State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

January 9, 2002

Ralph B. Monnett, Jr., M.D.
14410 U.S. Hwy 1
Sebastian, FL 32958

Dear Doctor Monnett:

Please find enclosed certified copies of the Entry of Order; the Report 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 January 9, 2002, including motions approving and confirming 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 must be taken to the Franklin County Court of Common Pleas.

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. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5147 1746
RETURN RECEIPT REQUESTED

Mailed 1-24-02

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 9, 2002, including motions approving and confirming 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 Ralph B. Monnett, Jr., 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.

Anand G. Garg, M.D.
Secretary

(SEAL)

January 9, 2002
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*
	*
RALPH B. MONNETT, JR., M.D.	*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on January 9, 2002.

Upon the Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter 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:

Ralph B. Monnett, Jr., M.D. be REPRIMANDED.

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

(SEAL)

Anand G. Garg, M.D.
Secretary

January 9, 2002
Date

STATE MEDICAL BOARD
OF OHIO

2001 DEC 14 A 11: 30

REPORT AND RECOMMENDATION
IN THE MATTER OF RALPH B. MONNETT, JR., M.D.

The Matter of Ralph B. Monnett, Jr., M.D., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on November 29, 2001.

INTRODUCTION

I. Basis for Hearing

A. By letter dated September 12, 2001, the State Medical Board of Ohio [Board] notified Ralph B. Monnett, Jr., M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio based on an action taken against Dr. Monnett by the Florida Board of Medicine [Florida Board]. The Board alleged that the Florida Board action constitutes "'[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,' as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, as in effect prior to April 10, 2001." Accordingly, the Board advised Dr. Monnett of his right to request a hearing in this matter. (State's Exhibit 1A).

B. On October 9, 2001, Dr. Monnett submitted a written hearing request. (State's Exhibit 1B).

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Hanz R. Wasserburger, Assistant Attorney General.

B. On behalf of the Respondent: Dr. Monnett, having been apprised of his right to attend the hearing or to be represented by counsel, did not appear in person or by representative. Instead, Dr. Monnett presented his defense in writing.

EVIDENCE EXAMINED

I. Testimony Heard

Neither party presented witnesses.

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II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1F: Procedural exhibits.

2. State's Exhibit 2: Certified copies of documents pertaining to Dr. Monnett maintained by the Florida Department of Health, Division of Medical Quality Assurance. (Note: pages numbered by the Attorney Hearing Examiner post-hearing.)

B. Presented by the Respondent

Respondent's Exhibit A: Copy of a November 15, 2001, letter to the Board from Dr. Monnett.

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Attorney Hearing Examiner prior to preparing this Report and Recommendation.

1. On May 1, 2000, the Florida Board of Medicine [Florida Board] filed an Administrative Complaint against Ralph B. Monnett, Jr., M.D. (State's Exhibit [St. Ex.] 2 at 16-20). In the Administrative Complaint, the Florida Board alleged that, on or about January 10, 1998, Dr. Monnett had placed an advertisement regarding his eye and surgery centers in two local newspapers. The advertisement claimed that Dr. Monnett "is said to have surgical skills ranking among the top few percent nationally." The advertisement further claimed that "This is the reason Dr. Monnett has performed more cataract surgeries than any other eye surgeon" in his community. Finally, the advertisement offered a free cataract screening. (St. Ex. 2 at 17).

   The Florida Board alleged that in publishing the portion of the advertisement which claimed that Dr. Monnett "is said to have surgical skills ranking among the top few percent nationally," Dr. Monnett had engaged in false, deceptive, or misleading advertising. The Florida Board cited a Florida law which deems as "false, deceptive, or misleading" any advertisement in which the physician claims to possess "qualifications, skills, or other attributes which are superior to other physicians * * *." (St. Ex. 2 at 17).

   In addition, the Florida Board alleged that, in publishing the portion of the advertisement which offered a free cataract screening, Dr. Monnett had "failed to perform any statutory or

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legal obligation placed upon a licensed physician." The allegation was based on a Florida law which states that any advertisement which offers a free service or examination must contain a specified disclaimer. (St. Ex. 2 at 17).

2. Dr. Monnett signed a Consent Agreement with the Florida Board on July 5, 2000. (St. Ex. 2 at 6-13). In the Consent Agreement, there were three Stipulations of Fact. Two related to jurisdictional issues. In the third, Dr. Monnett neither admitted nor denied the allegations of fact contained in the Administrative Complaint. (St. Ex. 2 at 7).

   In the Consent Agreement, there were also three Stipulated Conclusions of Law. Two related to jurisdictional issues. In the third, Dr. Monnett admitted that the Stipulated Disposition in the Florida Board case was "fair, appropriate and acceptable." (St. Ex. 2 at 7).

   In the Stipulated Disposition [as amended], Dr. Monnett agreed to read and obey specific Florida laws and rules. Dr. Monnett also agreed to pay a fine of $5,000.00 and the costs of the investigation and prosecution in the amount of $420.00. Finally, Dr. Monnett agreed to complete five hours of continuing medical education in the area of medical ethics within one year of the filing of the Florida Board's Final Order. (St. Ex. 2 at 3, 4, 8).

   On October 27, 2000, the Florida Board of Medicine [Florida Board] filed a Final Order approving and adopting the Consent Agreement, as amended. (St. Ex. 2 at 3-5).

3. In a letter to the Board dated November 15, 2001, Dr. Monnett addressed the Board's allegations and the Final Order submitted by the Florida Board. Dr. Monnett stated that he had disputed the Florida Board allegation that he advertised in a false or misleading manner. Dr. Monnett stated that he is very serious about his ophthalmologic practice, and never intended to deceive the public. Dr. Monnett stated that he had made the claims regarding the quality of his practice because he believed them to be true. Dr. Monnett stated that he based his belief on statements regarding the high quality of his practice made by the representative of an ophthalmic surgical supply company and by a national ophthalmology practice consultant. Accordingly, Dr. Monnett stated that he had believed that his statements regarding the quality of his practice had been "objectively supported." (Respondent's Exhibit [Resp. Ex.] A).

   Dr. Monnett further stated that the allegations made by the Florida Board regarding the lack of disclaimer had been true. Nevertheless, Dr. Monnett stated that the failure to include the disclaimer had been inadvertent. Dr. Monnett stated that he had been advertising his practice for years, and that all of the previous advertisements had contained the required disclaimer. Dr. Monnett further explained that the advertisement at issue had been placed by a newly hired advertisement company, and he had been unaware that the advertisement company had omitted the required disclaimer. Furthermore, Dr. Monnett stated that he had immediately corrected the advertisement when he was notified by the Florida Board of Health that the disclaimer was missing. (Resp. Ex. A).

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Finally, Dr. Monnett stated that he had agreed to the Stipulated Disposition in the Florida Board Final Order because he had realized that he may have violated the technical provisions of the Florida laws. Moreover, he had hoped to avoid the expense that would be required in attempting to refute the allegations. (Resp. Ex. A).

FINDINGS OF FACT

1. In an Administrative Complaint filed May 1, 2000, the Florida Board of Medicine [Florida Board] alleged that on or about January 10, 1998, Ralph B. Monnett, Jr., M.D., had placed an advertisement in two local newspapers regarding his eye and surgery centers. The Florida Board further alleged that, in placing these advertisements, Dr. Monnett had engaged in "false, deceptive, or misleading advertising" and that he had "failed to perform any statutory or legal obligation placed upon a licensed physician."

2. Dr. Monnett signed a Consent Agreement with the Florida Board on July 5, 2000. In the Consent Agreement, Dr. Monnett neither admitted nor denied the allegations of fact contained in the Administrative Complaint. Nevertheless, Dr. Monnett admitted that the Stipulated Disposition in the Florida Board case was "fair, appropriate and acceptable" to him.

3. On October 27, 2000, the Florida Board filed a Final Order approving and adopting the Consent Agreement, as amended. The Final Order required that Dr. Monnett complete five hours of continuing medical education in the area of medical ethics, pay an administrative fine of $5,000.00, and pay the costs of the investigation and prosecution in the amount of $420.00.

CONCLUSIONS OF LAW

The action taken against Ralph B. Monnett, Jr., M.D., by the Florida Board of Medicine, as described in the Findings of Fact, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code as in effect prior to April 10, 2001.

* * * * *

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The Consent Agreement between Dr. Monnett and Florida sets forth no substantive finding of fact, other than that Dr. Monnett neither admitted nor denied the Florida Board's allegations. Moreover, the Consent Agreement between Dr. Monnett and Florida sets forth no substantive conclusions of law, other than that Dr. Monnett admitted that the Stipulated Disposition in the Florida Board Consent Agreement was "fair, appropriate and acceptable." Nevertheless, Section 4731.22(B)(22), Ohio Revised Code, as in effect after March 6, 1996, provides that the Board may take disciplinary action against a licensee based solely on the licensee having been the subject of a disciplinary action by another state board, "for any reason other than the nonpayment of fees."

PROPOSED ORDER

It is hereby ORDERED that:

A. **REPRIMAND**: It is hereby ORDERED that Ralph. B. Monnett, Jr., M.D., be REPRIMANDED.

B. **PROBATION**: The certificate of Dr. Monnett to practice medicine and surgery in the State of Ohio shall be subject to PROBATIONARY terms, conditions, and limitations until such time as Dr. Monnett submits to the Board written documentation acceptable to the Board verifying: (1) that Dr. Monnett has completed all requirements imposed by the Final Order of Florida Board of Medicine [Florida Board]; and (2) that Dr. Monnett otherwise holds a full and unrestricted license to practice medicine and surgery in that state.

For the duration of the probationary period, Dr. Monnett's certificate shall be subject to the following terms, conditions, and limitations:

1. **Obey the Law:** Dr. Monnett shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.

2. **Violation of Terms of Probation**: If Dr. Monnett violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

C. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Monnett's certificate will be fully restored.

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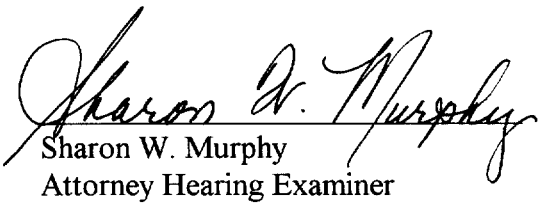
D. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Monnett shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Monnett shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

E. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Monnett shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Monnett shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Dr. Monnett shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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



Sharon W. Murphy
Attorney Hearing Examiner

State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JANUARY 9, 2002

REPORTS AND RECOMMENDATIONS

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

Dr. Somani 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 matter of Rogel R. Belmonte, M.D.; Joel B. Burrell, M.D.; Ralph B. Monnett, Jr., M.D.; and Gerald Rowland, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Somani	- aye

Dr. Somani 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. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye

Dr. Garg	- aye
Dr. Steinbergh	- aye
Dr. Somani	- aye

Dr. Somani noted that, in accordance with the provision in Section 4731.22(F)(2), 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 these matters.

Dr. Somani stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

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RALPH B. MONNETT, JR., M.D.

Dr. Somani directed the Board's attention to the matter of Ralph B. Monnett, Jr., M.D.

Dr. Somani advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation, but were not filed in a timely manner. He asked whether the Board wished to admit Dr. Monnett's objections into the record.

DR. STEINBERGH MOVED TO ACCEPT DR. MONNETT'S OBJECTIONS. DR. BHATI SECONDED THE MOTION. A vote was taken:

Vote:		
	Mr. Albert	- abstain
	Dr. Egner	- nay
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Somani	- aye

The motion carried.

At this time copies of the objections were distributed and read by Board members.

Dr. Somani noted that materials attached to the Objections are being construed as a motion to admit additional evidence to the record. The Assistant Attorney General has filed a memorandum in opposition to accepting this additional information. A copy of that memorandum was distributed with the objections.

DR. STIENECKER MOVED TO ADMIT THE ADDITIONAL MATERIALS TO THE RECORD. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:		
	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Somani	- aye

The motion carried.

DR. STIENECKER MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF RALPH B. MONNETT, JR., M.D. DR. STEINBERGH SECONDED THE MOTION.

Dr. Stienecker stated that Dr. Monnett's objections are putting the cart before the horse. No matter what the situation in Florida is, Dr. Monnett still has been disciplined to the tune of a $5,000 fine. There is no doubt that what Dr. Monnett did was contrary to Florida law. A reprimand is in order in this case for this type of activity. Dr. Stienecker spoke in support of the Proposed Order, and suggested that Dr. Monnett can follow up on probationary terms afterward.

Dr. Steinbergh agreed with Dr. Stienecker.

Dr Buchan stated that the probationary terms of the Proposed Order are asking for a clear Florida license. The Board has been presented with a copy of documentation indicating that Dr. Monnett's Florida license is now clear. He suggested striking the probation language from the Proposed Order.

Dr. Egner advised that she feels the probationary terms are unnecessary in this case.

DR. TALMAGE MOVED TO AMEND MS. MURPHY'S PROPOSED ORDER BY STRIKING PARAGRAPHS B, C, D, AND E. DR. BUCHAN SECONDED THE MOTION.

Dr. Steinbergh stated that an action was taken against Dr. Monnett's license by the Florida Board. The Proposed Order is appropriate.

Dr. Stienecker stated that the letter from the Florida Department of Health, which indicates that Dr. Monnett now has a "clear" Florida license, was attached to Dr. Monnett's objections. He stated that he would prefer to see a letter written to this Board by Florida. Until he gets such information directly from the authority, he finds it to be hearsay evidence. He would prefer an official document before doing away with probationary terms.

Dr. Talmage stated that he finds paragraphs D & E to be a form of harassment. Causing someone who has been reprimanded to notify everyone of the reprimand doesn't seem to serve any purpose.

Dr. Steinbergh disagreed, adding that this is standard language in all orders and agreements.

Mr. Dilling advised that staff could contact the Florida Board to get the information concerning Dr. Monnett's license before the meeting is over.

DR. STIENECKER MOVED TO TABLE THIS MATTER UNTIL STAFF HAS CONTACTED THE FLORIDA BOARD. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:		
	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Somani	- aye

The motion carried.

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DR. STEINBERGH MOVED TO REMOVE THE MATTER OF RALPH B. MONNETT, JR., M.D.,

FROM THE TABLE. DR. TALMAGE SECONDED THE MOTION. A vote was taken:

Vote:		
	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Somani	- aye

The motion carried.

Mr. Dilling advised that Mr. Woodbeck has verified with the Florida Department of Health that Dr. Monnett's Florida license is clear. He reminded the Board at this time that the motion on the table is to reprimand Dr. Monnett and to delete the probationary and reporting conditions from the Proposed Order.

A vote was taken on Dr. Talmage's motion to amend:

Vote:		
	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Somani	- aye

The motion carried.

DR. TALMAGE MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF RALPH B. MONNETT, JR., M.D. DR. BHATI SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Somani	- aye

The motion carried.

State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

September 12, 2001

Ralph B. Monnett, Jr., M.D.
14410 U.S. Highway #1
Sebastian, Florida 32958

Dear Doctor Monnet:

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, permanently 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 October 27, 2000, the Florida Board of Medicine (hereinafter the "Florida Board"), filed a Final Order approving and adopting an amended Consent Agreement. The Final Order provided that you complete five (5) hours of continuing medical education in the area of medical ethics within one (1) year, imposed an administrative fine of $5,000.00 against you, and required that you pay the costs of the investigation and prosecution in the amount of $420.00. A copy of the Florida Board Final Order with incorporated Consent Agreement is attached hereto and incorporated herein.

In the Florida Board Administrative Complaint filed May 1, 2000, and referenced in the Stipulated Facts contained in the above-referenced Consent Agreement, the Florida Board alleged that on or about January 10, 1998, you placed an advertisement regarding your eye and surgery centers in two local newspapers. The Florida Board alleged that in placing these advertisements, you engaged in false, deceptive, or misleading advertising and that you failed to perform any statutory or legal obligation placed upon a licensed physician, as explained in more detail in the Florida Board Administrative Complaint, a copy of which is attached hereto and incorporated herein.

In the above Consent Agreement, you neither admitted nor denied the allegations of fact contained in the above Administrative Complaint. In the Stipulated Conclusions of Law, you admitted that the Stipulated Disposition in this case is fair, appropriate and acceptable to you.

The Florida Board Final Order, as alleged in paragraph one (1) above constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's

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license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code as in effect prior to April 10, 2001.

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.

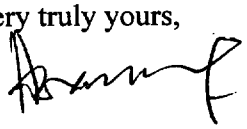
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5147 8691
RETURN RECEIPT REQUESTED

Final Order No. DOH-00-1992-S-MQA
FILED DATE - 10/27/00
Department of Health
By: Vicki R. Keno
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO.: 1998-01194
LICENSE NO.: ME0043454

RALPH MONNETT, M.D.,

Respondent.

_____/

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on October 6, 2000, in Orlando, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled cause. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise advised in the premises, the Board rejected the Consent Agreement and offered a Counter Consent Agreement, which was accepted on the record by the parties. The Counter Consent Agreement incorporates the original Consent Agreement with the following changes:

1. The administrative fine set forth in the Consent Agreement shall be increased to $5,000.00.

2. Respondents shall pay the costs associated with this matter in the amount of of $420.74.

3. Respondent shall complete five (5) hours of continuing medical education in the area of medical ethics within one (1) year from the date this Final Order is filed.

IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated by reference herein with the amendments set forth above. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Consent Agreement as amended.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 17th day of October, 2000.

BOARD OF MEDICINE

Tanya Williams
for GASTON ACOSTA-RUA, M.D.
VICE-CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Ralph Monnett, M.D., 14410 U.S. Highway 1, Sebastian, Florida 32958; to Michael Kahn, Esquire, 482 North Harbor City Boulevard, Melbourne, Florida 32935;

and by interoffice delivery to Kathryn L. Kasprzak, Chief Medical Attorney, and Simone Marstiller, Senior Attorney - Appeals, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, on or before 5:00 p.m., this _____ day of _____, 2000.

_____

PRACTITIONER REGULATION
LEGAL
2000 JUL -7 PM 4:42

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v. **Case Number 1999-01194**

RALPH MONNETT, M.D.,

Respondent.

CONSENT AGREEMENT

Ralph Monnett, M.D. referred to as the "Respondent," and the Department of Health referred to as "Department," by and through the Agency for Health Care Administration stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 455, Florida Statutes, and Chapter 458, Florida Statutes. Pursuant to the provisions of Section 20.43(3), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

STIPULATED FACTS

1. At all times material hereto, the Respondent was a licensed physician in the State of Florida having been issued license number ME 0043454.

2. The Respondent was charged by an Administrative Complaint filed by the Department and properly served upon the Respondent with violations of Chapter 458, Florida Statutes, and the rules enacted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

1. The Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 455 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. The Respondent admits that the facts set forth in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent admits that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. FUTURE CONDUCT. The Respondent shall not in the future violate Chapters 455, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto. Prior to signing this agreement, the Respondent shall read Chapters 455, 458, 893 and the Rules of the Board of Medicine, at Section 64B8, Florida Administrative Code.

2. FINE. The Board shall impose an administrative fine in the amount of one thousand dollars ($1000.00) against the Respondent. In addition to the fine, the Respondent shall pay the costs of the investigation and prosecution of this matter. The fine and costs shall be paid by the Respondent to the Board of Medicine within ninety (90) days of its imposition by Final Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE AND COSTS IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND THE RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE AND COSTS ARE NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE AND COSTS HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN NINETY (90) DAYS OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY THE**

RESPONDENT FROM THE BOARD. (SEE EXHIBIT B, PARAGRAPH 1 OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).

STANDARD PROVISIONS

This Consent Agreement shall be governed by the attached "Standard Terms Applicable to Consent Agreements", Exhibit B, which is incorporated as if fully set forth herein.

1. It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless a Final Order incorporating the terms of this Agreement is entered by the Board.

2. Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

3. Respondent and the Department fully understand that this joint agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

4. Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

5. Upon the Board's adoption of this Agreement, the parties hereby agree that each party will bear his own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this matter.

6. This agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Furthermore, should this joint Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, or resolution of these proceedings.

Exhibit B

STANDARD TERMS APPLICABLE TO CONSENT AGREEMENTS

The following are the standard terms applicable to all Consent Agreements.

A. PAYMENT OF FINES. Unless otherwise directed by the Consent Agreement, all fines shall be paid by check or money order and sent to the Board address as set forth in paragraph E, below. The Board office does not have the authority to change terms of payment of any fine imposed by the Board.

B. COMMUNITY SERVICE AND CONTINUING EDUCATION UNITS. Unless other wise directed by the Consent Agreement, all community service requirements, continuing education units/courses must be completed, and documentation of such completion submitted to the Board of Medicine at the address set forth below in paragraph E, **WITHIN ONE YEAR OF THE DATE OF THE FINAL ORDER.**

C. ADDRESSES. The Respondent must keep current residence and practice addresses on file with the Board. The Respondent shall notify the Board within ten (10) days of any changes of said addresses. Furthermore, if the Respondent's license is on probation, the Respondent shall notify the Board within ten (10) days in the event that the Respondent leaves the active practice of medicine in Florida.

D. COSTS. Pursuant to Section 458.331(2), Florida Statutes, the Respondent shall pay all costs necessary to comply with the terms of this Consent Agreement. Such costs include, but are not limited to, the cost of preparation of Investigative Reports

detailing compliance with the terms of the Consent Agreement, obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with the Respondent's probation.

E. BOARD ADDRESS. Unless otherwise directed by the Board office, all fines, reports, correspondence and inquires shall be sent to: **Board of Medicine, 2020 Capital Circle SE, Bin #C03, Tallahassee, Florida 32399-3253, Attn: Final Order Compliance Officer.**

SIGNED this 5th day of July, 2000.

Ralph Monnett MD
RALPH MONNETT, M.D.

Before me, personally appeared Ralph B. Monnett, whose identity is known to me by _____ (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 5th day of July, 2000.

Joy L Martin
NOTARY PUBLIC

JOY L. MARTIN
My Comm Exp 5/10/2002
No. CC 740597
Personally Known ☐ Other ID

STATE OF FLORIDA NOTARY PUBLIC

My Commission Expires: 5/10/02

APPROVED this 5th day of September, 2000.

Robert G. Brooks, M.D., Secretary
Department of Health

By: Kathryn L. Kaspizak
Kathryn L. Kaspizak
Chief Medical Attorney
Practitioner Regulation

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v. **Case Number 1998-01194**

RALPH MONNETT, M.D.,

Respondent.

ADDENDUM TO CONSENT AGREEMENT
REGARDING PAYMENT OF COSTS OF INVESTIGATION AND
PROSECUTION OF CASE NUMBER 1998-01194

Ralph Monnett, M.D. (hereinafter referred to as Respondent) agrees to pay the costs of the investigation and prosecution regarding Case Number 1998-01194 in the amount of **four-hundred and twenty dollars ($420.00).** The costs of investigation and prosecution shall be paid by the Respondent to the Board of Medicine within ninety (90) days of its imposition by Final Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND THE RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN NINETY (90) DAYS OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH**

WRITTEN CONFIRMATION IS RECEIVED BY THE RESPONDENT FROM THE BOARD.

AGREED AND SIGNED this 7th day of August, 2000.

Ralph Monnett MD
RALPH MONNETT, M.D.

Before me, personally appeared Ralph B. Monnett Jr. whose identity is known to me by personally (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 7th day of August, 2000.

STATE OF FLORIDA NOTARY PUBLIC
JOY L. MARTIN
My Comm Exp 5/10/2002
No. CC 740597
Personally Known | | Other I D

Joy L Martin
NOTARY PUBLIC

My Commission Expires: 5/10/2002

For the Dept. of Health,
Kathryn R Kaspinski
9-5-00

TOTAL P.03

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH, PETITIONER, v. RALPH MONNETT, M.D., RESPONDENT.	)	CASE NO. 1998-01194

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Health, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Ralph Monnett, M.D., hereinafter referred to as "Respondent," and alleges:

1. Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 455, Florida Statutes, and Chapter 458, Florida Statutes. Pursuant to the provisions of Section 20.43(3), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

2. Respondent is and has been at all times material hereto a licensed physician in the state of Florida, having been issued license number ME 0043454. Respondent's last known address is 14410 U.S. Highway 1, Sebastian, Florida 32958.

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3. On or about January 10, 1998, Respondent placed an advertisement regarding his eye and surgery centers in two local newspapers, the Florida Today and the Vero Beach Press Journal. The advertisement contained the following statements:

> Dr. Monnett, founder of the Monnett Eye and Surgery Center, is said to have surgical skills ranking among the top few percent nationally. This is the main reason Dr. Monnett has performed more cataract surgeries than any other eye surgeon in Brevard and Indian River Counties using soft, foldable lenses.

4. The advertisement also contained an offer for a free cataract screening which stated:

> FREE CATARACT SCREENING
> We invite you to participate in a FREE screening at ANY of our locations. Simply call the number below to make your appointment.

5. Rule 64B8-11.001(2), Florida Administrative Code, Advertising, states:

> No physician shall disseminate or cause the dissemination of any advertisement or advertising which is in any way false, deceptive, or misleading. Any advertisement or advertising shall be deemed by the Board to be false, deceptive, or misleading if it:
>
> * * *
>
> (h) Conveys the impression that the physician disseminating the advertising or referred to therein possess qualifications, skills, or other attributes, which are superior to other physicians, other than a simple listing of earned professional post-doctoral or other professional achievements recognized by the Board;

6. Section 455.664, Florida Statutes, Advertisement by a health care practitioner of free or discounted services; required statement, states:

> In any advertisement for a free, discounted fee, or reduced fee service, examination, or treatment by a health care practitioner licensed under chapters 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 478, 483, 484, 486, 490 or 491, the following statement shall appear in capital letters clearly distinguishable from the rest of the text: THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS

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PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required statement shall not be necessary as an accompaniment to an advertisement of a licensed health care practitioner defined by this section if the advertisement appears in a classified directory the primary purpose of which is to provide products and services at free, reduced, or discounted prices to consumers and in which the statement prominently appears in at least one place.

7. Respondent's offer of a free cataract screening did not contain the disclaimer required by Section 455.664, Florida Statutes.

COUNT ONE

8. Petitioner realleges and incorporates paragraphs one (1) through seven (7), as if fully set forth herein this Count One.

9. Respondent engaged in false, deceptive, or misleading advertising, in that Respondent placed advertisements in the Florida Today and the Vero Beach Press Journal which convey the impression that he possesses qualifications, skills, or other attributes, which are superior to other physicians, other than a simple listing of earned professional post-doctoral or other professional achievements recognized by the Board.

10. Based on the foregoing, Respondent violated Section 458.331(1)(d), Florida Statutes, by engaging in false, deceptive, or misleading advertising.

COUNT TWO

11. Petitioner realleges and incorporates paragraphs one (1) through seven (7) and paragraph nine (9) as if fully set forth herein this Count Two.

12. Respondent failed to perform any statutory or legal obligation placed upon a licensed physician, in that Respondent placed an advertisement in the Florida Today and the Vero Beach Press Journal which contained an offer for a free cataract screening, but failed to include the required disclaimer language in his advertisement, as set forth in Section 455.664, Florida Statutes.

13. Based on the foregoing, Respondent has violated Section 458.331(1)(g), Florida Statutes, by failing to perform any statutory or legal obligation placed upon a licensed physician.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, the assessment of costs related to the investigation and prosecution of this case as provided for in Section 455.624(4), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 1st day of May, 2000.

Robert G. Brooks, M.D., Secretary

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Vicki R. Ellison
DATE 5-1-2000

Kathryn L. Kasprzak
Chief Medical Attorney

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COUNSEL FOR DEPARTMENT:

Kathryn L. Kasprzak
Chief Medical Attorney
Agency for Health Care Administration
P. O. Box 14229
Tallahassee, Florida 32317-4229
Florida Bar # 0937819
JET/sk
PCP: April 24, 2000
PCP Members: Cerda, Pardue