



STATE MEDICAL BOARD OF OHIO

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

November 15, 1996

Darrell K. Wells, M.D.
883 E. Walnut Street
Westerville, Ohio 43081

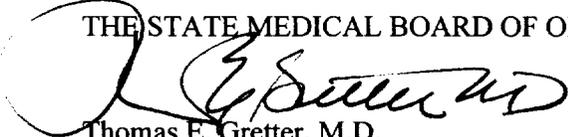
Dear Doctor Wells:

Please find enclosed certified copies of the Entry of Order; the Report of Goldman Hearing and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 13, 1996, including Motions approving and confirming the Findings of Fact, and the Conclusions of Law 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 a copy of that Notice of Appeal to the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO


Thomas E. Gretter, M.D.

Secretary

TEG:em
Enclosures

Certified Mail Receipt No. P 152 982 837
Return Receipt Requested

Mailed 12-3-96



STATE MEDICAL BOARD OF OHIO

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

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 13, 1996, including Motions approving and confirming the Findings of Fact, and the Conclusions of Law 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 Darrell K. Wells, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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

(SEAL)

A handwritten signature in cursive script, appearing to read "T. E. Gretter, M.D.", is written over a horizontal line.

Thomas E. Gretter, M.D.
Secretary

11/20/96

Date



STATE MEDICAL BOARD OF OHIO

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

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

DARRELL K. WELLS, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 13th day of November, 1996.

Upon the Report and Recommendation of Sharon W. Murphy, 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 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 of Ohio for the above date.

It is hereby ORDERED that the certificate of Darrell K. Wells, M.D., to practice medicine and surgery in the State of Ohio shall be permanently REVOKED.

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

Thomas E. Gretter, M.D.
Secretary

(SEAL)

11/20/96

Date

**REPORT OF GOLDMAN HEARING AND RECOMMENDATION
IN THE MATTER OF DARRELL K. WELLS, M.D.**

The Matter of Darrell K. Wells, M.D., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on October 16, 1996.

INTRODUCTION

I. Basis for the Goldman Hearing

By letter dated February 14, 1996, the State Medical Board of Ohio [Board] notified Darrell K. Wells, M.D., that that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio based on one or more of the following allegations:

- (1) On or about August 23, 1994, the State of Tennessee, Department of Health, Board of Medical Examiners [Tennessee Board] issued an Order suspending Dr. Wells' license to practice medicine and surgery for a six month period, stayed the suspension, and imposed terms and conditions. Thereafter, on or about October 19, 1994, the Tennessee Board issued an Order which indefinitely retired Dr. Wells' license to practice in that state.
- (2) In 1989, the Tennessee Board filed a notice of charges against Dr. Wells. Nevertheless, in his 1990 application for renewal of his certificate to practice medicine and surgery in Ohio, Dr. Wells denied that any state licensing Board had initiated disciplinary action against him since he last renewed his certificate in Ohio.

The Board alleged that the 1994 Tennessee Board actions, as set forth in paragraph (1), constitute "the limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees,' as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Sections 4731.22(B)(5) and (B)(26), Ohio Revised Code, and Section 4731.22(B)(18), to wit: Principle VI, American Medical Association Code of Ethics."

The Board further alleged that Dr. Wells' conduct, as set forth in paragraph (2), constitutes "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board,' as that clause is used in Section 4731.22(A), Ohio Revised Code[;] 'publishing a false, fraudulent, deceptive, or

misleading statement,' as that clause is used in Section 4731.22(B)(5), Ohio Revised Code[; and] '[t]he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice,' as that clause is used in Section 4731.22(B)(8), Ohio Revised Code." (State's Exhibit 1).

Pursuant to Chapter 119., Ohio Revised Code, the Board advised Dr. Wells of his right to request a hearing in this matter. (State's Exhibit 1). Dr. Wells did not do so. Accordingly, the Board notified Dr. Wells that, on October 16, 1996, the Board would hold a *Goldman* hearing at which the State would present evidence regarding this matter, in accordance with the decision of the Franklin County Court of Appeals in *Douglas S. Goldman, C.T. v. State Medical Board of Ohio* (March 29, 1996), Franklin App. No. 95APE10-1358, unreported. (State's Exhibit 3).

II. Appearances

On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by James M. McGovern, Assistant Attorney General.

EVIDENCE EXAMINED

I. Testimony Heard: No witnesses were presented.

II. Exhibits Examined

In addition to State's Exhibits 1 and 3, noted above, the following exhibits were identified by the State and admitted into evidence:

- A. State's Exhibit 2: Copy of an August 30, 1996, Entry granting the State's oral motion to continue a previously scheduled *Goldman* hearing in this matter pending Dr. Wells' receipt of notice.
- B. State's Exhibit 4: Affidavit of Debra L. Jones, Chief of Continuing Medical Education, Records and Renewal for the Board, certifying Dr. Wells' last known address.
- C. State's Exhibit 5: Certified documents from the State of Tennessee Department of Health Related Boards regarding Dr. Wells. (41 pp.)
- D. State's Exhibit 6: Certified copy of Dr. Wells' 1990 application for renewal of his Ohio certificate. (2 pp.)

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E. State's Exhibit 7: Copies of Tennessee statutes. (3 pp.)

III. Post-Hearing Admission to the Record

A. By the Hearing Examiner's own motion, the following exhibit is admitted into evidence:

Board Exhibit A: Copy of the American Medical Association Principles of Medical Ethics.

FINDINGS OF FACT

1. On October 12, 1989, the State of Tennessee, Department of Health, Board of Medical Examiners [Tennessee Board] filed a Notice of Charges against its licensee, Darrell K. Wells, M.D. The charges involved a weight loss program conducted by Dr. Wells. (State's Exhibit [St. Ex.] 5 at 36-39). On December 20, 1990, the Tennessee Board filed an Order of Nonsuit, dismissing the charges with prejudice. (St. Ex. 5 at 40-41).
2. On or about November 29, 1990, Dr. Wells signed an application for renewal of his certificate to practice medicine and surgery in Ohio. By signing the application for renewal, Dr. Wells certified that "the information provided on this application for renewal is true and correct in every respect." (St. Ex. 6). In the application for renewal, Dr. Wells answered "No" to the question "At any time since signing your last application for renewal of your certificate have you: * * * Had any disciplinary action taken or initiated against you by any state licensing board?" (St. Ex. 6).
3. On August 16, 1994, the Tennessee Board issued an Order suspending Dr. Wells' license to practice medicine and surgery for a six month period, staying the suspension, and imposing terms and conditions. The Tennessee Board's Findings of Fact include the following:
 - a. In October and November 1992, Dr. Wells advertised a weight loss program in a local newspaper. The weight loss program focused on a patient's food allergies, and claimed to treat "arthritis, fatigue, headaches, bowel problems, etc."
 - b. Dr. Wells closed his office in November 1992, but did not notify his patients of the closure and did not make arrangements for his patients' continued care by another physician.

- c. In November 1992, Dr. Wells took \$130.00 from Patient A for treatment in Dr. Wells' weight loss program. When Dr. Wells closed his office later that month, he did not notify Patient A and he abandoned her care.
- d. In October 1992, Patient B paid Dr. Shank \$500.00 to enroll herself and her son, Patient C, in Dr. Wells' weight loss program. Dr. Wells closed his office before Patients B and C completed the program. Dr. Wells did not notify Patients B and C that he had closed his office.
- e. Dr. Wells admitted to a Tennessee Board investigator that, in November 1992, Dr. Wells was going through a divorce and was emotionally unstable. Dr. Wells further admitted to the investigator that he had attempted to commit suicide by overdosing on drugs.
- f. After closing his office, Dr. Wells negligently allowed his estranged wife to remove all of his patients' financial records from his office. Moreover, Dr. Wells abandoned his patients' records in Ohio when he returned to Tennessee in October 1993.
- g. In March 1994, Dr. Wells told Patient D that Dr. Wells could cure Patient D's complaints of headaches by treating Patient D's allergies. Although Patient D was a vegetarian who had previously undergone a coronary arterial bypass graft for coronary artery disease, Dr. Wells recommended a diet of "steak and eggs for breakfast, pork chops for lunch, and shellfish for dinner." When Patient D expressed concern about the diet, Dr. Wells explained that heart disease is caused either by psychological stress or "food stress," and that a diagnosis of coronary arterial disease was not significant.
- h. Dr. Wells performed an EKG on Patient D, and told Patient D that the tracing was abnormal. Patient D had had a normal EKG six weeks earlier. Patient D returned to his cardiologist where a subsequent EKG was determined to be normal. When Patient D confronted Dr. Wells with this information, Dr. Wells suggested that "the patient's heart damage must have 'reversed' during the 8 days" between Dr. Wells' EKG and the cardiologist's EKG.

(St. Ex. 5 at 8-13). The Tennessee Board concluded that Dr. Wells had violated three provisions of the Tennessee Medical Practice Act, specifically concluding that Dr. Wells had:

- a. "engaged in unprofessional, dishonorable, or unethical conduct";

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- b. “personally misused any drug, so as to adversely affect [Dr. Wells’] ability to practice medicine”; and
- c. “advertised his medical business by using untrue or misleading statements, or [had] published fraudulent advertising relative to any disease, human ailment or conditions.”

(St. Ex. 5 at 13-14). The Tennessee Board suspended Dr. Wells’ certificate to practice in that state, but stayed the suspension, so long as Dr. Wells complied with terms and conditions. One of the conditions imposed was that Dr. Wells would obtain a psychiatric evaluation focusing on his fitness to practice and present it to the Impaired Physicians Program of the Tennessee Medical Association for further assessment and recommendations. (St. Ex. 5 at 14-16).

- 4. On October 19, 1994, the Tennessee Board found that Dr. Wells had been evaluated by a psychiatrist in accordance with the Tennessee Board’s August 1994 Order. Although the evaluating psychiatrist had recommended that Dr. Wells obtain additional psychological testing, Dr. Wells did not do so. Therefore, the Tennessee Board accepted Dr. Wells’ indefinite voluntary retirement from the practice of medicine on the basis that Dr. Wells’ had failed to provide proof of his fitness to practice. The Tennessee Board further ordered that Dr. Wells must comply with all terms of the August 1994 Tennessee Board Order before his certificate could be reinstated. (St. Ex. 5 at 2-7).
- 5. Principle VI of the American Medical Association Principles of Medical Ethics, provides: “A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical services.” (Board Exhibit A).

CONCLUSIONS OF LAW

- 1. Dr. Wells’ conduct, as set forth in Findings of Fact 1 and 2, constitutes “misrepresentation or deception in applying for or securing any license or certificate issued by the board,” as that clause is used in Section 4731.22(A), Ohio Revised Code.
- 2. Dr. Wells’ conduct, as set forth in Findings of Fact 1 and 2, constitutes “publishing a false, * * * deceptive, or misleading statement,” as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

3. The evidence is insufficient to conclude that Dr. Wells' conduct, as set forth in Findings of Fact 1 and 2, constitutes "[t]he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code. The State offered no evidence demonstrating that Dr. Wells intended to defraud the Board when completing his 1990 application for renewal.
4. The 1994 Tennessee Board actions, as set forth in Findings of Fact 3 and 4, constitute "the limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Section 4731.22(B)(5), Ohio Revised Code. The findings and conclusions of the Tennessee Board adequately support a conclusion that Dr. Wells not only solicited patients, but did so by "publishing a false, fraudulent, deceptive, [and] misleading statement[s]."
5. The evidence is insufficient to conclude that the 1994 Tennessee Board actions, as set forth in Findings of Fact 3 and 4, also constitute a violation of Section 4731.22(B)(22), Ohio Revised Code, to wit: Section 4731.22(B)(26), Ohio Revised Code. Although the Tennessee Board found that Dr. Wells attempted to commit suicide by an overdose of drugs in 1992, that finding does not sufficiently establish that Dr. Wells demonstrates a current "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."
6. The evidence does not support a conclusion that Dr. Wells violated Section 4731.22(B)(22), Ohio Revised Code, to wit: Section 4731.22(B)(18), to wit: Principle VI, American Medical Association Code of Ethics.

PROPOSED ORDER

It is hereby ORDERED that:

- A. The certificate of Darrell K. Wells, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but no less than three years.

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B. The State Medical Board shall not consider reinstatement of Dr. Wells' certificate to practice unless all of the following minimum requirements have been met:

1. Dr. Wells shall submit an application for reinstatement, accompanied by appropriate fees.
2. Dr. Wells shall provide the Board with acceptable documentation evidencing his full and unrestricted licensure in the State of Tennessee.
3. Dr. Wells shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess Dr. Wells' clinical competency.
4. Dr. Wells shall provide the Board with written reports of evaluation by two psychiatrists acceptable to the Board indicating that Dr. Wells' ability to practice has been assessed and that Dr. Wells has been found capable of practicing in accordance with acceptable and prevailing standards of care. Each report shall describe with particularity the bases for this determination and shall set forth any recommended limitations upon Dr. Wells' practice.

Prior to the assessment of Dr. Wells' current status, Dr. Wells shall submit to each evaluating psychiatrist copies of the Board's Order, including the Summary of the Evidence, the Findings of Fact, the Conclusions, and any other documentation from the *Goldman* hearing record which the Board may deem appropriate or helpful to that evaluator. Within ten days after the completion of each initial assessment, Dr. Wells shall cause a written report to be submitted to the Board from the approved evaluator, which report shall include:

- i. A detailed plan of recommended treatment based upon the evaluator's informed assessment of Dr. Wells' current needs; and
 - ii. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.
5. Dr. Wells shall provide the Board with acceptable documentation evidencing compliance with any recommended plan of treatment required under paragraph 4, above, on a quarterly basis, or as otherwise directed by the Board.

6. Dr. Wells shall provide documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee, but shall not be less than ten hours. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the biennial registration period(s) in which they are completed.
 7. Dr. Wells shall notify the Board of any action in any state taken against a certificate to practice medicine held by Dr. Wells in that state. Moreover, Dr. Wells shall provide acceptable documentation verifying the same.
 8. In the event that Dr. Wells has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Wells' fitness to resume practice..
- C. Upon reinstatement, Dr. Wells' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. Dr. Wells shall obey all federal, state, and local laws, and all rules governing the practice of medicine in the state in which he is practicing.
 2. Dr. Wells shall not request modification of the terms, conditions, or limitations of his probation for at least one year after imposition of these probationary terms, conditions, and limitations.
 3. Dr. Wells shall appear in person for interviews before the full Board or its designated representative within three months of the reinstatement of his certificate and at twelve month intervals thereafter, or as otherwise requested by the Board.
 4. Dr. Wells shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which the probation becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations

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must be received in the Board's offices on or before the first day of every third month.

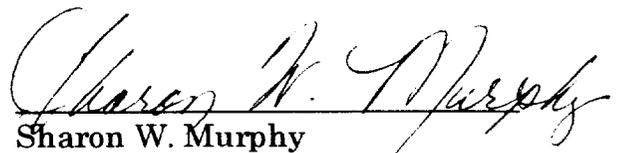
5. Dr. Wells shall notify the Board of any action in any state taken against a certificate to practice medicine held by Dr. Wells in that state. Moreover, Dr. Wells shall provide acceptable documentation verifying the same.
6. Dr. Wells shall immediately notify the Board in writing should he fail to comply with any term, condition, or limitation of his probation or with any term, condition, or limitation imposed by any other state medical board.
7. Dr. Wells shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by any other state medical board.
8. Dr. Wells shall continue counseling, if recommended pursuant to paragraph B(4), above, with a psychiatrist approved by the Board, at such intervals as are deemed appropriate by the treating psychiatrist, but not less than once per month. The sessions shall be in person and may not be conducted by telephone or other electronic means.

Dr. Wells shall continue in counseling until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from the approved treating psychiatrist. Dr. Wells shall ensure that these reports are forwarded to the Board on a quarterly basis, or as otherwise directed by the Board.

9. Dr. Wells shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, should he commence practice in Ohio, the Board may place Dr. Wells' certificate under additional terms, conditions, or limitations, including the following:
 - a. Prior to commencement of practice in Ohio, Dr. Wells shall submit to the Board and receive its approval for a plan of practice in Ohio which, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Wells' activities will be directly supervised and overseen by another physician approved by the Board.
 - b. Dr. Wells shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.

- c. Dr. Wells shall appear in person for interviews before the full Board or its designated representative at three month intervals, or as otherwise requested by the Board.
 - d. Dr. Wells shall provide a copy of this Order to all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges.
 - e. Within thirty days of commencement of practice in Ohio, Dr. Wells shall submit for the Board's prior approval the name of a monitoring physician, who shall review Dr. Wells' patient charts and shall submit a written report of such review to the Board on a quarterly basis. Such chart review may be done on a random basis, with the number of charts reviewed to be determined by the Board. It shall be Dr. Wells' responsibility to ensure that the monitoring physician's quarterly reports are submitted to the Board on a timely basis. In the event that the approved monitoring physician becomes unable or unwilling to so serve, Dr. Wells shall immediately so notify the Board in writing and shall make arrangements for another monitoring physician as soon as practicable.
 - f. In the event that Dr. Wells has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to commencement of practice in Ohio, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Wells' fitness to resume practice.
10. If Dr. Wells violates probation in any respect, the Board, after giving Dr. Wells notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of Dr. Wells' certificate.
- D. Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Wells' certificate will be fully restored.

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


Sharon W. Murphy
Attorney Hearing Examiner



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor * Columbus, Ohio 43260-0315 * (614) 460-3934

EXCERPT FROM THE DRAFT MINUTES OF NOVEMBER 13, 1996

REPORTS AND RECOMMENDATIONS

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

Dr. Stienecker asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Archie W. Bedell, M.D., and Walter Woodhouse, M.D.; Thomas J. Delliquadri, M.T.; Atul S. Goswami, M.D.; Robert D. Kukla, M.D.; Gregory Spencer Mynko, M.D.; Adam George Paoni, D.O.; and the hearing records and reports of *Goldman* hearings and recommendations on the following: Alexis Medical Center; Robert H. Bell, M.D. & The Orthopaedic Surgeons, Inc.; Jerome P. Davidson, D.P.M.; Larry S. Fields, M.D., John H. Darnell, Jr., M.D., and Robert J. Thomas, M.D., of the Family Medicine Center; Rose A. Gowdey & the Potomac Massage Training Institute; James A. Johnson, D.O.; Jeffrey R. Kontak, M.D. & The Wadsworth-Rittman Area Family Practice, Inc.; Dewey O. Mays, Jr., M.D.; Teresita Morales, M.D.; Charles W. Nadolski; Muhammad Najjar, M.D.; Sanjiv S. Patel, M.D.; Susan W. Perlman, M.D.; Lakshmanaraju S. Raju, M.D.; Swaroop Rani, M.D.; Neil Alan Shank, D.O.; and Darrell K. Wells, M.D.

A roll call was taken:

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

Dr. Heidt stated that he did not read the hearing record in the matter of Archie W. Bedell, M.D., and Walter Woodhouse, M.D.

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye

Dr. Bhati	- aye
Dr. Heidt	- aye
Dr. Gretter	- aye
Dr. Egner	- aye
Dr. Agresta	- aye
Dr. Buchan	- aye
Mr. Sinnott	- aye
Dr. Garg	- aye
Dr. Stienecker	- aye

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

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

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REPORT OF *GOLDMAN* HEARING AND RECOMMENDATION IN THE MATTER OF DARRELL K. WELLS, M.D.

Dr. Stienecker 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. AGRESTA MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DARRELL K. WELLS, M.D. DR. GARG SECONDED THE MOTION.

Dr. Stienecker asked whether there were any questions or comments concerning the proposed findings of fact, conclusions and order in the above matter.

Dr. Egner stated that it seems that there is an underlying message in this case and the Report of *Goldman* Hearing and Recommendation, and that is that the Board will make it so difficult for Dr. Wells, that he won't be able to return to practice here. She stated that she doesn't disagree with that, but based on the record she would just as soon say that he can no longer have an Ohio license. She noted that the Proposed Order suspends Dr. Wells' license for three years, requires him to hold an unrestricted license in the state of Tennessee, places him on probation for five years, etc. She feels that it will be impossible for Dr. Wells to meet the terms for reinstatement. Dr. Egner suggested that the Board enter an order of revocation instead.

Mr. Bumgarner asked whether Dr. Egner was suggesting a permanent revocation. She responded that she was.

Dr. Heidt stated that he felt the same way. He considered offering an amendment to revoke Dr. Wells' license, but if Dr. Wells can go through all of the requirements for reinstatement, that is his choice.

Dr. Buchan stated that he would support an amendment for revocation.

DR. EGNER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DARRELL K. WELLS, M.D., BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that the certificate of Darrell K. Wells, M.D., to practice medicine and surgery in the State of Ohio shall be permanently REVOKED.

DR. BUCHAN SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- nay
	Dr. Heidt	- nay
	Dr. Gretter	- abstain
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye

The motion carried.

DR. GARG MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF DARRELL K. WELLS, M.D. DR. EGNER SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- nay
	Dr. Heidt	- nay
	Dr. Gretter	- abstain
	Dr. Egner	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye

EXCERPT FROM THE DRAFT MINUTES OF NOVEMBER 13, 1996
IN THE MATTER OF DARRELL K. WELLS, M.D.

Dr. Stienecker - aye

The motion carried.



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43269-0315 • (614) 466-9334

February 14, 1996

Darrell K. Wells, M.D.
102 Hazel Path
Hendersonville, TN 37075

Dear Doctor Wells:

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 23, 1994, the State of Tennessee, Department of Health, Board of Medical Examiners (the "Tennessee Board") issued an Order which suspended your license to practice medicine and surgery for a six (6) month period, and stayed such suspension as long as you complied with the terms of the Order (a copy of which is attached hereto and fully incorporated herein). On or about October 19, 1994, the Tennessee Board issued an Order (a copy of which is attached hereto and fully incorporated herein) which indefinitely retired your license to practice medicine and surgery.
- (2) You signed the 1990 application for renewal of your Ohio certificate to practice medicine and surgery, certifying that the information provided on the application was true and correct in every respect. In response to the question, "At any time since signing your last application for renewal of your certificate have you: . . . 2.) Had a license denied by or had any disciplinary action taken or initiated against you by any state licensing board other than the State Medical Board of Ohio?" you responded, "No."

In fact, on or about October 12, 1989, the Tennessee Board filed a Notice of Charges against you, stating your conduct was in violation of T.C.A. Sections 63-6-214(a)(1), (a)(4) and (a)(12).

Mailed 2/15/96

February 14, 1996

DARRELL K. WELLS, M.D.

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The Orders, as alleged in paragraph (1) above, individually and/or collectively, constitutes "(t)he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that also would have been a violation of this chapter, except for nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Section 4731.22(B)(5), and (B)(26), Ohio Revised Code, and Section 4731.22(B)(18) to wit: Principle VI, American Medical Association Code of Ethics.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "(t)he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), 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.

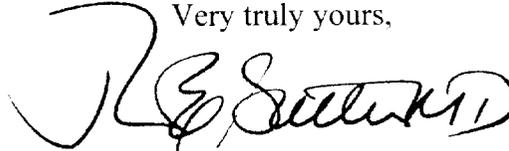
February 14, 1996

DARRELL K. WELLS, M.D.

PAGE 3

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. E. Gretter, M.D.', written in a cursive style.

Thomas E. Gretter, M.D.
Secretary

TEG/bjm
Enclosures

CERTIFIED MAIL # P 348 887 262
RETURN RECEIPT REQUESTED

Darrell
cc: ~~John~~ K. Wells, M.D.
2600 Valley View Dr., #114
Flagstaff, AZ 86004

CERTIFIED MAIL # P 348 887 287
RETURN RECEIPT REQUESTED

rev.2/15/95

STATE OF TENNESSEE
DEPARTMENT OF HEALTH

RECEIVED

AUG 23 PM 12:08

IN THE MATTER OF:

BEFORE THE BOARD OF STATE
MEDICAL EXAMINERS

DARRELL K. WELLS, M.D., Ph.D.)
RESPONDENT)
LIC. NO. 015333)
HENDERSONVILLE, TN)

DOCKET NO. 17.18-34-1089A

ORDER

This matter came to be heard before the Tennessee Board of Medical Examiners on the 16th day of August, 1994, pursuant to a Notice of Charges filed against the Respondent. Presiding at the hearing was the Honorable Robert T. McGowan, Administrative Law Judge, assigned by the Secretary of State. The State was represented by Jesse D. Joseph, Assistant General Counsel. The Respondent was present without counsel. After consideration of the Notice of Charges, testimony, exhibits, arguments of counsel and the record as a whole, the Board found as follows:

FINDINGS OF FACT

1. During all times material hereto, Respondent has possessed a valid license to practice Medicine and Surgery issued by the Board.

2. During the months of October and November, 1992, the

Respondent placed an advertisement within The Tennessean, extolling the virtues of his weight loss program which focused upon knowing a patient's "food allergies". This advertisement offered a \$130.00 "budget program", and Respondent claimed that this mode of treatment was a "great way to treat arthritis, fatigue, headaches, bowel problems, etc."

3. On November 16, 1992, Patient A called Respondent's office and made an appointment for November 17, 1992. This patient came in for her first appointment with Respondent on November 17, 1992 and Respondent provided her with a consultation. The Respondent also sent this patient to the National Health Laboratories in Nashville, Tennessee on this day to have blood drawn for a health survey profile. On November 20, 1992, Patient A returned to Respondent's office to receive a diet, vitamins and calcium pills, a cassette tape setting forth which foods to eat and which to avoid, and an interpretation of her blood test results.

4. After November 20, 1992, Patient A attempted to call the Respondent several times without success. Two to three weeks after her last office visit with Respondent, Patient A stopped by his office only to find his sign off of the door. Patient A then called the telephone operator, who informed her that Respondent's telephone number had been disconnected. In early January, 1993, Patient A met Dr. Wells' receptionist, Ms. S.S., who informed this patient that Respondent had not yet provided her with her

final pay, and that she was released from her duties with no notice on the day before Thanksgiving, 1992.

5. Patient A believed that Respondent had committed a terrible injustice by abandoning her care and that of other patients, and that Respondent had not given herself, and other patients, their money's worth.

6. Patient A enrolled in Respondent's budget program for \$130.00.

7. In October 1992, Patient B and her son, Patient C, enrolled in the Respondent's nutritional program for weight loss. Patient B paid Respondent in excess of \$500.00 for a package that included a consultation and blood work-up; a second visit to interpret blood tests, to provide the list of good and bad foods and cassette; and a third, fourth and fifth visit for follow-up. Patient B purchased from Respondent a nutritional program for herself and for her son.

8. Patients B and C both had a few visits remaining under the program when Respondent closed his office in November, 1992. Patient B, like Patient A and many other patients, was not notified by phone or mail that Respondent was closing his office. Patient B also learned from South Central Bell directory assistance that Respondent's prior office phone number had been

disconnected in November of 1992.

9. In November of 1992, Respondent closed his office at 112 Hazel Path Road, in Hendersonville, Tennessee and moved to Ohio. Respondent admitted to a Health Related Boards investigator in October of 1993 that he was going through a devastating divorce at the time and that he was emotionally unstable.

10. Respondent also admitted to the investigator that he attempted to commit suicide by overdosing on drugs and was hospitalized at Parthenon Pavilion in Nashville. After being discharged from Parthenon Pavilion, Respondent resided in Ohio for eight months.

11. Respondent did not notify any of his patients by telephone or by mail of the closure of his office in late November, 1992. Respondent made no arrangements for his patients' care with alternate physicians or treatment centers when he closed his practice.

12. Respondent negligently allowed his estranged wife to remove all of his patient's financial records, during November or December of 1992, and informed the Health Related Boards investigator that all of his patients' medical records were still in Ohio, after Respondent had returned to Tennessee in October of 1993.

13. Respondent has recently offered to allow Patients A, B, C, and any other patients who did not complete his nutritional program to start the program again free of charge.

14. As is set forth herein, Respondent has abandoned the ongoing care and treatment of patients in contravention of his professional responsibilities.

15. On March 1, 1994, Respondent first saw patient D, who presented with complaints of frequent low-key headaches. Respondent told this patient that he believed he could cure these by determining the patient's food allergies.

16. Patient D informed Respondent that he was a vegetarian, and that he had previously undergone a coronary arterial bypass graft in 1987 for coronary artery disease. Respondent then proceeded to administer a cardiogram on this patient on March 1, 1994. Respondent told this patient that his EKG tracing was abnormal, despite the fact that the patient had a normal EKG result during his annual physical exam six weeks prior to March 1, 1994.

17. On March 8, 1994, patient D appeared at Respondent's office to receive his new "healthier" diet. Despite this patient's reported history of vegetarianism and coronary arterial disease and surgery, Respondent recommended steak and eggs for breakfast, pork chops for lunch, and shellfish for dinner. When this

patient protested about the animal products, Respondent informed the patient that the diet would do him no harm and that heart disease was caused by nothing but stress which is of two types -- "psychological" and "food". Respondent ultimately told this patient that it didn't matter if the patient had coronary arterial disease.

18. On March 9, 1994, this patient's cardiologist performed another EKG on the patient and this result was perfectly normal. This patient's cardiologist believed that Respondent's March 1, 1994 EKG results could have been caused by improper placing of the leads. When patient D confronted Respondent with his cardiologist's explanation, Respondent suggested instead that the patient's heart damage must have "reversed" during the 8 days between his March 1, 1994 exam and the cardiologist's March 9, 1994 exam.

CONCLUSIONS OF LAW

The Findings of Fact in this Order are sufficient to establish violation by the Respondent of the following provisions of the Tennessee Medical Practice Act, (T.C.A. 63-6-101 et seq.) for which disciplinary action before and by the Board is authorized:

1. T.C.A. Section 63-6-214(b)(1), which authorizes the Board to discipline any licensee who has engaged in unprofessional, dishonorable, or unethical conduct;
2. T.C.A. Section 63-6-214(b)(5), which authorizes the Board to discipline any licensee who has personally misused any drug, so as to adversely affect the person's ability to practice medicine; and
3. T.C.A. Section 63-6-214(b)(8), which authorizes the Board to discipline any licensee who has advertised his medical business by using untrue or misleading statements, or who has published fraudulent advertising relative to any disease, human ailment or conditions.

REASONS FOR DECISION

1. The Board is legally obligated to impose appropriate discipline to licensees who are found to violate provision of its statutory scheme. The Board may impose discipline short of license revocation where other corrective action may suffice to protect patients and the public.

Therefore, it is ORDERED as follows:

- I. Respondent's license to practice Medicine and Surgery IS

SUSPENDED for a six (6) month period beginning with the effective date of this Order, however, said suspension is STAYED as long as Respondent's complies with terms of this Order, and with any and all further modifications of this Order this Board may choose to issue.

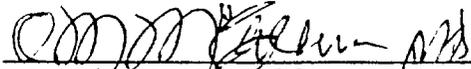
2. Respondent shall obtain, at his own expense, a psychiatric evaluation focusing upon his fitness to practice medicine, and shall present himself with said evaluation report to the Impaired Physicians Program (IPP) of the Tennessee Medical Association for further assessment and recommendations, within twenty-one (21) days of the effective date of this Order. Respondent shall obtain the appointment by contacting Godfrey Vaz, M.D., this Board's Medical Consultant. Respondent shall release any psychiatric evaluation reports, and other confidential records in this regard to Dr. Vaz and to counsel for the State.
3. Respondent shall appear (along with Dr. David T. Dodd of the IPP) at the Board's September 14, 1994 meeting to show his compliance with the terms of this Order, and so that the Board may determine whether to modify this Order, and impose additional and/or different restrictions upon his licensure.
4. The Respondent shall personally deliver a copy of this

Order to the Medical Director and administrator of any and all hospitals in which the Respondent has been granted practice privileges.

5. The Respondent is assessed and shall pay on or before February 23, 1995, a civil penalty in the amount of \$2,000.00. That amount consists of five Type B Civil Penalties in the amount of Four-hundred dollars (\$400.00) for each of the five separate violations found in this Order which the Board has determined constitute conduct which impacts directly on patients and the public. The Board considered the following in assessing the civil penalty:

- (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
- (b) The circumstances leading to the violation;
- (c) The severity of the violation and the risk of harm to the public;
- (d) The economic benefits gained by the violator as a result of non-compliance; and,
- (e) The interest of the public.

SO ORDERED THIS 16 DAY OF August, 1974 BY THE TENNESSEE
BOARD OF MEDICAL EXAMINERS.



Oscar M. McCallum, M.D.
President
Tennessee Board of Medical
Examiners

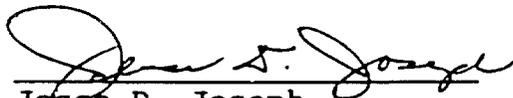
RECONSIDERATION, ADMINISTRATIVE RELIEF
AND JUDICIAL REVIEW

Within ten (10) days from the effective date of the Final Order, a party has the right to petition the Board for reconsideration of the Final Order. If no action is taken within (20) twenty days of filing of the petition with the Board, it is deemed denied. T.C.A. 4-5-317.

In addition, a party may petition the Board for a stay of the Final Order within seven (7) days after the effective date of the Final Order. T.C.A. 4-5-316.

Finally, a party may seek judicial review by filing a petition for review in the Chancery Court of Davidson County within sixty (60) days after the effective date of the Final Order. A petition for reconsideration does not act to extend the sixty (60) day period; however, if the petition is granted, then the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the petition. T.C.A. 4-5-322.

Prepared for Entry.



Jesse D. Joseph
Assistant General Counsel
Office of General Counsel
300 Cordell Hull Building
Department of Health
Nashville, Tennessee 37247-0120
(615) 741-1611

This Order was received for filing in the Office of the Secretary of State, Administrative Procedures Division, and became effective on the 23rd day of August, 1994.

Charles C. Sullivan II 1/16
Charles C. Sullivan II, Director
Administrative Procedures
Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon all interested parties, or their counsel, by delivering same to their office or by placing a true and correct copy of same in the United States mail, postage prepaid.

This 23rd day of August, 1994.

BY:


Assistant General Counsel
Tennessee Department of Health

RECEIVED

STATE OF TENNESSEE
DEPARTMENT OF HEALTH 94 OCT 19 PM 3:49

OFFICE OF
SECRETARY OF STATE

IN THE MATTER OF:

BEFORE THE BOARD OF
MEDICAL EXAMINERS

DARRELL K. WELLS, M.D., Ph.D.
RESPONDENT
FLAGSTAFF, AZ

DOCKET NUMBER: 17.18-34-1089A

ORDER

This matter came to be heard before the Tennessee Board of Medical Examiners on the 19th day of October, 1994, pursuant to an Order modification request filed by the Respondent. The State was represented by Jesse D. Joseph, Assistant General Counsel. The Respondent was present without counsel. After consideration of the previous Order, the parties' agreement, the Board found as follows:

FINDINGS OF FACT

1. All Findings of Fact as included within this Board's August 23, 1994 Order remain applicable hereto and are incorporated by reference herein.

2. In early September, 1994, Respondent was evaluated by a psychiatrist acceptable to the Board's Medical Director, in accordance with the Board's August 23, 1994 Order. This

evaluation focused upon Respondent's fitness to practice medicine.

3. Respondent has not found himself able to obtain the additional psychological testing as recommended by the evaluating psychiatrist.
4. Respondent has executed this day an appropriate Affidavit of Retirement from the practice of medicine in Tennessee, effective immediately.
5. Before ever practicing in Tennessee again, Respondent agrees that he must personally appear before this Board and demonstrate that he is fit to reenter the practice of medicine, that he has complied with the provisions of the Board's August 23, 1994 Order, and that he has complied with the recommendations of the evaluating psychiatrist or with the recommendations of such other physician(s) or psychologist(s) who may have evaluated Respondent as approved by this Board's Medical Director.

CONCLUSIONS OF LAW

1. All Conclusions of Law as included within this Board's August 23, 1994 Order remain applicable hereto and are incorporated by reference herein.

REASONS FOR DECISION

1. The Board may choose to accept an indefinite voluntary retirement of licensure from a licensee whose fitness is in question, and may demand proof of such fitness before allowing said licensee to reactivate his or her license. Protection of patients and the public is facilitated thereby.

Therefore, it is ORDERED as follows:

1. Respondent's license to practice Medicine and Surgery as issued by this Board IS HEREBY INDEFINITELY RETIRED.
2. Before ever practicing in Tennessee again, Respondent must personally appear before the Board and demonstrate his fitness to reenter the practice of medicine, he must demonstrate compliance with the Board's August 23, 1994 Order, and must comply with the directives of the evaluating psychiatrist or with the directives of such other physician(s) or psychologist(s) who may have evaluated Respondent as approved by this Board's Medical Director.

3. The Board retains the ability to impose restrictions upon Respondent's licensure in addition to those included within this Board's August 23, 1994 Order, if Respondent's Tennessee license is ever reactivated.
4. Respondent must ensure that this Board's Administrator is always in possession of his current mailing address and telephone number.
5. Respondent remains obligated to pay to this Board by February 23, 1995, the \$2,000.00 in Type B Civil Penalties as mandated in this Board's August 23, 1994 Order.

So ORDERED this 19 day of October, 1994 by the
TENNESSEE BOARD OF MEDICAL EXAMINERS.



PANEL CHAIRPERSON
TENNESSEE BOARD OF MEDICAL EXAMINERS

AGREED TO:



JESSE D. JOSEPH, #10509
Assistant General Counsel
Office of General Counsel
312 8th Avenue North
Tennessee Tower, 11th Flr. SE
Department of Health
Nashville, Tennessee 37247-0120
(615)741-1611

Darrell Wells

DARRELL K. WELLS, M.D., Ph.D.
1030 North Lakepoint Way
Flagstaff, Arizona 86002
1-800-824-9779
RESPONDENT

This Order was received for filing in the Office of the Secretary of State, Administrative Procedures Division, and became effective on the 19th day of October, 1994.

Charles C. Sullivan II ^{ead}
Charles C. Sullivan, II, Director
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon all interested parties, or their counsel, by delivering same to their offices or by placing a true and correct copy of same in the United States mail, postage prepaid.

This 19th day of October, 1994.



Assistant General Counsel
Tenn. Dept. of Health