

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43226-0315

September 12, 1986

Domonik Haynesworth, M.D.
3620 Langton
Cleveland Heights, Ohio 44121

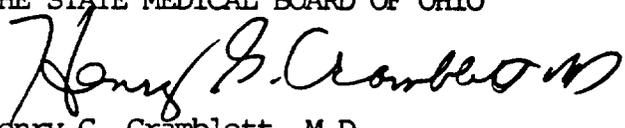
Dear Doctor Haynesworth:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Lauren Lubow, Esq., Hearing Examiner, Medical Board; a certified copy of the Motions by the State Medical Board, meeting in regular session on September 11, 1986 modifying said Report and Recommendation as the Findings and Order of the State Medical Board.

You are hereby notified that you may appeal this Order to the Court of Common Pleas of the County in which your place of business is located, or the county in which you reside. If you are not a resident and have no place of business in this state, you may appeal to the Court of Common Pleas of Franklin County, Ohio.

To appeal as stated above, you must file a notice of appeal with the Board setting forth the Order appealed from, and the grounds of the appeal. You must also file a copy of such notice with the Court. Such notices of appeal shall be filed within fifteen (15) days after the date of mailing of this letter and in accordance with Section 119.12, Revised Code.

THE STATE MEDICAL BOARD OF OHIO


Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 569 361 865
RETURN RECEIPT REQUESTED

cc: Ross F. Sprague, Esq.

CERTIFIED MAIL RECEIPT NO. P 569 361 866
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STATE OF OHIO
THE 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 Lauren Lubow, Esq., Hearing Examiner, State Medical Board of Ohio; and the attached copy of the Motions by the State Medical Board, meeting in regular session on September 11, 1986, modifying said Report and Recommendation as the Findings and Order of the State Medical Board, constitutes a true and complete copy of the Findings and Order of the State Medical Board in the matter of Domonic Haynesworth, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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


Henry G. Cramblett, M.D.
Secretary

(SEAL)

9/12/86
Date

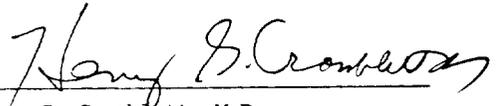
DOMONIC HAYNESWORTH, M.D.

ENTRY OF ORDER

- A. Obey all federal, state and local laws and all rules governing the practice of medicine in Ohio; and
- B. Dr. Haynesworth shall submit documentation acceptable to the Board of satisfactory completion of the requisite hours of Continuing Medical Education.

This ORDER shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board of Ohio.

(SEAL)



Henry G. Cramblett, M.D.
Secretary

9/12/86

Date

STATE OF OHIO
THE STATE MEDICAL BOARD

REPORT AND RECOMMENDATION
IN THE MATTER OF DOMINIC T. HAYNESWORTH, M.D.

The matter of Dominic T. Haynesworth, M.D., came before me, Lauren Lubow, Hearing Officer for the State Medical Board of Ohio, on June 30, 1986.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. BASIS FOR HEARING

- A. By letter of April 10, 1986, the State Medical Board notified Dominic T. Haynesworth, M.D., that it proposed to take disciplinary action against his license to practice medicine and surgery in the State of Ohio. Dr. Haynesworth was advised he was in potential violation of the Medical Practice Act on the basis of the following allegations:
1. By letters of October 17 and December 17, 1985, the State Medical Board had notified Dr. Haynesworth that he was required to provide documentation that he had completed the requisite number of Continuing Medical Education (hereafter "CME") hours as required by Section 4731.281, Ohio Revised Code. Dr. Haynesworth had provided the Board, by letter of January 2, 1986, with documentation of an insufficient number of CME hours to meet the requirement.
 2. The acts or omissions set forth in paragraph 1 constitute violations of Rule 4731-10-08(A)(1), Ohio Administrative Code, which specifies that the Board may randomly select applications to

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verify that all CME requirements have been met. Licensees whose applications are selected shall submit additional documentation of compliance with CME requirements as the Board may require.

3. Further, the acts or omissions set forth in paragraph 1 constitute violations of Section 4731.281, Ohio Revised Code, which provides that "...every person licensed to practice medicine or surgery...within this state shall certify to the Board that in the preceding two years the practitioner has completed one hundred hours of continuing medical education."
4. Further, the acts of omissions set forth in paragraph 1 constitute violations of Section 4731.22(B)(16), Ohio Revised Code, "Violating or attempting to violate, directly or indirectly, any provisions of this chapter or any rule promulgated by the Board."

B. In response to the April 10, 1986 letter, Dr. Haynesworth requested a hearing in this matter.

II. APPEARANCE OF COUNSEL

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Attorney General, by Christopher M. Culley, Assistant Attorney General.
- B. On behalf of the Respondent: Ross S. Sprague, Esq.

III. TESTIMONY HEARD

- A. Dominic T. Haynesworth, M.D., was the only witness, testifying both on direct and cross-examination, as follows:
 1. He knew that one hundred hours of continuing education credit was required but he was not sure of how many hours were required in each category. (Tr. at 18)
 2. He was not aware until the second request letter from the Board arrived and he counted his hours that he was deficient in Category I hours. (Tr. at 17)
 3. He did not know his certification of continuing education hours was false when he signed it. (Tr. at 23)

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4. During the 1983-1984 biennium he had 27 hours of Category I Continuing Education and in excess of 294 Category II hours. (Tr. at 20, State's Exhibit #8)
5. Although not listed in his CME audit log, he had at least 294 hours of Category II education in 1983-1984 from reading medical publications (Tr. at 26, 27). He also had a minimum of 40 hours as a preceptor of Physician's Assistant students (Tr. at 30) and approximately 30 hours of teaching nurses and paramedics through his emergency room work. (Tr. at 31)
6. When he signed the certification in November, 1984, he had met the CME requirements for the American College of Emergency Physicians of 150 hours every 3 years. (Tr. at 22-23)
7. He had no excuse for not completing the required CME hours other than a busy work schedule and home life. (State's Exhibit #8)

IV. EXHIBITS EXAMINED

A. Presented by the State:

1. State's Exhibit #1, April 10, 1986, citation letter and notice of opportunity for hearing from the Board to Dr. Haynesworth.
2. State's Exhibit #2, April 16, 1986, letter from Ross S. Sprague, attorney for Dr. Haynesworth, requesting a hearing in this matter.
3. State's Exhibit #3, April 22, 1986, letter from the Board to Mr. Sprague, with a copy to Dr. Haynesworth, acknowledging the request for a hearing, and setting and continuing same pursuant to Section 119.09, Ohio Revised Code.
4. State's Exhibit #4, June 4, 1986, letter from the Board to Mr. Sprague with a copy to Dr. Haynesworth scheduling Dr. Haynesworth's hearing for June 30, 1986.
5. State's Exhibit #5, Dr. Haynesworth's signed application for renewal for the 1983-1984 biennial registration period.

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6. State's Exhibit #6, October 17, 1985, letter from the State Medical Board to Dr. Haynesworth requesting documentation of his CME credits for the 1983-1984 biennium.
7. State's Exhibit #7, December 17, 1985, letter from the State Medical Board to Dr. Haynesworth again requesting documentation of his CME credits for the 1983-1984 biennium.
8. State's Exhibit #8, January 2, 1986 letter to Dr. Cramblett, Secretary of the State Medical Board, from Dr. Haynesworth, enclosing Dr. Haynesworth's CME audit log sheet and verification for the 1983-1984 biennium.
9. State's Exhibit #9, Information Bulletin on Mandatory Continuing Medical Education prepared by the State Medical Board of Ohio.

B. Presented by the Respondent:

1. Respondent's Exhibit A, list of publications read by Dr. Haynesworth during the 1983-1984 period.
2. Respondent's Exhibit F, June 20, 1986, letter from Respondent's attorney, Mr. Sprague, to Christopher Culley, Assistant Attorney General, State of Ohio, containing a position statement and offer of negotiated settlement in this matter.

FINDINGS OF FACT

1. The State Medical Board of Ohio sent two requests to Dr. Dominic T. Haynesworth, on October 17, 1985, and on December 17, 1985, for documentation of CME credit earned during the 1983-1984 biennium, to which Dr. Haynesworth replied by letter of January 2, 1986.
2. For the 1983-1984 biennium Dr. Haynesworth completed 27 hours of Category I credit and a minimum of 294 hours of Category II credit.

CONCLUSIONS

The State Medical Board of Ohio, from random selection, requested that Dr. Haynesworth document his CME credit for the 1983-1984 biennial period. Upon failure by Dr. Haynesworth to send the requested documentation, the Board again sent a request, to which Dr. Haynesworth responded partially. Dr. Haynesworth was then notified that disciplinary action could be taken against his license for failure to comply with the CME requirements of the Medical Practice Act of Ohio.

Dr. Haynesworth has insufficient CME credit for the 1983-1984 biennial period. He lacks 13 hours in Category I education. His failure to complete the required CME constitutes a violation of Section 4731.281, Ohio Revised Code.

Continuing medical education is an important element of medical practice in the State of Ohio. It assures this Board and the people of this State that physicians practicing here are aware of current advances in medicine. The CME requirement must not be taken lightly by Ohio physicians.

PROPOSED ORDER

It is hereby ORDERED that the license of Dominic T. Haynesworth, M.D., to practice medicine and surgery in the State of Ohio be revoked. Such revocation is stayed, and Dr. Haynesworth's license is hereby suspended for an indefinite term, which shall last a minimum of sixty (60) days, provided that he complies with the following terms and conditions:

1. Prior to reinstatement, Dr. Haynesworth shall:
 - A. Provide documentation acceptable to the Board of satisfactory completion of at least 13 hours of Category I CME. These hours shall not be used to satisfy the CME requirements for any other biennium.
 - B. Provide documentation acceptable to the Board of satisfactory completion of 100 hours of approved Continuing Medical Education, at least 40 hours of which shall be in Category I, for each biennium during which his certificate is suspended.

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- C. Submit an application for reinstatement and pay all appropriate fees.
2. Subsequent to reinstatement of his certificate, Dr. Haynesworth shall remain on probation for 3 biennial registration periods. During this probationary period, Dr. Haynesworth shall:
 - A. Obey all federal, state and local laws and all rules governing the practice of medicine in Ohio; and
 - B. Dr. Haynesworth shall submit documentation acceptable to the Board of satisfactory completion of the requisite hours of Continuing Medical Education.

This ORDER shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board of Ohio.



Lauren Lubow, Esq.
Hearing Officer
State Medical Board of Ohio

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EXCERPT FROM THE MINUTES OF SEPTEMBER 11, 1986

REPORT AND RECOMMENDATION IN THE MATTER OF DOMINIC HAYNESWORTH, M.D.

Dr. Rauch asked if each member of the Board had received, read, and considered the hearing record, the proposed findings and order, and any objections filed to the proposed findings and order in the matter of Dominic Haynesworth, M.D. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Buchan	- aye
	Ms. Rolfes	- aye
	Dr. Rothman	- aye
	Dr. O'Day	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- aye

Dr. Rauch referred to a motion filed by Ross F. Sprague, Esq., Dr. Haynesworth's attorney, to address the Board. Dr. Rauch advised that under Ohio's Administrative Procedure Act, it is a matter of the Board's discretion to accept additional statements, evidence, or testimony, and that a roll call vote would be taken to determine whether the Board believes such an address appropriate. He asked in what way statements to the Board would address matters not already contained in the hearing record.

Mr. Sprague stated that his statements would address a situation involving Dr. Haynesworth taking certain Board examinations. This information was not available at the time of the hearing.

DR. STEPHENS MOVED TO ALLOW MR. SPRAGUE TO ADDRESS THE BOARD. DR. BUCHAN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Buchan	- aye
	Ms. Rolfes	- aye
	Dr. Rothman	- aye
	Dr. O'Day	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- aye

The motion carried.

Dr. Rauch advised that there is not a court reporter present, but instead the Board's

minutes serve as the Board's official record of the meeting. He asked Mr. Sprague if he had any objection to the absence of a court reporter. Mr. Sprague stated that he did not.

Mr. Sprague advised that Dr. Haynesworth is scheduled to take the Board examination for the American College of Emergency Physicians in November of this year. He asked that the Board consider this in view of the proposed suspension of Dr. Haynesworth's license. He advised that he does not believe that Dr. Haynesworth would be permitted to sit for the examination if his license is suspended, although he does not know this for certain.

In response to Dr. Lancione's questions, Dr. Haynesworth stated that he is working in the emergency room at this time and has been there for six years.

In response to Dr. Buchan's questions, Dr. Haynesworth stated that he did not take the examination earlier because there is a five-year work requirement to sit for the examination, and he just became eligible.

Dr. Lancione asked when the examination will be held. Dr. Haynesworth stated that he does not know for certain, but he believes it is scheduled for the first week of November.

Ms. Lubow read the Conclusions and Proposed Order of her Report and Recommendation in the above matter, the original of which shall be maintained in the exhibits section of this Journal.

Doug Graff, O.S.M.A., joined the meeting at this time.

DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. LUBOW'S FINDINGS OF FACT, CONCLUSIONS AND PROPOSED ORDER IN THE MATTER OF DOMINIC HAYNESWORTH, M.D. DR. LANCIONE SECONDED THE MOTION.

MS. ROLFES MOVED TO AMEND THE PROPOSED ORDER AS FOLLOWS:

IT IS HEREBY ORDERED THAT THE LICENSE OF DOMINIC HAYNESWORTH, M.D., TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO BE SUSPENDED FOR AN INDEFINITE TERM, WHICH SHALL LAST A MINIMUM OF THIRTY (30) DAYS, PROVIDED THAT HE COMPLIES WITH THE FOLLOWING TERMS AND CONDITIONS:

ALL OTHER TERMS AND CONDITIONS SHALL REMAIN THE SAME.

Ms. Rolfes advised that her rationale in proposing the amendment is that the Board uses stayed revocations in matters which are much more serious than C.M.E. She stated that an indefinite suspension does the same thing.

DR. BARNES SECONDED MS. ROLFES' MOTION TO AMEND.

Dr. Barnes asked if there is anything in the guidelines concerning C.M.E. Mr. Bumgarner stated that there is nothing specific. Dr. Barnes stated that a stayed revocation is pretty harsh punishment. He added that Dr. Haynesworth has stated

that he has made up his hours.

Mr. Sprague stated that Dr. Haynesworth has 94.5 hours in this biennium, which is more than enough to make up for the number of hours he lacked.

Mr. Culley reminded the Board that the record in this is closed, and he cautioned the Board against taking additional testimony by questioning Dr. Haynesworth or his attorney at this time.

Mr. Sprague stated that he feels it is appropriate that Dr. Haynesworth address the Board. Dr. Rauch ruled Mr. Sprague's comments out of order.

Dr. Barnes again stated that he feels the proposed order is too harsh. He added that not keeping up with C.M.E. is not harmful to anyone directly, although he supposes that it could be.

Dr. Buchan stated that he is concerned because Dr. Haynesworth completed his requirement only after repeated requests by the Board. He stated that the law requires C.M.E., and that that requirement is not difficult, especially in a metropolitan area such as Cleveland. He also advised that since Dr. Haynesworth works in the emergency room, he should have enough free time to pursue his C.M.E.

Dr. Barnes stated that the Board only made two requests, and he does not consider this to be "repeated." Dr. Barnes stated that he believes Ms. Rolfes' proposed amended order is a reasonable compromise.

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

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Buchan	- nay
	Ms. Rolfes	- aye
	Dr. Rothman	- aye
	Dr. O'Day	- abstain
	Dr. Stephens	- aye
	Mr. Johnston	- abstain

The motion carried.

A roll call vote was taken on Dr. Buchan's motion as amended:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. Barnes	- aye
	Dr. Buchan	- nay
	Ms. Rolfes	- aye
	Dr. Rothman	- aye
	Dr. O'Day	- abstain
	Dr. Stephens	- aye

Mr. Johnston - abstain
Dr. Rauch - aye.

The motion carried.

Dr. Buchan asked if the Board now needed to vote on the proposed order, reminding the Board that it has been advised by the Attorney General's office that it should consider the Findings of Facts and Conclusions separate from the Proposed Order. Dr. Rauch advised that the Board has already voted on the entire matter in this case. After some discussion, it was decided to again vote on the matter in order to avoid any possibility of confusion.

DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. LUBOW'S FINDINGS OF FACTS AND CONCLUSIONS IN THE MATTER OF DOMINIC HAYNESWORTH, M.D. DR. BARNES SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:

Dr. Cramblett	- abstain
Dr. Lancione	- aye
Dr. Barnes	- aye
Dr. Buchan	- aye
Ms. Rolfes	- aye
Dr. Rothman	- aye
Dr. O'Day	- abstain
Dr. Stephens	- aye
Mr. Johnston	- abstain

The motion carried.

DR. BARNES MOVED TO APPROVE AND CONFIRM MS. LUBOW'S PROPOSED ORDER IN THE MATTER OF DOMINIC HAYNESWORTH, M.D. DR. ROTHMAN SECONDED THE MOTION.

MS. ROLFES MOVED TO AMEND THE PROPOSED ORDER IN THE ABOVE MATTER AS SHE PREVIOUSLY STATED. DR. STEPHENS SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:

Dr. Cramblett	- abstain
Dr. Lancione	- aye
Dr. Barnes	- aye
Dr. Buchan	- nay
Ms. Rolfes	- aye
Dr. Rothman	- aye
Dr. O'Day	- abstain
Dr. Stephens	- aye
Mr. Johnston	- abstain

The motion carried.

A roll call vote was taken on Dr. Barnes' motion as amended:

ROLL CALL VOTE:

Dr. Cramblett	- abstain
Dr. Lancione	- aye
Dr. Barnes	- aye

Dr. Buchan	- nay
Ms. Rolfes	- aye
Dr. Rothman	- aye
Dr. O'Day	- abstain
Dr. Stephens	- aye
Mr. Johnston	- abstain
Dr. Rauch	- aye

The motion carried.

Dr. Cramblett asked if the Board needed to discuss an effective date. Mr. Sprague advised that the order states that the date will be 30 days from the date of mailing of the notification of the Order.

Mr. Sprague asked if it would be appropriate for him to request a stay pending appeal. Mr. Culley stated that he could make such a request. Mr. Sprague then withdrew that request.

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43215

April 10, 1986

Dominic Haynesworth, M.D.
3620 Langton
Cleveland Heights, OH 44121

Dear Doctor Haynesworth:

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) In completing your renewal application card for registration of your certificate to practice medicine or surgery for the current biennial registration period, you did certify that you completed during the last biennium the requisite hours of continuing medical education, as required by Section 4731.281, Ohio Revised Code.
- (2) By letter dated October 17, 1985, the State Medical Board instructed you to provide documentation of your continuing medical education. A second notice was mailed to you on December 17, 1985. You responded by letter dated January 2, 1986, with enclosed documentation of Continuing Medical Education, indicating that you had completed twenty-seven (27) hours of Category I credit and zero (0) hours of Category II credit during the last biennium. The Continuing Medical Education Program certified by the Ohio State Medical Association and approved by the Ohio State Medical Board pursuant to Section 4731.281, Ohio Revised Code, a copy of which Program is attached hereto and incorporated by reference herein, requires the completion of one-hundred (100) hours of Continuing Medical Education, at least forty (40) hours of which shall be in Category I.

Your failure to complete the requisite Continuing Medical Education, as alleged in the above Paragraph (2), constitutes a violation of Section 4731.281, Ohio Revised Code.

April 10, 1986

Further, such failure to obtain the requisite Continuing Medical Education constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provisions of (Chapter 4731., Ohio Revised Code) or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(16), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rule 4731-10-03, Ohio Administrative Code.

Further, your acts in certifying to the State Medical Board that you had completed the statutorily required continuing medical education, as set forth in the above Paragraph (1), when you had not, in fact, done so, 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.

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

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

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

Copies of Sections 4731.22 and 4731.281, Ohio Revised Code, and Rule 4731-10-03, Ohio Administrative Code, are enclosed for your information and review.

Very truly yours,



Henry G. Cramblett, M.D.
Secretary

HGC:jmb

Enclosures:

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