



STATE MEDICAL BOARD OF OHIO

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

July 12, 1991

Kenneth J. Dvorak, M.D.
#232-503 8A 204A
L.C.I.
2075 S. Avon-Beldon
Grafton, Ohio 44044

Dear Doctor Dvorak:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Joan Irwin Fishel, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on July 10, 1991, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 290 319 311
RETURN RECEIPT REQUESTED

Mailed 7/16/91



STATE MEDICAL BOARD OF OHIO

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

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Joan Irwin Fishel, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on July 10, 1991, including a Motion approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Kenneth J. Dvorak, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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

(SEAL)



Henry G. Cramblett, M.D.
Secretary

July 12, 1991

Date



STATE MEDICAL BOARD OF OHIO

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

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

KENNETH J. DVORAK, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 10th day of July, 1991.

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

It is hereby ORDERED that:

The certificate of Kenneth J. Dvorak, M.D., to practice medicine and surgery in the State of Ohio shall be and is hereby permanently REVOKED.

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

(SEAL)

Henry G. Cramblett, M.D.
Secretary

July 12, 1991

Date

REPORT AND RECOMMENDATION
IN THE MATTER OF KENNETH J. DVORAK, M.D.

The Matter of Kenneth J. Dvorak, M.D., came on for hearing before me, Joan Irwin Fishel, Esq., Hearing Examiner for the State Medical Board of Ohio, on May 6, 1991.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter of March 15, 1991 (State's Exhibit #1) the State Medical Board notified Kenneth J. Dvorak, M.D., that it proposed to take disciplinary action against his license to practice medicine and surgery in Ohio due to his guilty pleas on or about August 13, 1990 to twenty-two (22) felony counts of Illegal processing of drug documents, Ohio Revised Code Section 2925.23, eighteen (18) felony counts of Trafficking in drugs, Ohio Revised Code Section 2925.03, two (2) felony counts of Corruption of another with drugs, Ohio Revised Code Section 2925.02, three (3) felony counts of Theft, Ohio Revised Code Section 2913.02, and ten (10) felony counts of Deception to obtain a dangerous drug. These guilty pleas were alleged to constitute "a plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code, and "a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code. On or about August 13, 1990, Dr. Dvorak pleaded guilty to a eleven (11) misdemeanor counts of Deception to obtain a dangerous drug, Ohio Revised Code Section 2925.22. The Board alleged that this constituted "a plea of guilty to, or the judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

By letter of March 15, 1991 (State's Exhibit #2), the State Medical Board notified Dr. Dvorak that, pursuant to Ohio Revised Code Section 4731.22(F), his Ohio license had been automatically suspended, as of August 13, 1990, by virtue of his guilty plea to the felony charge of Sexual battery, Ohio Revised Code Section 2907.03. In addition to being grounds for automatic suspension, the Board alleged that the guilty plea constituted grounds for disciplinary action against his license as "a plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

- B. By letter received by the Medical Board on March 29, 1991 (State's Exhibit #3), Dr. Dvorak requested a hearing on both sets of charges contained within State's Exhibits #1 and #2.

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II. Appearances

- A. On behalf of the State of Ohio, Lee Fisher, Attorney General, by John C. Dowling, Assistant Attorney General
- B. On behalf of the Respondent: Neither Dr. Dvorak nor counsel appeared at the hearing. No written contentions or arguments were received, however, Dr. Dvorak's continuance request was submitted as Respondent's Exhibit A.

III. Testimony Heard

There were no witnesses in this Matter.

IV. Exhibits Examined

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

A. Presented by the State

1. State's Exhibit #4: April 4, 1991 letter to Kenneth J. Dvorak, M.D., from the State Medical Board advising that a hearing initially set for April 12, 1991, was postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit #5: April 11, 1991 letter to Dr. Dvorak from the State Medical Board scheduling the hearing for May 6, 1991 with copies of the certified mail return and receipt cards attached.
3. State's Exhibit #6: April 16, 1991 letter to Dr. Dvorak from the State Medical Board informing him that the hearing scheduled would address the allegations made in each of the March 15, 1991 letters.
4. State's Exhibit #7: April 25, 1991 Entry denying Dr. Dvorak's continuance request.
5. State's Exhibit #8: Certified copy of the Indictment filed against Kenneth J. Dvorak in the Common Pleas Court of Cuyahoga County on February 6, 1990.
6. State's Exhibit #9: Certified copy of a Journal Entry dated August 13, 1990 State of Ohio v. Kenneth J. Dvorak, setting forth Dr. Dvorak's plea of guilty to various charges in the Indictment.

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7. State's Exhibit #10: Certified copy of a Journal Entry of March 21, 1991, State of Ohio v. Kenneth J. Dvorak, sentencing Dr. Dvorak to a minimum of three (3) years incarceration.
8. State's Exhibit #11: Ohio Revised Code Section 2907.03, Sexual battery.
9. State's Exhibit #12: Ohio Revised Code Section 2913.02, Theft
10. State's Exhibit #13: Ohio Revised Code Section 2925.02, Corrupting another with drugs.
11. State's Exhibit #14: Ohio Revised Code Section 2925.03, Trafficking in drugs.
12. State's Exhibit #15: Ohio Revised Code Section 2925.22, Deception to obtain a dangerous drug, and Section 2925.23, Illegal processing of drug documents.

B. Presented by the Respondent

1. Respondent's Exhibit A: April 19, 1991 letter from Dr. Dvorak requesting a continuance of his hearing pending his appeal of the Common Pleas Court's denial of his request to rescind his guilty pleas.

FINDINGS OF FACT

1. On August 13, 1990, while present in court with his counsel, Kenneth J. Dvorak, M.D., pled guilty to twenty-two (22) felony counts of Illegal processing of drug documents, Ohio Revised Code Section 2925.23, ten (10) felony counts of Deception to obtain a dangerous drug, Ohio Revised Code Section 2925.22, eighteen (18) felony counts of Trafficking in drugs, Ohio Revised Code Section 2925.03, two (2) felony counts of Corruption of another with drugs, Ohio Revised Code Section 2925.02 and three (3) felony counts of Theft, Ohio Revised Code Section 2913.02. He also pled guilty to the felony count of Sexual battery, Ohio Revised Code Section 2907.03. In addition to the felony counts, Dr. Dvorak pled guilty to eleven (11) misdemeanor counts of Deception to obtain a dangerous drug, Ohio Revised Code Section 2925.22.

Dr. Dvorak's guilty pleas were made pursuant to a plea agreement with the prosecuting attorney. The original charge of rape was amended to Sexual battery. Charges in the Indictment to which Dr. Dvorak did not

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plead guilty were dismissed by the prosecuting attorney. A statement in the Journal Entry of March 21, 1991 indicates that Dr. Dvorak was advised of his right to appeal the Court's denial of his Motion for Release from this plea agreement. This denial is currently being appealed by Dr. Dvorak.

These facts are established by State's Exhibits #9 and #10 and by Respondent's Exhibit A.

Dr. Dvorak is currently in the Lorain Correctional Institute, having been sentenced to a minimum of three (3) years incarceration.

These facts are established by State's Exhibit #10 and by Respondent's Exhibit A.

CONCLUSIONS

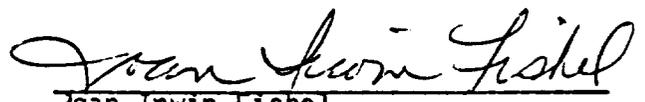
1. Dr. Dvorak's guilty pleas to felony counts of trafficking in drugs, deception to obtain drugs, corruption of another with drugs, theft, and illegal processing of drug documents constitute "a plea of guilty to, or a judicial finding of guilt of, a felony", as that clause is used in Section 4731.22(B)(9), Ohio Revised Code. With the exception of the guilty plea to the charges of theft, the guilty pleas also constitute "a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.
2. Dr. Dvorak's guilty plea to sexual battery constitutes "a plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.
3. The practice of medicine includes the proper administering, dispensing and prescribing of dangerous drugs. Consequently, Dr. Dvorak's guilty pleas to misdemeanor counts of deception to obtain a dangerous drug constitute "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Kenneth J. Dvorak, M.D., to practice medicine and surgery in the State of Ohio shall be and is hereby REVOKED.

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


Joan Irwin Fishel
Attorney Hearing Examiner

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EXCERPT FROM THE MINUTES OF JULY 10, 1991

REPORTS AND RECOMMENDATIONS

Mr. Albert advised that the findings and orders appearing on the Board's agenda are those in the matters of Kenneth J. Dvorak, M.D., and Cindy K. Lookabaugh, M.D.

Mr. Albert asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and order, and any objections filed in the matters of Kenneth J. Dvorak, M.D., and Cindy K. Lookabaugh, M.D. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- aye
	Dr. O'Day	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Dr. Garg	- aye
	Dr. Kaplansky	- aye
	Dr. Heidt	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye
	Mr. Albert	- aye

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

All Assistant Attorneys General and all Enforcement Coordinators left the meeting at this time.

REPORT AND RECOMMENDATION IN THE MATTER OF KENNETH J. DVORAK, M.D.

Mr. Albert 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. HOM MOVED TO APPROVE AND CONFIRM MS. FISHEL'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF KENNETH J. DVORAK, M.D. DR. AGRESTA SECONDED THE MOTION.

Mr. Albert asked if there were any questions concerning the proposed findings of fact, conclusions, and order in the above matter.



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EXCERPT FROM THE MINUTES OF JULY 10, 1991
IN THE MATTER OF KENNETH J. DVORAK, M.D.

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Mr. Bumgarner noted that the Proposed Order was for revocation of Dr. Dvorak's license. He suggested that, in view of recent court decisions, the Board may wish to ensure that everyone understands that the term revocation means permanent revocation, and that the final Board Order so reflect.

Dr. Hom agreed to accept Mr. Bumgarner's suggestion as part of her motion. Dr. Agresta, as second, agreed.

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

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. O'Day	- abstain
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Dr. Garg	- aye
	Dr. Kaplansky	- aye
	Dr. Heidt	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

The motion carried.



STATE MEDICAL BOARD OF OHIO

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

October 10, 1990

Kenneth J. Dvorak, M.D.
5711 Warwick Drive
Parma, OH 44129

Dear Doctor Dvorak:

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 August 13, 1990 you pleaded guilty in the Cuyahoga County Court of Common Pleas to twenty-two (22) felony counts of Ohio Revised Code Section 2925.23, Illegal processing of drug documents; eighteen (18) felony counts of Ohio Revised Code Section 2925.03, Trafficking in drugs; two (2) felony counts of Ohio Revised Code Section 2925.02, Corruption of another with drugs; three (3) felony counts of Ohio Revised Code Section 2913.02, Theft; and ten (10) felony counts of Ohio Revised Code Section 2925.22, Deception to obtain a dangerous drug.

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

The pleas of guilty as alleged in paragraph (1) above, individually and/or collectively, constitute "a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as that is used in Section 4731.22(B)(3), Ohio Revised Code.

- (2) On or about August 13, 1990 you pleaded guilty to eleven (11) misdemeanor counts of Ohio Revised Code Section 2925.22, Deception to obtain a dangerous drug.

The pleas of guilty as alleged in paragraph (2) above, individually and/or collectively, constitute "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Kenneth J. Dvorak, M.D.
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The pleas of guilty as alleged in paragraph (2) above, individually and/or collectively, constitute "a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as that is used in Section 4731.22(B)(3), Ohio Revised Code.

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Henry G. Cramblett, M.D.
Secretary

HGC:jmb

Enclosures:

CERTIFIED MAIL #P 569 363 797
RETURN RECEIPT REQUESTED

cc: William L. Summers, Esq.

CERTIFIED MAIL NO. P. 290 319 192
RETURN RECEIPT REQUESTED

STATE OF OHIO
THE STATE MEDICAL BOARD
77 SOUTH HIGH STREET
17TH FLOOR
COLUMBUS, OHIO 43266-0315
(614) 466-3934

August 24, 1990

NOTICE OF AUTOMATIC SUSPENSION

Kenneth J. Dvorak, M.D.
6363 York Road #101
Parma Heights, OH 44130

Dear Doctor Dvorak:

Pursuant to Section 4731.22(F), Ohio Revised Code, you are hereby notified that your license to practice medicine and surgery in the State of Ohio has been automatically suspended as of August 13, 1990, by operation of law. Continued practice after this suspension shall be considered practicing medicine without a certificate.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation on the grounds that on or about August 13, 1990, you plead guilty in the Cuyahoga County Court of Common Pleas to sexual battery, a felony as defined in Section 2907.03, Ohio Revised Code, which constitutes a violation of Section 4731.22(B)(9), Ohio Revised Code.

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

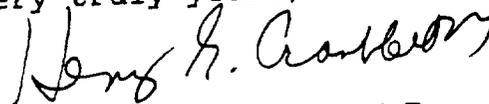
You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence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

Kenneth J. Dvorak, M.D.
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In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board shall, in your absence and upon consideration of this matter, enter a final order revoking your license to practice medicine and surgery.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Henry G. Cramblett, M.D.

HGC/sm
Enclosures

CERTIFIED MAIL: #P 055 326 231
RETURN RECEIPT REQUESTED

cc: William L. Summers, Esq.