

STATE OF OHIO
THE STATE MEDICAL BOARD
77 South High Street
17th Floor
Columbus, Ohio 43266-0315

(614)466-3934

November 16, 1990

Shane T. Maa, M.D.
201 W. Pearl Street
Findlay, Ohio 45840

Dear Doctor Maa:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Joan Irwin Fishel, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on November 14 1990, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board.

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

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

THE STATE MEDICAL BOARD OF OHIO



Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 290 319 270
RETURN RECEIPT REQUESTED

cc: Dennis M. Fitzgerald, Esq.

CERTIFIED MAIL NO. P 290 319 271
RETURN RECEIPT REQUESTED

Mailed 11/16/90

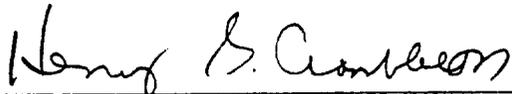
STATE OF OHIO
STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Joan Irwin Fishel, Attorney Hearing Examiner, State Medical Board; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on November 14, 1990, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Shane T. Maa, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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

(SEAL)



Henry G. Cramblett, M.D.
Secretary

November 16, 1990

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

SHANE T. MAA, M.D.

*

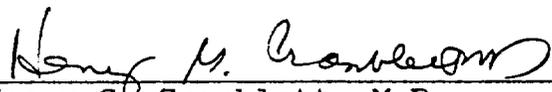
ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 14th day of November, 1990.

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

It is hereby ORDERED that Shane T. Maa, M.D., be REPRIMANDED for his conduct in the operating room on February 11, 1988, conduct that led to a conviction for the minor misdemeanor of disorderly conduct.

(SEAL)



Henry G. Cramblett, M.D.
Secretary

November 16, 1990

Date

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REPORT AND RECOMMENDATION
IN THE MATTER OF SHANE T. MAA, M.D.

The Matter of Shane T. Maa, M.D., came on for hearing before me, Joan Irwin Fishel, Esq., Hearing Examiner for the State Medical Board of Ohio, on September 4, 1990.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter dated March 14, 1990 (State's Exhibit #1), the State Medical Board notified Shane T. Maa, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in the State of Ohio because he had been found guilty of disorderly conduct, a minor misdemeanor, on June 7, 1988 in the Findlay Municipal Court.

The Board alleged that Dr. Maa's acts, conduct, and/or omissions constituted "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice", as that clause is used in Section 4731.22(B)(11), Ohio Revised Code, and "commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice", as that clause is used in Section 4731.22(B)(12), Ohio Revised Code.

- B. By letter received by the State Medical Board on April 13, 1990 (State's Exhibit #2), Dennis M. Fitzgerald, Esq., requested a hearing on behalf of Dr. Maa.

II. Appearances

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by Douglas C. Boatright, Assisant Attorney General
- B. On behalf of the Respondent: Dennis M. Fitzgerald, Esq.

III. Testimony Heard

- A. Presented by the State
1. Shane T. Maa, M.D., as on cross-examination
 2. Tom Davis-Detective, Findlay Police Department

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B. Presented by the Respondent

1. William Ruse - President, Blanchard Valley Hospital
2. William H. Kose, M.D.
3. Katherine Foote, R.N.

IV. Exhibits Examined

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

A. Presented by the State

1. State's Exhibit #3: April 16, 1990 letter to Attorney Fitzgerald from the State Medical Board advising that a hearing initially set for April 27, 1990 was postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit #4: April 26, 1990 letter to Attorney Fitzgerald from the State Medical Board scheduling the hearing for June 27, 1990.
3. State's Exhibit #5: Entry dated July 23, 1990 rescheduling the Matter for September 4, 1990.
4. State's Exhibit #6: Complaint and Entry of Bond Forfeiture in the Matter of City of Findlay v. Maa, Case No. 88-CRB-0000424.
5. State's Exhibit #7: Findlay, Ohio ordinances, Sections 132.01 through 132.07.
6. State's Exhibit #8: Copies of subpoenas and witness fee and mileage reimbursement checks requested by the State.

B. Presented by the Respondent

- * 1. Respondent's Exhibit A: Certified copy of the patient record from Blanchard Valley Hospital for the individual on whom Dr. Maa was operating when the incident that brought rise to these charges occurred (referred to at hearing as "the patient").

NOTE: THE ABOVE EXHIBIT MARKED WITH AN ASTERISK (*) HAS BEEN SEALED TO PROTECT PATIENT CONFIDENTIALITY.

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FINDINGS OF FACT

1. Shane T. Maa, M.D., is a neurosurgeon practicing in Findlay, Ohio. He is the only neurosurgeon on staff at Blanchard Valley Hospital. That hospital had not had a staff neurosurgeon until Dr. Maa's arrival.

These facts are established by the testimony of Dr. Maa (Tr. 16-17).

2. On February 11, 1988 Dr. Maa was performing back surgery, specifically a microsurgical diskectomy, on a young man. This patient had a loose piece of cartilage that Dr. Maa was attempting to remove. Because of the intricate nature of the surgery, Dr. Maa was wearing magnifying lenses. While magnifying his direct vision, these lenses tended to limit his peripheral vision. He also wore a "headlight" which sat on the top of his head and was hooked into a light source. Those present in the operating room during the procedure included Dr. Maa, Julie Steiner, R.N., Dr. Maa's private scrubnurse, the anesthesiologist, and the patient.

These facts are established by the testimony of Dr. Maa (Tr. 19-21).

3. The operating room was rectangular. As Dr. Maa faced the patient, there was a door to his left that led to the center core of the surgical suite where the surgical charge nurse was located. Also to Dr. Maa's left was the anesthesia equipment. The door on his right was the door through which the patient entered and exited. On the wall directly across from Dr. Maa on the other side of the surgical table was an x-ray view box. Under that box was a utility cart. Dr. Maa testified that the surgical room was fairly small and that once the patient and equipment had been set up there was not much room to move around.

These facts are established by the testimony of Dr. Maa (Tr. 22-23).

4. Dr. Maa made an incision in the patient where, based on a CAT scan done previously, he believed he would find the loose cartilage. He could not find the cartilage and encountered an unusual amount of bleeding for this surgical procedure. Dr. Maa testified that he had been worried that he might have poked a hole in the aorta. If he had, this would have been a medical emergency. Dr. Maa testified that he asked Mrs. Steiner to get the x-ray machine so that he could determine whether or not the aorta had been nicked. Meanwhile, he got the patient's bleeding under control. Dr. Maa testified that he disconnected his light source and went over to the x-ray viewing screen on the wall. He used his right hand to pull the x-ray down for better viewing. He testified that he heard a giggle to his right side and turned toward the noise. There was a nurse with whom he was not familiar who stated "let me put the glove on you". Dr. Maa still had on his magnifying lenses so the nurse had appeared three or four times life size. This startled him; he had received no warning of her presence. Dr. Maa testified that normal surgical room procedure is for any medical

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personnel other than the surgeon to first identify themselves and ask the surgeon if they may address him. This is necessary because of the surgeon's high degree of concentration during a surgical procedure. Dr. Maa later learned that this nurse was Jaki Bennett.

Dr. Maa testified that he was so startled he stepped back and hit the back of the utility cart. He was angry and told Ms. Bennett in a loud voice to "get out of my way and get the hell out of here." Dr. Maa testified that Ms. Bennett left the room through the right-hand door and did not return.

These facts are established by the testimony of Dr. Maa (Tr. 24-30).

5. Dr. Maa testified that he could tell from the x-ray that he had not nicked the aorta. He changed his surgical gown and proceeded with the operation. He found and removed the cartilage and began to close the patient. Dr. Maa testified that his tension regarding the surgery had eased at this point. He was, however, still angry about what had gone on in the operating room. He was told that Karen Roth, surgical charge nurse at the time, had told Ms. Bennett to go in and glove him. He requested Ms. Steiner to bring Ms. Roth over to the door so he could talk to her. Ms. Steiner returned and reported that she refused to come in. After a second refusal, Dr. Maa decided to talk to her himself. He had felt it was important that a charge nurse not send in an inexperienced nurse when the result was the disruption of surgery. He walked around the end of the surgical table to go up toward the door out to the center core. With his right leg he kicked the utility cart. It hit the I.V. bottle which fell over and broke. He pushed the anesthesia cart aside with his elbow. It knocked over the biohazardous box which fell and spilled some of its contents. Dr. Maa testified that he then kicked on the door to get the attention of the nurse supervisor, but that she did not respond. In conflict with his earlier testimony, Dr. Maa testified that it was at this point that Ms. Bennett left the room.

After a time, Dr. Maa abandoned his efforts to attract Ms. Roth's attention and returned to the patient. At this point, Katherine Foote, R.N., and Director of Surgical Services, entered the operating room to talk with Dr. Maa and to help with the clean up of the spilled or broken materials. Dr. Maa finished the last layer of sewing on the patient and the surgery was completed.

These facts are established by the testimony of Dr. Maa (Tr. 30-35) and the testimony of Katherine Foote (Tr. 89-91).

6. Katherine Foote, R.N., has been the Director of Surgical Services at Blanchard Valley Hospital for ten years. She has been a surgical nurse since 1954 and has worked at seven to eight different hospitals. Ms. Foote testified that on the morning of February 11, 1988 she had discussed with her surgical nurses the universal precautions of the National Center

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for Disease Control regarding blood and possible AIDS contamination. Apparently, Ms. Bennett had believed that Dr. Maa needed a new glove since he had touched the x-ray. Ms. Foote testified that from her understanding of the incident, Ms. Bennett had not followed correct procedure.

Ms. Foote testified that Dr. Maa is one of the easiest neurosurgeons that she had ever worked with and that Dr. Maa had a legitimate criticism of Ms. Bennett's performance that day. Ms. Bennett had not use good judgment in that her timing in approaching Dr. Maa had broken his concentration.

These facts are established by the testimony of Ms. Foote (Tr. 81-85).

7. William H. Kose, M.D., a Findlay internist, testified regarding his knowledge of the patient on whom Dr. Maa was operating at the time of this incident. The patient had been referred to Dr. Maa by one of Dr. Kose's partners. Dr. Kose saw the patient in the hospital on two occasions after the surgery. From his recollection, and from his review of the chart, Dr. Kose believed that the patient's recovery prior to his discharge was unremarkable and that the patient's well being had not been compromised by Dr. Maa's behavior during surgery.

These facts are established by the testimony of Dr. Kose (Tr. 73-74).

8. Dr. Maa was charged by the Findlay police with violating city ordinance Section 132.04(A)(2), Disorderly Conduct, "No person shall recklessly cause inconvenience, annoyance, or alarm to another by...making unreasonable noise or offensively coarse utterance, gesture, or display, or communicating unwarranted and grossly abusive language to any person." On June 7, 1988, the Municipal Judge ordered the \$100 bond that Dr. Maa had previously posted be forfeited and found Dr. Maa guilty of disorderly conduct, a minor misdemeanor. There was no additional penalty.

These facts are established by State's Exhibit #6.

9. In October 1989 Dr. Maa was involved in a traffic accident that apparently resulted in some degree of paralysis. Dr. Maa participated in intensive rehabilitation from October 1989 through May 1990. He returned to practice at Blanchard Valley Hospital in May 1990. The hospital president, Dr. Kose, and Ms. Foote all testified that Dr. Maa's return to practice has been successful. They all also testified that Dr. Maa is held in very high regard by his colleagues in the Findlay area.

These facts are established by the testimony of William Ruse, Dr. Kose, and Ms. Foote (Tr. 55, 57-58, 69-72, 83, 85, 87-88).

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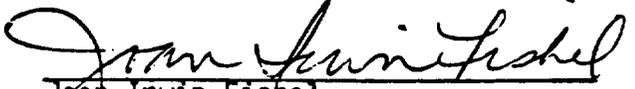
CONCLUSIONS

The acts, conduct, and/or omissions of Shane T. Maa, M.D., constitute "a plea of guilty to, or judicial finding of guilt of, a misdemeanor committed in the course of practice", as that clause is used in Section 4731.22(B)(11), Ohio Revised Code, and "commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice", as that clause is used in Section 4731.22(B)(12), Ohio Revised Code. These statutes do not differentiate between types or degrees of misdemeanors. The State Medical Board has jurisdiction to take action against a licensee whether a minor misdemeanor or misdemeanor of the first degree has been committed. Revised Code Section 4731.22(B)(11), requires only a finding of guilty. It is of no significance that a criminal record of Dr. Maa's offense was not made.

No one would dispute the fact that the atmosphere in a surgical suite can be extremely intense. Nor would there be any dispute of the fact that all efforts must be taken to avoid breaking the surgeon's concentration. However, the ideal cannot always be maintained. While it may not be uncommon for surgeons to lose their temper and yell at a nurse, they are not justified in pushing and breaking surgical equipment, particularly when the operation has not been completed. Dr. Maa had not yet finished suturing his patient when he allowed his temper to get the best of him. His temper erupted even though he had found the cartilage and the tension of the surgery had been defused. There is no evidence that the health or well being of Dr. Maa's patient was compromised. However, in order to vent his anger, Dr. Maa left his patient who was under general anesthesia and had an open incision; this was not necessary.

PROPOSED ORDER

It is hereby ORDERED that Shane T. Maa, M.D., be REPRIMANDED for his conduct in the operating room on February 11, 1988, conduct that lead to a conviction for the minor misdemeanor of disorderly conduct.


Joan Irwin Fishel
Attorney Hearing Examiner



STATE MEDICAL BOARD OF OHIO

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

EXCERPT FROM THE MINUTES OF NOVEMBER 14, 1990

REPORTS AND RECOMMENDATIONS

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Dr. Kaplansky asked if each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Younis Asad, M.D.; David Ferrero, D.P.M.; Thomas J. Delliquadri; James D. Hites, M.D.; Hillard M. Lazarus, M.D.; Shane T. Maa, M.D.; Lincoln L. Moore, M.D.; and Franklin E. Neff, M.D. A roll call was taken:

ROLL CALL:	Dr. O'Day	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Mr. Albert	- aye
	Dr. Ross	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye
	Dr. Kaplansky	- aye

Mr. Jost stated that he did not read the record in the matter of Franklin E. Neff, M.D., since he was the Supervising Member in this case.

Dr. Hom stated that she did not read the records in the matters of David Ferrero, D.P.M. and Hillard M. Lazarus, M.D.

.....

All Enforcement Coordinators left the meeting at this time.

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REPORT AND RECOMMENDATION IN THE MATTER OF SHANE T. MAA, M.D.

.....

DR. AGRESTA MOVED TO APPROVE AND CONFIRM MS. FISHEL'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF SHANE T. MAA, M.D. DR. O'DAY SECONDED THE MOTION.

.....



STATE MEDICAL BOARD OF OHIO

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

EXCERPT FROM THE MINUTES OF NOVEMBER 15, 1990
IN THE MATTER OF SHANE T. MAA, M.D.

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

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. O'Day	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Mr. Albert	- aye
	Dr. Ross	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

The motion carried.

STATE OF OHIO
THE STATE MEDICAL BOARD
77 SOUTH HIGH STREET
17TH FLOOR
COLUMBUS OH 43215

March 14, 1990

Shane T. Maa, M.D.
201 West Pearl Street
Findlay, OH 45840

Dear Doctor Maa:

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) By entry dated June 7, 1988, you were found guilty of Findlay City Ordinance 132.04(A)(2), disorderly conduct, a minor misdemeanor, in the Findlay Municipal Court, a copy of which is attached hereto and fully incorporated herein.

Such acts, conduct, and/or omissions as alleged in the above paragraph (1), individually and/or collectively, constitute "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice", as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Furthermore, such acts, conduct, and/or omissions as alleged in the above paragraph (1), individually and/or collectively, constitute "commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice", as that clause is used in Section 4731.22(B)(12), 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.

Shane T. Maa, M.D.
Page Two

March 14, 1990

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Henry G. Cramblett, M.D.
Secretary

HGC:jmb

Enclosures:

CERTIFIED MAIL #P 746 510 151
RETURN RECEIPT REQUESTED

the undersigned, Clerk of the Findlay Municipal Court of Findlay, Ohio, do hereby certify that the foregoing is a true and correct copy of the original.

88 B. 4811
Patricia L. Walters
Deputy Clerk

FILED
FINDLAY MUNICIPAL COURT

1988 JUN -7 AM 9:10
THE FINDLAY MUNICIPAL COURT, FINDLAY, OHIO

STATE OF OHIO

Plaintiff

CASE NO. 88-CRB-424

VS

BOND FORFEITURE

SHANE T. MAA

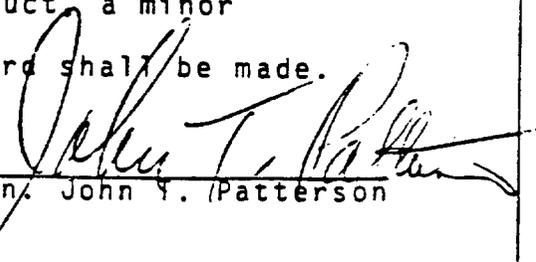
Defendant

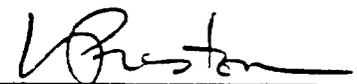
Prior to the arraignment, the Prosecutor and the Defendant, through counsel, have agreed to resolve this case by posting a bond and forfeiting same. With the consent of the Prosecutor, it is agreed that the Defendant does not have to appear at any further proceedings.

By his signature hereon, the Defendant has waived his physical appearance; waived a reading of the applicable law, penalty and police report; and has posted a bond in the amount of \$100.

Accordingly, the Court ORDERS that the bond previously posted be forfeited and that Defendant is found guilty of City Ordinance 132.04(A)(2), disorderly conduct, a minor misdemeanor, for which no criminal record shall be made.

APPROVED BY:

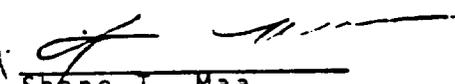

Hon. John Y. Patterson

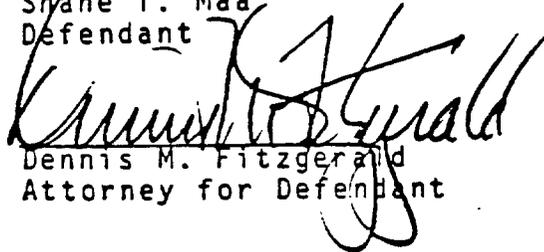

Vernon Preston
Prosecuting Attorney

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FITZGERALD & HOLLISTER
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Ohio 45430-1006
(614) 422-8713

(additional signature on next page)

FILED
FINDLAY MUNICIPAL COURT
1988 JUN -7 AM 9:48


Shane T. Maa
Defendant


Dennis M. Fitzgerald
Attorney for Defendant

OXLEY, MALONE,
FITZGERALD & HOLLISTER

Attorneys at Law

BARVER OXLEY

MICHAEL J. MALONE

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