evidence and was in accordance with law. By contrast, the issue presented to us is whether the common pleas court abused its discretion in finding that the medical board's order was not supported by substantial, reliable, and probative evidence and was not in accordance with law.

While appellant presented no witnesses regarding the appropriate standard of care in this case, appellee presented the testimony of two expert witnesses, both of whom testified to a "majority" view and a "minority" view regarding the prescription of amphetamines for purposes of weight control. According to their testimony, the majority view holds that amphetamines, and Schedule II controlled substances in general, should not

be prescribed for more than short periods of four to six weeks in efforts to control weight. On the other hand, the minority view believes that the prescription of amphetamines for weight control may properly extend over long periods of time. While neither of appellee's experts themselves subscribed to the minority view, both acknowledged it as a viable theory for weight control. As a result, in response to an inquiry as to whether the record contained any evidence that appellee had sold, prescribed, or given away or administered drugs for other than legitimate therapeutic purposes, Dr. Nelson responded: "The opinion is that I don't see any indication of that in the records that I was given to review." When both experts were asked if appellee departed from minimal standards of care of similar practitioners under the same or similar circumstances, Dr. Nelson responded: "My opinion is that the standard of care that's expressed in the records is consistent with the standards for prescribing these medications for the time period that's indicated." Similarly, Dr. Morgan stated: "Williams did not depart from medical standards of care."

Given the foregoing, appellee suggests that the referee properly concluded that appellant had simply failed to provide enough evidence on which to find appellee in violation of R.C. 4731.22(B). Appellant, however, relying on Arlen v. State (1980), 61 Ohio St. 2d 168, contends that it was not required to present testimony that appellee's conduct fell below the standard of care. Specifically, appellant relies on the language of Arlen which states:

> "For the reasons hereinafter set forth, expert testimony as to a standard of practice is not mandatory in a license revocation hearing and the board may rely on its own expertise to determine

> whether a physician failed to conform to minimum standards of care." Id. at 172.

See, also, id. at syllabus.

In Arlen, the physician was charged with improperly dispensing drugs by writing prescriptions for Schedule II narcotics in one name, only to allow that individual to distribute the drugs to addicts to allay the effects of abrupt withdrawal. The court held that the medical board did not need to present expert testimony in that instance, as the board's expertise allowed it to conclude that one may not properly so dispense drugs. The court first noted:

> "'*** The purpose of the General Assembly in providing for administrative hearings in particular fields was to facilitate such matters by placing the decision on facts with boards or commissions composed of men equipped with the necessary knowledge and experience pertaining to a particular field. ***'" Id. at 173 (quoting Farrand v. State Medical Board (1949), 151 Ohio St. 222, 224).

The court concluded:

> "*** The very purpose for having such a specialized technical board would be negated by mandating that expert testimony be presented. Expert opinion testimony can be presented in a medical board proceeding, but the board is not required to reach the same conclusion as the expert witness. The weight to be given to such expert opinion testimony depends upon the board's estimate as to the propriety and reasonableness, but such testimony is not binding upon such an experienced and professional board." Id. at 174.

Appellant urges that we apply Arlen in this case, and relieve the medical board of any obligation to present expert testimony regarding the standard of care appropriate to the facts herein. We note, though, that, just as the record indicates the existence of "majority" and "minority" views on the subject of prescribing amphetamines, majority and

minority views exist on the issue of the need for expert testimony supporting a specialized board's decision. On the latter subject, Ohio takes the minority view, in that a majority of the jurisdictions in which the highest court has considered the issue requires that expert testimony supporting a board's decision appear in the record. See, e.g., In re Schramm (S.D. 1987), 414 N.W. 2d 31, 37; Gilbert v. State (Wisc. 1984), 349 N.W. 2d 68, 84; Dailey v. North Carolina State Board of Dental Examiners (N.C. 1983), 309 S.E. 2d 219, 227-228; Arthurs v. Board of Registration in Medicine (Mass. 1981), 418 N.E. 2d 1236, 1244; Dotson v. Texas State Board of Medical Examiners (Tex. 1981), 612 S.W. 2d 921, 923-924; Hake v. Arkansas State Medical Board (Ark. 1964), 374 S.W. 2d 173, 176; Smith v. Department of Registration & Education (Ill. 1952), 106 N.E. 2d 722, 730; McKay v. State Board of Medical Examiners (Colo. 1938), 86 P. 2d 232, 236. The Ohio Supreme Court's Arlen decision places Ohio in the group of jurisdictions with high courts that have held that expert testimony is unnecessary. See, e.g., Appeal of Beyer (N.H. 1982), 453 A. 2d 834, 837; Ferguson v. Hamrick (Ala. 1980), 388 So. 2d 981, 983; Jaffe v. State Department of Health (Conn. 1949), 64 A. 2d 330, 349-350, quoted in Arlen, supra.

The primary rationale for the majority approach to the issue of expert testimony is the need to preserve a record for judicial review. The Supreme Judicial Court of Massachusetts in Arthurs, supra, stated the rationale as follows:

> "*** The board, however, argues that since most of the members of the board are experts, the board can use its expertise without the evidentiary basis of that expertise appearing in the record. 'This

> startling theory, if recognized, would not only render absolute a finding opposed to uncontradicted testimony but would render the right of appeal completely inefficacious as well. A board of experts, sitting in a quasi-judicial capacity, cannot be silent witnesses as well as judges.' ***" Id. at 1244 (quoting New Jersey Bd. of Optometrists v. Nemitz (N.J. Super. 1952), 90 A. 2d 740).

See, also, In re Schramm, supra, at 35-36; McKay, supra, at 236.

The approach of the majority jurisdictions would also tend to lessen the problems of lack of notice and lack of an opportunity to cross-examine. In essence, appellant's contentions would require a physician to determine, without the benefit of cross-examination or explicit testimony, what the board's expert opinion, individually or collectively, might be, and then to present evidence to refute that opinion. Indeed, in some instances, the physician would be relegated to presenting some expert testimony in the offhand chance that the testimony may be able to persuade the board that its own opinion, whatever that may be, is invalid.

We do not intend to suggest that the Supreme Court incorrectly decided Arlen or that we are not bound by the Arlen decision. Nevertheless, Arlen is not entirely dispositive of the present case, since Arlen merely held that expert testimony is unnecessary. The Arlen court did not find that judicial review, notice, or meaningful cross-examination were unnecessary. In Franz v. Board of Medical Quality Assurance (Cal. 1982), 642 P. 2d 792, the California Supreme Court, like the Ohio Supreme Court in Arlen, noted:

> "*** A unique efficiency of many agencies is the professional competence they bring to matters delegated to them by the Legislature. We think an

> agency factfinder may, for example, reject uncontradicted opinion testimony that his own expertise renders unpersuasive. [Citations omitted.] A fortiori, the same expertise may govern even when the record contains no opinion evidence at all." Id. at 799.

However, the Franz court also noted that, even though the board had expertise, a court "cannot impute similar knowledge to a reviewing judge untrained in medical matters." Id. at 798. The court also found that:

> "*** [D]ue process requires, when in an adjudication an agency intends to rely on members' expertise to resolve legislative-fact issues, that it notify the parties and provide an opportunity for rebuttal. ***" Id. at 799.

The court concluded:

> "The agency's notification must be complete and specific enough to give an effective opportunity for rebuttal. It must also help build a record adequate for judicial review. ***" Id. at 800.

Footnote 8, states:

> "Arguably the notification should include a brief statement explaining the opinion held by the adjudicative body, the reasons for the opinion, and the members' qualifications to hold it."

We find the approach of the California Supreme Court in Franz persuasive. First, as we have previously noted, Franz is consistent with Arlen. Second, we believe that the Franz approach will effectuate, not only the General Assembly's intent in creating a specialized board, but also the legislature's subjection of the board to the procedures and appellate review provisions of R.C. Chapter 119. See R.C. 4731.22(B).

In addition, reliance upon Arlen in the present case would be an extension of Arlen beyond its original factual context. More

particularly, in this case, appellee presented two experts who testified that a valid and viable minority view exists which holds that long-term prescription of amphetamines for purposes of weight control is a legitimate therapeutic course of treatment and conforms with a reasonable standard of care. While appellee unquestionably failed to comply with the majority view, the record reveals nothing to suggest that appellee deviated from minority view or that that view falls below reasonable standards of care. Whether or not the board subscribes to the minority view does not eliminate, on the evidence in the record, the minority view and appellee's compliance therewith.

In contrast, the physician in Arlen presented no expert testimony that his practice conformed to an accepted medical view. Moreover, a specific provision in R.C. 3709.06(A) prohibited Dr. Arlen's conduct. See Arlen, supra, at 175-176. Arlen thus seems closer to a case in which no expertise is needed to determine the matter because the case involves "the commission of acts which are blatantly illegal or improper." Schram, supra, at 37. See, also, Franz, supra, at 800 ("lay comprehension standard").

We therefore conclude that, although the board does not have to base its decisions on testimony, the board's decisions ordinarily require the support of reliable, probative, and substantial evidence in the record. In addition, in cases in which the board relies upon specialized medical knowledge, the board must provide the physician with notice of and an opportunity to refute the evidence upon which the board relies.

The facts of the present case illustrate the difficulty of reviewing a decision of the board when the basis of the decision does not

appear in the record. Subsequent to the time in which appellee committed the alleged violations for which he was sanctioned, appellant promulgated Ohio Adm. Code 4731-11-03, entitled "Schedule II controlled stimulants." The rule reflects the position that appellee's witnesses characterized as the majority view. The rule also states that a violation constitutes grounds for discipline under R.C. 4731.22(B)(2), (B)(3), and (B)(6), which were the statutory provisions that formed the basis for the charges against appellee. Given the lack of evidence on the standard of care used by the board, one could well conclude on this record that the board simply ignored appellee's evidence on the minority view and retroactively applied Ohio Adm. Code 4731-11-04. Admittedly, the board can, in its discretion, choose to resolve a dispute through adjudication as well as rule-making, Hamilton Cty. Bd. of Mental Retardation & Developmental Disabilities v. Professionals Guild of Ohio (1989), 46 Ohio St. 3d 147, paragraph two of the syllabus; National Labor Relations Bd. v. Bell Aerospace Co. Div. of Textron Inc. (1974), 416 U.S. 267, 291-295, and "[e]very case of first impression has a retroactive effect, whether the new principle is announced by a court or by an administrative agency." Blue Cross v. Ratchford (1980), 64 Ohio St. 2d 256, 263 (quoting Securities & Exchange Comm. v. Chenery (1947), 332 U.S. 194, 203). However, the board arguably could not apply the rule retroactively without considering whether appellee's conduct conformed to the standard that existed at the time. See Bowen v. Georgetown Univ. Hospital (1988), 488 U.S. _____, 102 L. Ed. 2d 493, 500. ("Retroactivity is not favored in the law ***. [A] statutory grant of legislative rulemaking authority will not, as a general matter, be

understood to encompass the power to promulgate retroactive rules unless that power is conveyed by Congress in express terms.")

In short, we conclude that the common pleas court did not abuse its discretion in finding the order of the board not supported by substantial, reliable, and probative evidence.

In addition, we find aspects of the board's order which are not in accordance with the law. First, the hearing officer's report is deficient. While the hearing officer reported some of the evidence, she completely failed to mention other pertinent testimony, such as that of the expert witness, Dr. Morgan. Similarly, she failed to report certain aspects of appellee's testimony regarding his prescribing Biphetamine. See Ohio State Medical Bd. v. Ioannidis (June 18, 1987), Allen App. No. 1-86-52, unreported.

Finally, although the case law indicates that our authority to review penalties imposed by an agency is relatively limited in cases in which reliable, probative, and substantial evidence supports the agency's findings, see Henry's Cafe, Inc. v. Bd. of Liquor Control (1959), 170 Ohio St. 233, paragraph three of the syllabus, in the present case, we find it necessary to briefly comment on the penalty imposed upon appellee. Specifically, the hearing officer recommended a three-year probationary period during which time appellee would be allowed to continue to prescribe controlled substances under the supervision of the board. In rejecting the hearing officer's recommendation, the board revoked appellee's license for three years, stayed that revocation pending a one-year suspension and a three-year probationary period. However, appellee was to be deprived

permanently of his ability to prescribe all controlled substances. For a general practitioner, deprivation of the right to prescribe all controlled substances in effect virtually deprives him or her of the ability to practice medicine. While that may be an appropriate punishment in certain instances, the facts of this case do not support such a severe sanction, as the evidence indicates that appellee at all times complied with the reasonable standard of care as held by the minority view; and that when he learned of the board's order prohibiting the prescription of amphetamines for purposes of weight control, he ceased the prohibited activity immediately. In such circumstances, a total revocation of appellee's ability to prescribe controlled substances in any aspect of his practice is unduly harsh and unnecessarily deprives appellee of the ability to practice medicine.

Accordingly, we overrule appellant's single assignment of error. The judgment of the common pleas court is affirmed.

Judgment affirmed.

McCORMAC and COX, JJ., concur.

COX, J., of the Gallia County Court of Common Pleas, sitting by assignment in the Tenth Appellate District.

The court document for this date cannot be found in the records of the Ohio State Medical Board.

EJM/bac
5/30/89

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

DONALD R. WILLIAMS, M.D.,	:	CASE NO. 88CV-02-1425
Appellant,	:	
-vs-	:	
STATE MEDICAL BOARD OF OHIO,	:	**JUDGMENT ENTRY**
Appellee.	:	

TERMINATED

In accord with this Court's Decision of May 22, 1989, and based upon the entire record in this cause, the Court finds that the Order of the State Medical Board from which this appeal is taken is not supported by reliable, probative and substantial evidence and is not in accordance with law.

Accordingly, judgment is hereby granted to Appellant, Donald R. Williams, M.D. reversing and vacating said Order of the State Medical Board and holding same for naught.

Costs are taxed against Appellee, State Medical Board of Ohio.

IT IS SO ORDERED.

Judge Cain

Earle Jay Maiman
Attorney for Appellant
THOMPSON, HINE AND FLORY
Paxton & Seasongood Office
1700 Central Trust Tower
Cincinnati, Ohio 45202
(513) 352-6747

John Dowling (DOW08)
Assistant Attorney General
Attorney for Appellee
Health, Education and Human Services Dept.
16th Floor
State Office Tower
30 E. Broad Street
Columbus, Ohio 43266

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Donald R. Williams, M. D.,	:	
Appellant,	:	1989 MAY 22 PM 4:14
vs.	:	Case No. 88CV-02-1425
State Medical Board of Ohio,	:	CLERK OF COURTS Judge Cain
Appellee.	:	

DECISION

Rendered this 22nd day of May, 1989.

CAIN, J.

This matter came before the Court on objections to the Report of the Referee filed on January 20, 1989.

The Court has considered the transcripts and various briefs and has reached the same conclusions as the Referee, to wit: the Board's Order was not supported by reliable, probative and substantial evidence and the Board's Order was not in accordance with law. The Court's Decision is based on the same reasoning as outlined in the Referee's Report.

The Report shall, therefore, be approved and adopted.

Appellant to submit Entry in accordance wtih Local Rule 39.01.

David E. Cain

DAVID E. CAIN, JUDGE

Copies to:

Earle Jay Maiman
Louis F. Solimine
Attorneys for Plaintiff

Christopher J. Costantini
Attorney for Defendant

EJM/cnh
2/23/88

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF:

DONALD R. WILLIAMS, M.D. NOTICE OF APPEAL

Notice is hereby given that Donald R. Williams, M.D. appeals the Order of the State Medical Board of Ohio dated February 12, 1988, a true and accurate copy of which is attached hereto and incorporated by reference herein.

The grounds for this appeal are:

1. The Order is not supported by reliable, probative and substantial evidence;

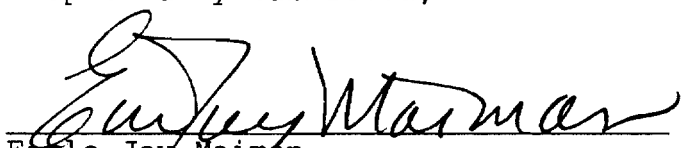
2. The Order is not in accordance with law in that Dr. Williams was denied a hearing with respect to certain allegations made against him by the State Medical Board;

3. The Order is contrary to law in that it purports to provide for reinstatement of Dr. Williams while establishing a limitation upon his practice subsequent to reinstatement which makes the reinstatement a vain act and is therefore contrary to Ohio Revised Code §4731.22(g);

'88 FEB 24 A11:07

4. The Order is contrary to law in that the agency modified and/or disapproved the recommendation of the Hearing Examiner without including in the record of its proceedings the reasons for such modification or disapproval, in violation of Ohio Revised Code §119.09.

Respectfully submitted,



Earle Jay Maiman
Attorney for Donald R. Williams, M.D.
17 Central Trust Tower
Cincinnati, Ohio 45202
513/352-6747

OF COUNSEL:

Louis F. Solimine
PAXTON & SEASONGOOD
1700 Central Trust Tower
Cincinnati, Ohio 45202
513/352-6700

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

DONALD R. WILLIAMS, M.D.*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 10th and 11th of February, 1988.

Upon the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, 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 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 11th day of February, 1988.

It is hereby ORDERED:

That the license of Donald Williams, M.D., to practice medicine and surgry in the State of Ohio be REVOKED.

Such revocation is stayed, and said license is hereby SUSPENDED for a minimum period of one (1) year, to be followed by a probationary term of not less than five (5) years, upon the following terms and conditions:

1. Dr. Williams shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio.

2. Effective immediately and hereafter, Dr. Williams shall not sell, prescribe, give away, administer or dispense any controlled substances.

3. Prior to the effective date of suspension, Dr. Williams shall not undertake treatment of any patients other than those already under his care.

4. In the event that Dr. Williams should leave Ohio for three (3) continuous months, or to reside or to practice outside the state, Dr. Williams 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.

5. The State Medical Board of Ohio shall not consider reinstatement of Dr. Donald Williams' license unless the following minimum requirements are met:

   A. Dr. Williams shall submit a written application for restoration or reinstatement to the State Medical Board of Ohio and shall pay all appropriate fees;

   B. Dr. Williams shall sit for and pass the Federation Special Purposes Examination (SPEX) to assist in assessing his clincal competency;

   C. Dr. Williams shall successfully pass an oral examination in clinical medicine administered by the Secretary of the Board.

6. Upon the reinstatement of his medical license Dr. Williams shall, during the probationary period:

   A. Submit quarterly reports under penalty of perjury stating whether there has been compliance with all the conditions of probation.

   B. Appear for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise directed by the Board.

7. Upon reinstatement of his medical license and with each renewal thereafter, Dr. Williams shall submit to an audit of his Continuing Medical Education credits by the State Medical Board of Ohio.

Donald R. Williams, M.D.

8. If Dr. Williams violates any conditions of this Order, the Board, after giving Dr. Williams notice and an oportunity to be heard, may set aside the stay order and impose the revocation of his medical license.

9. Upon successful completion of probation, Dr. Williams' license to practice medicine and surgery will be restored, but shall be LIMITED in that Dr. Williams shall hereafter not prescribe, administer, dispense, order, or possess controlled substances.

This Order shall become effective 30 days from the date of mailing of notification, provided that numbered paragraphs 1, 2 and 3 of this Order shall be effective immediately.

(SEAL)

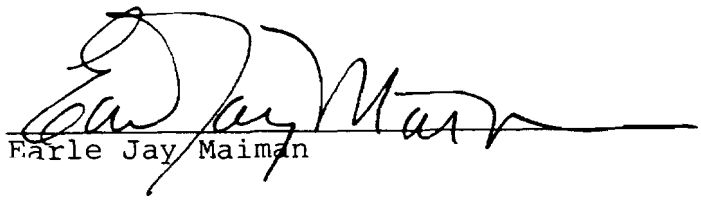
Henry G. Cromblett

Henry G. Cramblett, M.D.
Secretary

February 12, 1988
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon Christopher J. Costantini, Assistant Attorney General, Health, Education and Human Services Dept., 16th Floor, State Office Tower, 30 E. Broad Street, Columbus, Ohio 43266, by ordinary U.S. mail this 23rd day of February, 1988.



Earle Jay Maiman

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

February 12, 1988

Donald R. Williams, M.D.
473 Cinti-Batavia Pike
Cincinnati, Ohio 45244

Dear Doctor Williams:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on February 10 and 11, 1988, including Motions approving the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended 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

Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL NO. PP 158 073 960
RETURN RECEIPT REQUESTED

cc: Louis F. Solimine, Esq.

CERTIFIED MAIL NO. P 158 073 961
RETURN RECEIPT REQUESTED

Mailed 2/19/88

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 Wanita J. Sage, Attorney Hearing Examiner, State Medical Board of Ohio; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on February 10 and 11, 1988, including Motions approving the Findings of Fact and Conclusions of the Hearing Examiner and adopting an amended Order, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Donald R. Williams, 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

February 12, 1988
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

DONALD R. WILLIAMS, M.D.*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 10th and 11th of February, 1988.

Upon the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, 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 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 11th day of February, 1988.

It is hereby ORDERED:

That the license of Donald Williams, M.D., to practice medicine and surgry in the State of Ohio be REVOKED.

Such revocation is stayed, and said license is hereby SUSPENDED for a minimum period of one (1) year, to be followed by a probationary term of not less than five (5) years, upon the following terms and conditions:

1. Dr. Williams shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio.

2. Effective immediately and hereafter, Dr. Williams shall not sell, prescribe, give away, administer or dispense any controlled substances,

3. Prior to the effective date of suspension, Dr. Williams shall not undertake treatment of any patients other than those already under his care.

4. In the event that Dr. Williams should leave Ohio for three (3) continuous months, or to reside or to practice outside the state, Dr. Williams 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.

5. The State Medical Board of Ohio shall not consider reinstatement of Dr. Donald Williams' license unless the following minimum requirements are met:

   A. Dr. Williams shall submit a written application for restoration or reinstatement to the State Medical Board of Ohio and shall pay all appropriate fees;

   B. Dr. Williams shall sit for and pass the Federation Special Purposes Examination (SPEX) to assist in assessing his clincal competency;

   C. Dr. Williams shall successfully pass an oral examination in clinical medicine administered by the Secretary of the Board.

6. Upon the reinstatement of his medical license Dr. Williams shall, during the probationary period:

   A. Submit quarterly reports under penalty of perjury stating whether there has been compliance with all the conditions of probation.

   B. Appear for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise directed by the Board.

7. Upon reinstatement of his medical license and with each renewal thereafter, Dr. Williams shall submit to an audit of his Continuing Medical Education credits by the State Medical Board of Ohio.

Donald R. Williams, M.D.

8. If Dr. Williams violates any conditions of this Order, the Board, after giving Dr. Williams notice and an oportunity to be heard, may set aside the stay order and impose the revocation of his medical license.

9. Upon successful completion of probation, Dr. Williams' license to practice medicine and surgery will be restored, but shall be LIMITED in that Dr. Williams shall hereafter not prescribe, administer, dispense, order, or possess controlled substances.

This Order shall become effective 30 days from the date of mailing of notification, provided that numbered paragraphs 1, 2 and 3 of this Order shall be effective immediately.

(SEAL)

Henry G. Cramblett

Henry G. Cramblett, M.D.
Secretary

February 12, 1988
Date

'88 JAN 21 P4:36

REPORT AND RECOMMENDATION
IN THE MATTER OF DONALD WILLIAMS, M.D.

The Matter of Donald R. Williams, M.D., came on for hearing before me, Wanita J. Sage, Esq., Hearing Examiner for the State Medical Board Of Ohio, on December 21, 1987.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Mode of Conduct

A. During the course of this hearing, 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. Basis for Hearing

A. By letter of March 12, 1987 (State's Exhibit #56), the State Medical Board notified Donald R. Williams, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio due to his prescribing practices with regard to 55 different patients. Dr. Williams' prescribing practices were alleged to violate several provisions of the Medical Practice Act, specifically:

1. Section 4731.22(B)(2), Ohio Revised Code, "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;"

2. Section 4731.22(B)(3), Ohio Revised Code, "Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes...;" and

3. Section 4731.22(B)(6), Ohio Revised Code, "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."

'88 JAN 21 P4:36

Dr. Williams was also advised of his right to request a hearing in this matter.

B. By letter received by the State Medical Board on April 9, 1987 (State's Exhibit #57), Louis F. Solimine, Esq., requested a hearing in this matter on behalf of Dr. Williams.

III. Appearance of Counsel

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

B. On behalf of the Respondent: Louis F. Solimine, Esq.

IV. Testimony Heard

A. Presented by the State

1. Donald R. Williams, M.D., as on cross-examination

B. Presented by the Respondent

1. Eljorn Don Nelson, Doctor of Pharmacology
2. John P. Morgan, M.D.
3. Sister Mary George Boklage, President, Clermont Mercy Hospital, Batavia, Ohio
4. Donald R. Williams, M.D.

V. 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 Exhibits #1 through #55: Dr. Williams' patient records for those patients (identified as Patients 1 through 55, respectively, to preserve patient confidentiality) listed in the Board's March 12, 1987, citation letter.

2. State's Exhibit #58: April 10, 1987, letter to Louis F. Solimine, Esq., from the State Medical Board advising that a hearing initially set for April 22, 1987, was postponed pursuant to Section 119.09, Ohio Revised Code.

3. State's Exhibit #59: September 1, 1987, letter to Louis F. Solimine, Esq., from the State Medical Board scheduling the hearing in this matter for November 10, 1987.

4. State's Exhibit #60: November 5, 1987, Entry of this Hearing Examiner granting Respondent's Motion for Continuance and rescheduling the hearing for December 21, 1987.

5. State's Exhibits #61 through #66: Original prescriptions written by Dr. Williams for Patients 1 through 55 (sealed to protect patient confidentiality).

6. State's Exhibit #66: Excerpt from the 1979 Physician's Desk Reference with regard to Biphetamine.

7. State's Exhibit #67: Excerpt from Facts and Comparisons (1984) with regard to Amphetamines.

8. State's Exhibit #68: Excerpt from the 1979 Physician's Desk Reference with regard to Obetrol.

B. Presented by the Respondent

1. Williams' Exhibit #1: Curriculum Vitae of Eljorn Don Nelson, Pharm.D.

2. Williams' Exhibit #2: Curriculum Vitae of John P. Morgan, M.D.

3. Williams' Exhibits #3 through #13: Various articles and treatises, as listed in the index preceding these exhibits, pertaining to the prescribing of drugs for purposes of weight control.

4. Williams' Exhibit #14: Curriculum Vitae of Donald R. Williams, M.D.

5. Williams' Exhibit #15: "Your Report", a publication of the State Medical Board of Ohio, containing a summary of the Board's November, 1986, Controlled Substances Rules.

RECEIVED
OHIO STATE
MEDICAL BOARD

'88 JAN 21 P4:36

FINDINGS OF FACT

1. Donald R. Williams, M.D., wrote or otherwise authorized for Patients 1 through 55 the prescriptions included in State's Exhibits #61 through 65. The summary of these prescriptions contained in the Board's March 12, 1987, citation letter (State's Exhibit #56) is accurate except for two prescriptions listed for Patient 41, dated July 2 and November 11, 1985, which do not appear on the patient record nor in the State's exhibits pertaining to this patient.

   As evidenced by Dr. Williams' patient records and his testimony at hearing, those prescriptions listed in the Board's March 12, 1987, letter do not reflect the entirety of Dr. Williams' prescribing of Schedule II controlled substances for Patients 1 through 55.

   These facts are established by State's Exhibits #1 through #56 and #61 through #65.

2. For each patient, except Patients 15, 27, 37, 39, and 46, Dr. Williams prescribed Schedule II amphetamines, either Biphetamine or Obetrol, for the patients listed for purposes of weight control. Generally, he continued to prescribe such drugs over extended periods of time, often well over a year, although each patient was required to return for weight and usually blood pressure checks to Dr. Williams' office each month to obtain a new prescription for a month's supply. In some cases, patients were prescribed Schedule II amphetamines for weight control over periods from seven to nine years (see Patients 20, 25, 29, 45). Although other physicians in Dr. Williams' office also treated and prescribed for these patients upon occasion, all prescriptions were noted in the patient record which was available to Dr. Williams when he treated these patients.

   These facts are established by State's Exhibits #1 through #55.

3. Dr. Williams stated that he referred to the Physicians' Desk Reference in his practice and was aware that, according to this reference, Biphetamine or Obetrol should be used in the treatment of exogenous obesity only as a short-term (a few weeks) adjunct in a regimen of weight reduction based on caloric restriction for patients refractory to alternate therapy.

   These facts are established by the testimony of Dr. Williams (Tr. at 168-170) and State's Exhibits #66 and #68.

OHIO STATE
MEDICAL BOARD
'88 JAN 21 P4:37

4. According to Dr. Williams' testimony and the patient records, upon commencing a weight control program, a patient was given diet information in addition to a prescription for an anorectic drug. Dr. Williams claimed that he also generally discussed exercise and sometimes behavior modification with these patients, although this was not noted in the patient's record. Dr. Williams stated that he relied solely upon an oral history given by the patient to determine what weight control measures and medications the patient had tried and responded to in the past. Dr. Williams explained that he often prescribed Schedule II amphetamines at the onset of treatment because he saw no reason to try other medications which the patient had found to be ineffective in the past.

   These facts are established by the testimony of Dr. Williams (Tr. at 116-119).

5. As evidenced by his testimony and the patient records, Dr. Williams first became aware of the State Medical Board's November, 1986, Rules concerning the prescribing of controlled substances for weight control around the last week of December, 1986. Since that time, Dr. Williams has discontinued the prescribing of Schedule II controlled substances for weight control and has otherwise complied with these Rules.

   These facts are established by the testimony of Dr. Williams (Tr. at 197-200) and by State's Exhibits 1 through 55.

CONCLUSIONS

The practice of medicine contemplates the exercise of sound medical judgment based upon appropriate evaluation of the individual patient. Except where appropriate protocols are established, the practitioner must transcend blind adherence to either a "majority" or "minority" view.

Dr. Williams' patient records fail to reflect that he selected treatment modalities based upon individual evaluation of Patients 1 through 55. Dr. Williams utilized long-term treatment with amphetamines in cases of mild, as well as severe, obesity. Such treatment was generally continued, apparently without regard to the amount of weight the patient lost or gained.

OHIO MEDICAL BOARD
'88 JAN 21 P4:37

Dr. Williams contended that patients who maintained or gained weight were not necessarily therapeutic failures since obese people tend to increase in weight more rapidly than "normals" and would probably have gained more weight if they hadn't been on medication. Although Dr. John P. Morgan, who testified as an expert witness on Dr. Williams' behalf, was of the opinion that this minority view was possibly valid, Dr. Morgan admitted that he himself had not prescribed amphetamines for appetitie suppression for longer than eight weeks.

Dr. Williams further stated that his long-term prescribing of Schedule II stimulants for most of the fifty patients reviewed was justified in view of the severe health risks of obesity. He testified that such health risks increase in proportion to the severity of the obesity. Of the fifty patients for which Dr. Williams prescribed Schedule II stimulants for appetitie suppression, the patient records characterized 19 as obese, 6 as moderately obese, 21 as mildly obese, and 4 (Patients 29, 31, 32, and 55) as being treated for weight control with no diagnosis of obesity. Nevertheless, Dr. Williams prescribed amphetamines for each, generally beginning upon the patient's first visit for weight control and continuing for lone periods of time. Other than diet instructions given along with the medications, the patient records show no use of alternative modes of treatment.

Dr. Williams' prescribing practices not only disregarded the recognized risks of long-term amphetamine use, but also bore no perceivable relationship to the severity of the obesity or to the significance of results achieved from such therapy. Such practice, even when no harm to patients is shown, simply falls below minimal standards of care for medical practitioners. Furthermore, such prescribing for purposes of maintaining weight or preventing possible weight increases, especially for those patients who had not been diagnosed as obese (Patients 29, 31, 32, and 55), has no legitimate therapeutic purpose. Even though Dr. Williams did not become aware of the Board's Controlled Substances Rules until the latter part of December, 1986, these Rules which have the force of law became effective November 16, 1986. Therefore, his prescribing of Schedule II drugs for weight control during a period of four to six weeks after that time was also illegal, though, in the opinion of the hearing examiner, not intentionally so. It is the practitioner's responsibility to remain apprised of laws affecting his practice.

OH
MEDICAL
'88 JAN 21 P4:37

Accordingly, I find that the acts, conduct, and/or omissions of Donald R. Williams, M.D., as set forth in Findings of Fact #1 through #4, above, constitute violations of:

1. Section 4731.22(B)(2), Ohio Revised Code, "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;"

2. Section 4731.22(B)(3), Ohio Revised Code, "Selling, prescibing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes...;" and

3. Section 4731.22(B)(6), Ohio Revised Code, "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."

In determining proper disposition in this matter, the Board may wish to consider as a mitigating factor Finding of Fact #5, above. Dr. Williams' testimony at hearing indicated that he is not only currently complying with the Board's Controlled Substances Rules, but also has found them effective in the treatment of obese patients. However, in determining remedial measures, if any, appropriate for sanction in this matter, the Board may also wish to review the somewhat extensive prescribing of controlled substances other than those which were subject of this hearing, which appears in certain of the patient records admitted into evidence in this matter (see, e.g., Patients 45, 48, 49, and 55). The Board may also wish to note that Dr. Williams testified that he is not a diet specialist, and that the treatment of obese patients constitutes a small percentage of his general practice.

PROPOSED ORDER

It is hereby ORDERED that the license of Donald R. Williams, M.D., to practice medicine and surgery in the State of Ohio be REVOKED.

MEDICAL
'88 JAN 21 P4:37

Such revocation is stayed subject to a probationary term of three (3) years, upon the following terms, conditions, and limitations:

1. Dr. Williams shall obey all federal, state, and local laws and all rules governing the practice of medicine in Ohio.

2. Within 12 months of the effective date of this Order, Dr. Williams shall provide documentation of successful completion of a Pharmacology course approved in advance by the Board.

3. Dr. Williams shall keep a log of all controlled substances prescribed, dispensed, or administered. Such log shall be submitted in the format approved by the Board 30 days in advance of Dr. Williams' personal appearance before the Board, or as otherwise directed by the Board.

4. Dr. Williams shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the conditions of probation.

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

6. In the event that Dr. Williams should leave Ohio for three (3) continuous months, or reside or practice outside the State, Dr. Williams 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.

7. If Dr. Williams violates probation in any respect, the Board, after giving Dr. Williams notice and the opportunity to be heard, may set aside the stay order and impose the revocation of his certificate.

8. Upon successful completion of probation, Dr. Williams' certificate will be fully restored.

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

Wanita J. Sage

Wanita J. Sage
Attorney Hearing Examiner

EXCERPT FROM THE MINUTES OF FEBRUARY 10, 1988

REPORTS AND RECOMMENDATIONS

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

Dr. Stephens advised that the Findings and Orders appearing on this day's agenda are those in the matters of Dr. Carlos Huerto, Dr. Anthony Nakhle, Dr. Reuben Richardson, Dr. Donald Williams, Dr. Thomas McCarthy, and Dr. Bernard Megaffin.

He further advised that since distribution of the Board's agenda materials, the following documents were submitted: Dr. Nakhle's objections to the Hearing Examiner's Report and Recommendation; a motion to address the Board filed by Dr. Nakhle's attorney; Dr. Williams' objections to the Hearing Examiner's Report and Recommendation; Dr. McCarthy's dismissal of his appeal of the Board's remand of his case to the Hearing Examiner; Dr. McCarthy's objections to the Report of Remand and Report and Recommendation of the Hearing Examiner; and a motion to address the Board filed by Dr. McCarthy's attorney. Time was given to the Board to review these documents.

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 Carlos D. Huerto, M.D.; Anthony J. Nakhle, M.D.; Reuben Richardson, M.D.; Donald R. Williams, M.D.; Thomas H. McCarthy, D.O.; and Bernard B. Megaffin, M.D. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Kaplansky	- aye
	Dr. Lovshin	- aye
	Dr. Rauch	- aye
	Mr. Albert	- aye
	Dr. O'Day	- aye
	Ms. Rolfes	- aye
	Mr. Jost	- aye
	Dr. Stephens	- aye

.....

REPORT AND RECOMMENDATION IN THE MATTER OF DONALD R. WILLIAMS, M.D.

Dr. Stephens stated that if there are 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 asked if there were any questions concerning the proposed findings of fact in the above matter. There were none.

Dr. Stephens asked if there were any questions concerning the proposed conclusions in the above matter. There were none.

DR. LOVSHIN MOVED TO APPROVE MS. SAGE'S FINDINGS OF FACT AND CONCLUSIONS IN THE MATTER OF DONALD R. WILLIAMS, M.D. MR. ALBERT SECONDED THE MOTION. A roll call vote was taken:

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

The motion carried.

Dr. Stephens asked if there were any questions concerning the proposed order in the above matter. There were none.

DR. BARNES MOVED TO APPROVE AND CONFIRM MS. SAGE'S PROPOSED ORDER IN THE MATTER OF DONALD R. WILLIAMS, M.D. MR. JOST SECONDED THE MOTION.

DR. O'DAY MOVED THAT THE FOLLOWING PROPOSED ORDER BE SUBSTITUTED IN THE MATTER OF DONALD R. WILLIAMS, M.D.:

> It is hereby ORDERED that the license of Donald R. Williams, M.D., to practice medicine and surgery in the State of Ohio be and the same is hereby REVOKED.
>
> This Order shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board of Ohio.
>
> Further, effective immediately upon receipt of this Order, Dr. Williams shall not sell, prescribe, give away, administer, or dispense any controlled substances.

DR. LANCIONE SECONDED THE MOTION.

Dr. O'Day stated that she read the record in this matter in great detail, including the doctor's records of the cases involved. She referred specifically to Patient No. 24, who died. She stated that there was no coroner's report attached to this patient's records, but she noted that the patient was a 40-year-old man who was morbidly obese and hypertensive, and who was kept on amphetamines. She stated that this was a basic violation of sound medical and prescribing principles. She added

that Dr. Williams' explanations concerning the taking of blood pressure in such cases was appalling. She noted also that Dr. Williams prescribed amphetamines to pregnant women. She concluded that the amounts of amphetamines prescribed, along with the length of time they were prescribed, show no real understanding of the hazards in which he placed his patients.

Dr. Lancione agreed with Dr. O'Day, adding that Dr. Williams certainly failed to employ acceptable scientific methods in his treatment of patients, and therefore his license should be revoked.

Dr. Lovshin stated that he didn't get the same impression as Dr. O'Day from his reading of the record. Dr. Lovshin stated that the impression he got was that Dr. Williams was basically a good physician who kept good records but got careless in his prescribing of amphetamines in the treatment of obesity. He added that there was no evidence of Dr. Williams' selling these prescriptions. He stated that there is no proof that the man in question died as a result of the amphetamines he was prescribed. Dr. Lovshin continued that up until 1985 it was common for doctors to use amphetamines in the same way Dr. Williams did, and that is what led the Board to develop its rules prohibiting it. Dr. Lovshin stated that he feels revocation in this case is too strict.

Dr. O'Day agreed that the man's death might not have been because of the prescriptions he received, but she was still not happy with Dr. Williams' explanation of the case. She was also appalled that he would prescribe amphetamines to pregnant women. She noted that in his records Dr. Williams even stated that the patient should be taken off cetain drugs, but he would continue the patient on those drugs for years and years. Many of these patients gained weight while under this treatment, and few lost weight.

Dr. Lovshin stated that Dr. Williams had two expert witnesses, whom he believed were very good, who testified as to a minority opinion with respect to treatment of morbid obesity. That is, even if the patient doesn't lose weight, amphetamines prevent the patient from gaining more weight. Dr. Lovshin noted that the State presented no expert witnesses, even though they are not required. Dr. Lovshin stated that the medical testimony on the part of the State did not match Dr. Williams' medical testimony.

Ms. Rolfes agreed with Dr. O'Day, stating that Dr. Williams' prescribing practices were excessive. She noted that he had some patients on amphetamines for ten years, which is most inappropriate. She added that the Board has heard testimony that eight weeks on amphetamines was the extent of their effectiveness.

Dr. Lovshin acknowledged that that was the majority opinion.

Dr. Lancione stated that he had done a lot of bariatrics in the 1970's, and there was no way he would continue a patient on amphetamines if the patient was not losing weight. He noted that Dr. Williams continued such patients on these drugs for over a year, and added that there is no reason whatsoever for prescribing them for that long.

Mr. Albert stated that he doesn't recall that Dr. Williams used any other kind of treatment for obesity.

Dr. Lovshin stated that Dr. Williams' treatments were very well documented in the patient records. Dr. Williams did prescribe diets for his patients. Dr. Lovshin again stated that this case is different from so many of the others the Board has seen. He added that Dr. Williams' prescribing of amphetamines was not illegal at the time he was doing it, and it wasn't unusual for family practitioners or any other kind of practitioners to prescribe in this manner in that time period.

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

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. Barnes	- nay
	Dr. Kaplansky	- abstain
	Dr. Lovshin	- nay
	Dr. Rauch	- abstain
	Mr. Albert	- aye
	Dr. O'Day	- aye
	Ms. Rolfes	- aye
	Mr. Jost	- aye
	Dr. Stephens	- nay

The motion failed.

MS. ROLFES MOVED TO TABLE THE REPORT AND RECOMMENDATION OF DONALD R. WILLIAMS, 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	- nay
	Dr. Kaplansky	- abstain
	Dr. Lovshin	- nay
	Dr. Rauch	- abstain
	Mr. Albert	- aye
	Dr. O'Day	- aye
	Ms. Rolfes	- aye
	Mr. Jost	- aye

The motion carried.

.....

MS. ROLFES MOVED TO REMOVE THE MATTER OF DONALD R. WILLIAMS, M.D. FROM THE TABLE. MR. JOST SECONDED THE MOTON.

Mr. Bumgarner reminded the Board that at the previous day's session, it approved and confirmed the hearing examiner's findings of fact and conclusions. There was a motion to approve the proposed order, and then a motion to adopt a substitute order. The latter motion failed, and the matter was tabled.

A roll call vote was taken on Ms. Rolfes' motion:

ROLL CALL VOTE:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Kaplansky	- aye
	Dr. Lovshin	- aye
	Dr. Rauch	- aye
	Mr. Albert	- aye
	Ms. Rolfes	- aye
	Mr. Jost	- aye

The motion carried.

MS. ROLFES MOVED THAT THE FOLLOWING ORDER BE SUBSTITUTED FOR THE PROPOSED ORDER IN THE MATTER OF DONALD WILLIAMS, M.D.:

It is hereby ORDERED:

That the license of Donald Williams, M.D., to practice medicine and surgry in the State of Ohio be REVOKED.

Such revocation is stayed, and said license is hereby SUSPENDED for a minimum period of one (1) year, to be followed by a probationary term of not less than five (5) years, upon the following terms and conditions:

1. Dr. Williams shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio.

2. Effective immediately and hereafter, Dr. Williams shall not sell, prescribe, give away, administer or dispense any controlled substances.

3. Prior to the effective date of suspension, Dr. Williams shall not undertake treatment of any patients other than those already under his care.

4. In the event that Dr. Williams should leave Ohio for three (3) continuous months, or to reside or to practice outside the state, Dr. Williams 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.

5. the State Medical Board of Ohio shall not consider reinstatement of Dr. Donald Williams' license unless the following minimum requirements are met:

   A. Dr. Williams shall submit a written application for restoration or reinstatement to the State Medical Board of Ohio and shall pay all appropriate fees;

   B. Dr. Williams shall sit for and pass the Federation Special Purposes Examination (SPEX) to assist in assessing his clinical competency;

   C. Dr. Williams shall successfully pass an oral examination in clinical medicine administered by the Secretary of the Board.

6. Upon the reinstatement of his medical license Dr. Williams shall, during the probationary period:

   A. Submit quarterly reports under penalty of perjury stating whether there has been compliance with all the conditions of probation.

   B. Appear for interviews before the full Board or its designated representative at three (3) month intervals, or as otherwise directed by the Board.

7. Upon reinstatement of his medical license and with each renewal thereafter, Dr. Williams shall submit to an audit of his Continuing Medical Education credits by the State Medical Board of Ohio.

8. If Dr. Williams violates any conditions of this Order, the Board, after giving Dr. Williams notice and an oportunity to be heard, may set aside the stay order and impose the revocation of his medical license.

9. Upon successful completion of probation, Dr. Williams' license to practice medicine and surgery will be restored, but shall be LIMITED in that Dr. Williams shall hereafter not prescribe, administer, dispense, order, or possess controlled substances.

This Order shall become effective 30 days from the date of mailing

of notification, provided that numbered paragraphs 1, 2 and 3 of this Order shall be effective immediately upon approval by the Board.

MR. JOST SECONDED THE MOTION.

Dr. Lancione noted that the Order would suspend Dr. Williams' license for a minimum of one year. He asked if Dr. Williams would be required to make appearances before the Board during that year.

Mr. Jost stated that under the terms of the Proposed Order, personal appearances would not begin until Dr. Williams' license has been reinstated.

Dr. Cramblett stated that he is happy to see an Order which includes taking the SPEX examination, noting that this is the type of circumstance for which that examination was developed.

A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Kaplansky	- aye
	Dr. Lovshin	- aye
	Dr. Rauch	- abstain
	Mr. Albert	- aye
	Ms. Rolfes	- aye
	Mr. Jost	- aye

The motion carried.

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43266-0315

March 12, 1987

Donald R. Williams, M.D.
473 Cinti-Batavia Pike
Cincinnati, OH 45244

Dear Doctor Williams:

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 the following dates you did prescribe the controlled substances listed below, in the strengths and amounts indicated, to the patients who are identified in the attached patient key (Key to be withheld from public disclosure):

Patient Number	Date	Drug	Amount
1	01/18/85	Biphetamine 20	30
	03/16/85	Biphetamine 20	30
	04/23/85	Biphetamine 20	30
	05/25/85	Biphetamine 20	30
	06/24/85	Biphetamine 20	30
	08/29/85	Biphetamine 20	30
	12/05/85	Biphetamine 20	30
	04/26/86	Biphetamine 20	30
	05/23/86	Biphetamine 20	30
	06/23/86	Biphetamine 20	30
	08/14/86	Biphetamine 20	30
2	09/12/85	Biphetamine 20	30
	11/07/85	Biphetamine 20	30
	02/03/86	Biphetamine 20	30
	03/17/86	Biphetamine 20	30
	09/02/86	Biphetamine 20	30

3	06/08/84	Biphetamine 20	30
	07/13/84	Biphetamine 20	30
	08/17/84	Biphetamine 20	30
	09/21/84	Biphetamine 20	30
	11/02/84	Biphetamine 20	30
	11/30/84	Biphetamine 20	30
	12/24/84	Biphetamine 20	30
	01/30/85	Biphetamine 20	30
	03/01/85	Biphetamine 20	30
	04/02/85	Biphetamine 20	30
	06/26/85	Biphetamine 20	30
	09/21/85	Biphetamine 20	30
	01/24/86	Biphetamine 20	30
	03/05/86	Biphetamine 20	30
	03/26/86	Biphetamine 20	30
	04/23/86	Biphetamine 20	30
	06/27/86	Biphetamine 20	30
	08/14/86	Biphetamine 20	30
	09/19/86	Biphetamine 20	30
4	11/05/84	Biphetamine 20	30
	12/06/84	Biphetamine 20	30
	01/05/85	Biphetamine 20	30
	02/01/85	Biphetamine 20	30
	04/13/85	Biphetamine 20	30
	05/11/85	Biphetamine 20	30
	06/08/85	Biphetamine 20	30
	08/24/85	Biphetamine 20	30
5	03/19/86	Biphetamine 20	30
	04/30/86	Biphetamine 20	30
	07/09/86	Biphetamine 20	30
	10/01/86	Biphetamine 20	30
6	01/08/85	Biphetamine 20	30
	02/13/85	Biphetamine 20	30
	03/21/85	Biphetamine 20	30
	04/23/85	Biphetamine 20	30
	05/24/85	Biphetamine 20	30
	10/24/85	Biphetamine 20	30
	01/29/86	Biphetamine 20	30
	04/10/86	Biphetamine 20	30
	06/24/86	Biphetamine 20	30
	08/05/86	Biphetamine 20	30
	09/29/86	Biphetamine 20	30

7	09/20/85	Biphetamine 20	30
	10/24/85	Biphetamine 20	30
	12/20/85	Biphetamine 20	30
	02/28/86	Biphetamine 20	30
8	01/06/86	Biphetamine 20	30
	03/04/86	Biphetamine 20	30
	04/04/86	Biphetamine 20	30
9	12/03/85	Biphetamine 20	30
	01/02/86	Biphetamine 20	30
	01/31/86	Biphetamine 20	30
	02/25/86	Biphetamine 20	30
	04/25/86	Biphetamine 20	30
	07/01/86	Biphetamine 20	30
10	07/01/85	Biphetamine 20	30
	08/01/85	Biphetamine 20	30
	09/03/85	Biphetamine 20	30
	10/07/85	Biphetamine 20	30
	11/05/85	Biphetamine 20	30
	06/09/86	Biphetamine 20	30
	07/11/86	Biphetamine 20	30
	08/08/86	Biphetamine 20	30
11	05/31/85	Biphetamine 20	30
	08/26/85	Biphetamine 20	30
	12/05/85	Biphetamine 20	30
	01/31/86	Biphetamine 20	30
	02/28/86	Biphetamine 20	30
	05/09/86	Biphetamine 20	30
	09/03/86	Biphetamine 20	30
12	12/03/83	Biphetamine 20	30
	01/07/84	Biphetamine 20	30
	02/11/84	Biphetamine 20	30
	03/10/84	Biphetamine 20	30
	04/14/84	Biphetamine 20	30
	12/21/85	Biphetamine 20	30
	05/16/86	Biphetamine 20	30
	06/28/86	Biphetamine 20	30
13	02/26/85	Biphetamine 20	30
	03/26/85	Biphetamine 20	30
	04/25/85	Biphetamine 20	30
	05/23/85	Biphetamine 20	30
	06/27/85	Biphetamine 20	30
	02/10/86	Biphetamine 20	30

14	04/11/86	Biphetamine 20	30
	05/02/86	Biphetamine 20	30
	06/04/86	Biphetamine 20	30
	07/02/86	Biphetamine 20	30
	08/05/86	Biphetamine 20	30
	09/05/86	Biphetamine 20	30
15	12/06/83	Percodan	50
	12/23/83	Percodan	100
	12/30/83	Percodan	50
	02/03/84	Percodan	50
	02/17/84	Percodan	50
	03/01/84	Percodan	50
	03/16/84	Percodan	50
	03/26/84	Percodan	50
	04/12/84	Percodan	50
	05/02/84	Percodan	50
	05/15/84	Percodan	50
	06/04/84	Percodan	50
	06/26/84	Percodan	50
	07/19/84	Percodan	50
	11/20/84	Percodan	50
16	03/15/86	Biphetamine 12.5	30
	04/16/86	Biphetamine 12.5	30
	05/29/86	Biphetamine 12.5	30
17	01/18/85	Biphetamine 20	30
	05/30/85	Biphetamine 20	30
	07/15/85	Biphetamine 20	30
	08/30/85	Biphetamine 20	30
	10/03/85	Biphetamine 20	30
	11/07/85	Biphetamine 20	30
	01/09/86	Biphetamine 20	30
	03/10/86	Biphetamine 20	30
	04/09/86	Biphetamine 20	30
	05/16/86	Biphetamine 20	30
	06/23/86	Biphetamine 20	30
	08/07/86	Biphetamine 12.5	30
	09/10/86	Biphetamine 12.5	30
18	06/10/85	Biphetamine 20	30
	01/13/86	Biphetamine 20	30
	02/21/86	Biphetamine 20	30
	03/24/86	Biphetamine 20	30

19	06/14/85	Biphetamine 20	30
	07/15/85	Biphetamine 20	30
	08/15/85	Biphetamine 20	30
	09/12/85	Biphetamine 20	30
	03/20/86	Biphetamine 20	30
	04/24/86	Biphetamine 20	30
	05/29/86	Biphetamine 20	30
	06/25/86	Biphetamine 12.5	30
	08/07/86	Biphetamine 12.5	30
	09/04/86	Biphetamine 12.5	30
	10/02/86	Biphetamine 12.5	30
20	03/30/84	Biphetamine 20	30
	04/27/84	Biphetamine 20	30
	06/28/84	Biphetamine 20	30
	09/15/84	Biphetamine 20	30
	02/02/85	Biphetamine 20	30
	03/01/85	Biphetamine 20	30
	03/27/85	Biphetamine 20	30
	05/11/85	Biphetamine 20	30
	06/26/85	Biphetamine 20	30
	07/20/85	Biphetamine 20	30
	08/15/85	Biphetamine 20	30
	09/06/85	Biphetamine 20	30
	10/03/85	Biphetamine 20	30
	10/31/85	Biphetamine 20	30
	11/26/85	Biphetamine 20	30
	12/21/85	Biphetamine 20	30
	01/16/86	Biphetamine 20	30
	02/07/86	Biphetamine 20	30
	03/12/86	Biphetamine 20	30
	04/08/86	Biphetamine 20	30
	06/12/86	Biphetamine 20	30
21	10/08/85	Biphetamine 20	30
	11/08/85	Biphetamine 20	30
	11/29/85	Biphetamine 20	30
	01/27/86	Biphetamine 20	30
	02/26/86	Biphetamine 20	30
22	07/31/85	Biphetamine 12.5	60
	09/20/85	Biphetamine 12.5	60
	05/17/86	Biphetamine 12.5	60
	06/26/86	Biphetamine 12.5	60
23	07/19/85	Biphetamine 20	30
	08/16/85	Biphetamine 20	30
	09/13/85	Biphetamine 20	30
	09/18/85	Biphetamine 20	25
	10/11/85	Biphetamine 20	30

24	01/02/85	Biphetamine 20	30
	01/31/85	Biphetamine 20	30
	03/01/85	Biphetamine 20	30
	03/29/85	Biphetamine 20	30
	04/26/85	Biphetamine 20	30
	05/24/85	Biphetamine 20	30
	06/24/85	Biphetamine 20	30
	07/20/85	Biphetamine 20	30
	09/18/85	Biphetamine 20	30
	11/15/85	Biphetamine 20	30
	01/14/86	Biphetamine 20	30
	02/14/86	Biphetamine 20	30
	03/19/86	Biphetamine 20	30
	04/16/86	Biphetamine 20	30
	05/15/86	Biphetamine 20	30
	06/12/86	Biphetamine 20	30
	07/11/86	Biphetamine 20	30
	08/15/86	Biphetamine 20	30
	09/15/86	Biphetamine 20	30
	10/13/86	Biphetamine 20	30
25	01/21/85	Obetrol 20	60
	03/08/85	Obetrol 20	60
	05/16/85	Obetrol 20	60
	07/05/85	Obetrol 20	60
	08/15/85	Obetrol 20	60
	09/18/85	Obetrol 20	60
	10/18/85	Obetrol 20	60
	11/25/85	Obetrol 20	60
	01/08/86	Obetrol 20	60
	03/11/86	Obetrol 20	60
	04/17/86	Obetrol 20	60
	05/19/86	Obetrol 20	60
	06/30/86	Obetrol 20	60
	08/21/86	Obetrol 20	60
26	02/24/86	Obetrol 20	60
	03/27/86	Obetrol 20	60
	08/19/86	Obetrol 20	60

27	01/09/84	Percodan	30
	02/09/84	Percodan	30
	02/16/84	Percodan	30
	03/05/84	Percodan	30
	03/16/84	Percodan	30
	04/03/84	Percodan	30
	04/27/84	Percodan	30
	05/14/84	Tylox	30
	05/17/84	Percodan	30
	05/25/84	Tylox	30
	05/29/84	Percodan	30
	07/03/84	Percodan	30
	07/13/84	Tylox	30
	08/01/84	Percodan	30
	08/29/84	Percodan	30
	09/06/84	Percodan	30
	10/05/84	Percodan	30
	10/26/84	Percodan	30
	11/16/84	Percodan	30
	12/05/84	Percodan	30
	12/17/84	Percodan	40
	01/09/85	Percodan	40
	01/23/85	Percodan	40
	02/07/85	Percodan	40
	02/26/85	Percodan	40
	03/18/85	Percodan	40
	04/01/85	Percodan	50
	05/06/85	Percodan	50
	05/17/85	Percodan	50
	06/11/85	Percodan	30
	07/24/85	Percodan	30
	08/22/85	Percodan	30
	09/18/85	Percodan	30
	10/16/85	Percodan	30
	11/08/85	Percodan	30
	11/27/85	Percodan	30
	12/26/85	Percodan	30
	01/13/86	Percodan	30
	01/21/86	Percodan	30
	02/03/86	Percodan	30
	02/14/86	Percodan	30
	02/28/86	Percodan	30
28	06/07/84	Biphetamine 20	30
	09/05/84	Biphetamine 20	30
	11/07/84	Biphetamine 20	30
	02/02/85	Biphetamine 20	30
	03/08/85	Biphetamine 20	30
	09/06/86	Biphetamine 20	30

29	01/04/85	Biphetamine 20	30
	02/07/85	Biphetamine 20	30
	03/07/85	Biphetamine 20	30
	04/12/85	Biphetamine 20	30
	06/06/85	Biphetamine 20	30
	08/30/85	Biphetamine 20	30
	10/02/85	Biphetamine 20	30
	11/06/85	Biphetamine 20	30
	12/16/85	Biphetamine 20	30
	01/08/86	Biphetamine 20	30
	04/11/86	Biphetamine 20	30
	07/10/86	Biphetamine 20	30
	08/06/86	Biphetamine 20	30
	09/11/86	Biphetamine 20	30
	10/10/86	Biphetamine 20	30
30	07/19/85	Biphetamine 20	30
	09/16/85	Biphetamine 20	30
	03/01/86	Biphetamine 20	30
	04/21/86	Biphetamine 20	30
31	03/10/86	Biphetamine 20	30
	04/17/86	Biphetamine 20	30
	06/14/86	Biphetamine 20	30
	07/12/86	Biphetamine 20	30
	08/15/86	Biphetamine 20	30
32	07/24/85	Biphetamine 20	30
	09/18/85	Biphetamine 20	30
	10/09/85	Biphetamine 20	30
	03/06/86	Biphetamine 20	30
33	06/20/85	Biphetmaine 12.5	30
	09/16/85	Biphetamine 12.5	30
	10/24/85	Biphetamine 12.5	30
	11/29/85	Biphetamine 12.5	30
34	05/16/85	Biphetamine 20	30
	06/10/85	Biphetamine 20	30
	07/19/85	Biphetamine 20	30
	09/20/85	Biphetamine 20	30
	10/17/85	Biphetamine 20	30
	05/07/86	Biphetamine 20	30
	06/26/86	Biphetamine 20	30
	08/22/86	Biphetamine 20	30
35	11/11/85	Biphetamine 20	30
	01/10/86	Biphetamine 20	30
	02/18/86	Biphetamine 20	30

36	06/15/85	Biphetamine 20	30
	07/31/85	Biphetamine 20	30
	11/05/85	Biphetamine 20	30
	02/05/86	Biphetamine 20	30
	08/07/86	Biphetamine 20	30
	10/06/86	Biphetamine 20	30
37	02/01/85	Ritalin 20mg	100
	03/13/85	Ritalin 20mg	100
	04/23/85	Ritalin 20mg	100
	05/29/85	Ritalin 20mg	100
	07/05/85	Ritalin 20mg	100
	07/30/85	Ritalin 20mg	200
	10/31/85	Ritalin 10mg	100
	11/27/85	Ritalin 10mg	100
	01/03/86	Ritalin 10mg	100
	04/01/86	Ritalin 10mg	100
38	01/04/85	Biphetamine 20	30
	02/01/85	Biphetamine 20	30
	02/28/85	Biphetamine 20	30
	03/29/85	Biphetamine 20	30
	05/03/85	Biphetamine 20	30
	05/31/85	Biphetamine 20	30
	06/25/85	Biphetamine 20	30
	01/06/86	Biphetamine 20	30
39	08/29/84	Tylox	20
	09/14/84	Tylox	20
	10/23/84	Tylox	20
	11/16/84	Tylox	20
	12/11/84	Tylox	20
	01/15/85	Tylox	20
	02/05/85	Tylox	30
	03/16/85	Tylox	100
	03/21/85	Tylox	50
40	04/17/85	Biphetamine 20	30
	05/22/85	Biphetamine 20	30
	06/25/85	Biphetamine 20	30
	07/18/85	Biphetamine 20	30
	08/26/85	Biphetamine 12.5	30
	08/26/85	Biphetamine 20	30
41	04/16/85	Biphetamine 20	30
	05/22/85	Biphetamine 20	30
	07/02/85	Biphetamine 20	30
	11/11/85	Biphetamine 20	30

42	01/07/85	Biphetamine 20	30
	02/15/85	Biphetamine 20	30
	03/19/85	Biphetamine 20	30
	06/15/85	Biphetamine 20	30
	12/21/85	Biphetamine 20	30
	07/12/86	Biphetamine 20	30
	08/11/86	Biphetamine 20	30
	09/06/86	Biphetamine 20	30
43	02/07/85	Biphetamine 20	30
	03/06/85	Biphetamine 20	30
	03/29/85	Biphetamine 20	30
	04/25/85	Biphetamine 20	30
	08/27/85	Biphetamine 20	30
	05/29/86	Biphetamine 20	30
	09/05/86	Biphetamine 20	30
44	08/31/85	Biphetamine 20	30
	11/27/85	Biphetamine 20	30
	01/24/86	Biphetamine 20	30
	04/25/86	Biphetamine 20	30
	06/14/86	Biphetamine 20	30
45	07/05/84	Biphetamine 20	30
	09/07/84	Biphetamine 20	30
	11/29/84	Biphetamine 20	30
	01/19/85	Biphetamine 20	30
	08/01/85	Biphetamine 20	30
	08/30/85	Biphetamine 20	30
	10/03/85	Biphetamine 20	30
	11/29/85	Biphetamine 20	30
	05/07/86	Biphetamine 20	30
46	04/12/85	Percodan	50
	04/26/85	Percodan	50
	05/06/85	Percodan	60
	05/15/85	Percodan	100
	05/29/85	Percodan	100
	06/07/85	Percodan	100
	06/20/85	Percodan	100
47	03/01/84	Biphetamine 20	30
	03/30/84	Biphetamine 20	30
	04/30/84	Biphetamine 20	30
	10/18/84	Biphetamine 20	30
	06/10/85	Biphetamine 20	30
	01/13/86	Biphetamine 20	30
	02/21/86	Biphetamine 20	30
	03/24/86	Biphetamine 20	30

48	12/10/83	Biphetamine 20	30
	04/02/84	Biphetamine 20	30
	08/20/84	Biphetamine 20	30
	09/24/84	Biphetamine 20	30
	10/24/84	Biphetamine 20	30
	11/19/84	Biphetamine 20	30
	12/19/84	Biphetamine 20	30
	03/01/85	Biphetamine 20	30
	07/03/85	Biphetamine 20	30
	02/15/86	Biphetamine 20	30
	05/05/86	Biphetamine 20	30
49	11/09/84	Biphetamine 20	30
	12/07/84	Biphetamine 20	30
	01/17/85	Biphetamine 20	30
	02/18/85	Biphetamine 20	30
	03/19/85	Biphetamine 20	30
	04/13/85	Biphetamine 20	30
	09/18/85	Biphetamine 20	30
50	01/29/85	Biphetamine 20	30
	02/28/85	Biphetamine 20	30
	05/02/85	Biphetamine 20	30
	06/15/85	Biphetamine 20	30
	09/15/85	Biphetamine 20	30
	01/04/86	Biphetamine 20	30
	03/06/86	Biphetamine 20	30
51	03/04/85	Biphetamine 20	30
	05/13/85	Biphetamine 20	30
	07/25/85	Biphetamine 20	30
	01/09/86	Biphetamine 20	30
	06/13/86	Biphetamine 20	30
52	08/14/85	Biphetamine 20	30
	09/12/85	Biphetamine 20	30
	11/15/85	Biphetamine 20	30
	12/21/85	Biphetamine 20	30
	01/18/86	Biphetamine 20	30
	02/18/86	Biphetamine 20	30
	04/03/86	Biphetamine 20	30
	09/08/86	Biphetamine 20	30
53	09/19/84	Biphetamine 20	30
	03/25/85	Biphetamine 20	30
	05/09/85	Biphetamine 20	30
	06/28/85	Biphetamine 20	30
	10/14/85	Biphetamine 20	30
	01/23/86	Biphetamine 20	30
	03/05/86	Biphetamine 20	30
	07/15/86	Biphetamine 20	30

54	11/05/84	Biphetamine 20	30
	02/13/85	Biphetamine 20	30
	04/04/85	Biphetamine 20	30
	05/31/85	Biphetamine 20	30
	08/01/85	Biphetamine 20	30
	09/30/85	Biphetamine 20	30
	03/03/86	Biphetamine 20	30
55	04/22/86	Biphetamine 12.5	30
	06/17/86	Biphetamine 12.5	30
	08/29/86	Biphetamine 12.5	30
	09/15/86	Biphetamine 12.5	30
	10/02/86	Biphetamine 12.5	30

Such acts in the above paragraph (1), individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs," and "failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease," as those clauses are used in Section 4731.22(B)(2), Ohio Revised Code.

Further, such acts in the above paragraph (1), individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

Further, such acts in the above paragraph (1), 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.

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 569 365 176
RETURN RECEIPT REQUESTED