



State Medical Board of Ohio

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

February 13, 2002

Susan M. Stone, M.D.
134 Jones Street
Dayton, OH 45410

Dear Doctor Stone:

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 February 13, 2002, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal 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 1388
RETURN RECEIPT REQUESTED

Cc: James T. Ambrose, Esq.
CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5147 1731
RETURN RECEIPT REQUESTED

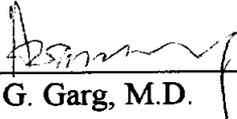
Mailed 2-15-02

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 February 13, 2002, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Susan M. Stone, 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)



Anand G. Garg, M.D.
Secretary

February 13, 2002
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

SUSAN M. STONE, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on February 13, 2002.

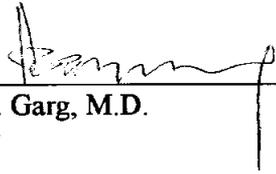
Upon the Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board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

It is hereby ORDERED that:

The certificate of Susan M. Stone, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

(SEAL)



Anand G. Garg, M.D.
Secretary

February 13, 2002

Date

2002 JAN -4 P 2: 22

**REPORT AND RECOMMENDATION
IN THE MATTER OF SUSAN M. STONE, M.D.**

The Matter of Susan M. Stone, M.D., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on December 6, 2001.

INTRODUCTION

I. Basis for Hearing

- A. In a Notice of Summary Suspension and Opportunity for Hearing dated June 13, 2001, the State Medical Board of Ohio [Board] notified Susan M. Stone, M.D., [f.k.a. Susan M. Fesus, M.D.] that, pursuant to Section 4731.22(G), Ohio Revised Code, the Board had adopted an Order of Summary Suspension of her certificate to practice medicine and surgery in Ohio. The Board further advised that Dr. Stone's continued practice of medicine or surgery would be considered practicing medicine without a certificate, in violation of Section 4731.41, Ohio Revised Code. (State's Exhibit 1A).

Furthermore, the Board notified Dr. Stone that the Board had proposed to take disciplinary action against her certificate based upon allegations which included the following: (1) Dr. Stone had entered a previous Consent Agreement with the Board based on impairment and commission of acts that constitute a felony, to wit: theft; and (2) Dr. Stone had been removing patches which contain a Schedule II controlled substance from patients for Dr. Stone's personal use. The Board further alleged that Dr. Stone's conduct constitutes "'commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,' as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.02, Ohio Revised Code, Theft; [and] '[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,' as that clause is used in Section 4731.22(B)(26), Ohio Revised Code."

Accordingly, the Board advised Dr. Stone of her right to request a hearing in this matter. (State's Exhibit 1B).

- B. By letter dated June 29, 2001, James T. Ambrose, Esq., submitted a written hearing request on behalf of Dr. Stone. (State's Exhibit 1C).

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II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers and Mark A. Michael, Assistant Attorneys General.
- B. On behalf of the Respondent: Although Dr. Stone had been advised of her right to appear at hearing on her own behalf, to be represented at hearing by counsel, or to present her arguments in writing, Dr. Stone neither appeared at the hearing personally or by representative, nor offered any substantive evidence at the hearing.

EVIDENCE EXAMINED

I. Testimony Heard

Presented by the State

- 1. Lori Gilbert
- 2. Joyce Ferrell
- 3. Gary Gabringer
- 4. Robert Burdick

II. Exhibits Examined

A. Presented by the State

- 1. State's Exhibits 1A-1Y: Procedural exhibits.
- 2. State's Exhibit 2: Certified copy of an August 11, 1994, Consent Agreement between Dr. Stone and the Board.
- 3. State's Exhibit 3: Copy of grid created by Joyce Ferrell, R.N., during the investigation of Dr. Stone.
- 4. State's Exhibit 4: Copy of a written statement by Dr. Stone provided to Detective Gary Gabringer of the Narcotics Bureau at the City of Dayton, Department of Police.

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 August 10, 1994, the Board issued a Notice of Immediate Suspension and Opportunity for Hearing to Susan M. [Fesus] Stone, M.D., alleging violations of Sections 4731.22(B)(26) and 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.02, Ohio Revised Code, Theft. (State's Exhibit [St. Ex.] 2).
2. On August 11, 1994, Dr. Stone entered into a Consent Agreement with the Board, in lieu of formal action based on violations of Sections 4731.22(B)(26) and 4731.22(B)(10), Ohio Revised Code. In the Consent Agreement, Dr. Stone admitted the following:
 - a. Dr. Stone had "excessively used or abused controlled substance opiates, including hydrocodone, which was her drug of choice. She began taking opiates in the fall of 1993 for her rheumatoid arthritis pain."
 - b. "On June 2, 1994, in the Montgomery County Court of Common Pleas, [Dr. Stone had] pleaded guilty to one felony count of Theft in violation of Section 2925.02, Ohio Revised Code, and was subsequently granted Treatment in Lieu of Conviction pursuant to Section 2952.041, Ohio Revised Code."
 - c. The acts underlying the judicial granting of Treatment in Lieu of Conviction constitute violations of Sections 4731.22(B)(10) and 4731.22(B)(26) of the Ohio Revised Code.
 - d. Dr. Stone participated in treatment for chemical dependency from July or August 1993 through January 1994 at Talbott March Recovery System in College Park, Georgia.
 - e. Dr. Stone was "evaluated by and entered into an aftercare contract with the Deaconess Recovery Center in Cincinnati, a Board approved treatment provider."
 - f. Dr. Stone had been "in compliance with her court-ordered rehabilitation, including aftercare," at the time she entered into the Consent Agreement with the Board.

(St. Ex. 2). The Consent Agreement terminated the Summary Suspension of Dr. Stone's certificate. In addition, Dr. Stone agreed to abide by probationary terms and conditions for at least two years. (St. Ex. 2).
3. Joyce Ferrell, R.N., testified at hearing on behalf of the State. Ms. Ferrell testified that she is the Vice President of Clinical Services at Hospice of Dayton, Dayton, Ohio. She stated

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that she is responsible for the care provided by all allied health care providers at the Hospice of Dayton. Ms. Ferrell further testified that a patient who qualifies for Hospice care is a patient who, in the best judgment of two physicians, is likely to live no more than six months. (Hearing Transcript [Tr.] at 15-17).

Ms. Ferrell testified that she had been advised in early April 2001 that someone had been removing Duragesic patches from Hospice patients. Ms. Ferrell testified that Duragesic patches contain Fentanyl and provide sedation and pain relief for up to seventy-two hours. (Tr. at 17-18).

Ms. Ferrell testified that she had had two major concerns in relation to the missing Duragesic patches. One was a concern for the patient who needed the medication. She stated that Hospice patients who are on the inpatient unit are there because they are very near death or because their symptoms are so extreme that they can not be managed at home. Therefore, when a Duragesic patch was removed from such a patient, there is a high probability that the patient would suffer extreme pain or would die in pain for no justifiable reason. (Tr. at 22).

Ms. Ferrell testified that her second major concern in relation to the missing Duragesic patches was that a patient might overdose. Ms. Ferrell feared that a physician who did not realize that a suffering patient was not receiving all of the medication the physician had ordered would order additional doses of Duragesic for that patient. Therefore, since the patient did not really need the higher dose of medication, the patient would suffer an overdose. (Tr. at 22-23).

Ms. Ferrell testified that she had developed a system for investigating the source of missing drugs from an inpatient unit. Ms. Ferrell stated that her system involves the creation of a grid. In the left column of the grid, there is a list of every person, including doctors, nurses, nurses aids, housekeepers, etc., who had had contact with a patient from whom a Duragesic patch had been taken. Across the top of the grid, there is a list dates and times for each incident in which a Duragesic patch was found to be missing. Where the two fields intersect, an "X" represents a person who had contact with the patient on the particular date. (Tr. at 18-19; St. Ex. 3).

Ms. Ferrell testified that she had created such a grid to investigate the missing Duragesic patches. The grid contained the names of seventy-five people who had had contact with at least one of the patients at the time the Duragesic patch was likely to have been removed. The grid also listed dates ranging from March 29 through April 25, 2001, representing a time when one or more patches had been removed from a patient. (Tr. at 19-20, 47-48; St. Ex. 3).

When the grid was completed, an "X" appeared in the row for Dr. Stone's name for each incident of a missing patch. No other person had near so many "Xs" in the row for his or her name. Dr. Stone had started seeing patients at Hospice in late March 2001. (Tr. at 19-20, 28; St. Ex. 3).

Ms. Ferrell testified that she had informed the medical directors of Hospice of Dayton of the results of her investigation. She also contacted the Board, where she was advised that a Board staff member would contact an investigator from the Dayton Police Department or the Ohio State Board of Pharmacy [Pharmacy Board]. Later that day, Bob Burdick from the Pharmacy Board contacted Ms. Ferrell. (Tr. at 20-21).

Ms. Ferrell testified that she had also developed a profile of the patients from whom Duragesic patches had been removed in the most recent twelve incidents. She noted that the patches were generally missing from a patient who was not alert, or who was awake and confused — a patient who would not be able to give a description of the person stealing the patches. Ms. Ferrell also noted that the patches were usually taken from a patient who had no family members present or who had no family members at all. The profile helped the investigators narrow the scope of the investigation. Once likely patients were identified, the investigators kept close watch over them. (Tr. at 23-24).

Ms. Ferrell stated that the surveillance was time-consuming and difficult. Nevertheless, Dr. Stone eventually removed a Duragesic patch from a patient while the patient's two daughters were in the room. The patient's daughters, who were not aware of the investigation, reported that Dr. Stone had removed the patch and told them that the patch was not effective. Dr. Stone kept the patch, and wrote "Discontinued Duragesic" and "done" in the patient's medical record. Ms. Ferrell testified that this was unusual, because removing narcotic patches is not within the role of a physician at Hospice. Ms. Ferrell stated that Hospice has developed protocols whereby narcotic medications are tracked carefully and destroyed in the presence of witnesses due to the large amount of narcotics that are used at Hospice. (Tr. at 24-26).

Ms. Ferrell testified that Gary Gabringer, a detective from the Dayton Police, and Robert Burdick, and investigator from the Ohio State Pharmacy Board, arranged to interview Dr. Stone on April 30, 2001. When Dr. Stone arrived at Hospice that day, she was escorted to a conference room. Det. Gabringer began questioning Dr. Stone, and she immediately admitted to taking the patches. (Tr. at 26-27).

Ms. Ferrell stated that Dr. Stone had advised the investigators that she had chewed the patches after removing them from patients' bodies. Ms. Ferrell stated that the concept was sickening, because patches are "pretty nasty" after being on a patient for twelve or twenty-four hours. (Tr. at 27).

Ms. Ferrell also stated that her investigation had revealed that Dr. Stone never removed all of a patient's Duragesic patches at one time. Dr. Stone may have taken 200 mcg. and left the patient with 50 mcg. of Duragesic. Ms. Ferrell further testified, however, that Dr. Stone did remove all patches from dead patients on two occasions. (Tr. at 48).

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4. Detective Gary Gabringer testified at hearing on behalf of the State. Det. Gabringer stated that he is a detective with the Narcotics Bureau at the City of Dayton, Department of Police. His primary responsibility is the Pharmaceutical Division, Addiction Unit. (Tr. at 28-29).

Det. Gabringer testified he met with Ms. Ferrell and other Hospice employees on April 27, 2001. Det. Gabringer testified that he had reviewed the incidents of missing Duragesic patches, and found that the one common thread was Dr. Stone. (Tr. at 30).

Det. Gabringer testified that he had participated in an interview of Dr. Stone on April 30, 2001. Det. Gabringer stated that he had explained to Dr. Stone the reason for the interview, and advised her of her rights. Dr. Stone agreed to talk to him. (Tr. at 31-32).

Dr. Stone advised Det. Gabringer that she had been through a recovery program and had done well until approximately February 2001. At that time, her dentist had prescribed Vicodin, and she had relapsed shortly thereafter. (Tr. at 32).

Dr. Stone had also told Det. Gabringer that, when she removed a patch, she took it home. She opened it up and chewed it; the process would provide "an instant high." Then Dr. Stone would swallow the patch, which would provide "more of a time-released high." (Tr. at 33).

Dr. Stone also admitted to Det. Gabringer that she would, on occasion, remove two patches from the same patient at the same time. (Tr. at 34).

Det. Gabringer stated that he had been investigating Dr. Stone for a fourth degree felony, because Duragesic is a Schedule II drug. He further stated that Dr. Stone had been charged criminally, but had entered treatment in accordance with a judicial granting of treatment in lieu of conviction. (Tr. at 35-36).

5. Robert Burdick testified at hearing on behalf of the State. Mr. Burdick testified that he is a Compliance Specialist with the Pharmacy Board. (Tr. at 38-39). Mr. Burdick further testified that Duragesic patches contain Fentanyl, which is a Schedule II controlled substance. He stated that Duragesic is a narcotic analgesic which is usually used in anesthesia; when used in a patch, it provides narcotic relief over a three day period. (Tr. at 42).

Mr. Burdick testified that he had become involved with the investigation of Dr. Stone after being contacted by the Medical Board. Mr. Burdick stated that he had been present for most of the interview of Dr. Stone on April 30, 2001. (Tr. at 39-42).

Mr. Burdick testified that Dr. Stone readily admitted to taking the patches. He stated that she had been very cooperative and very contrite. Mr. Burdick stated that, in this case, in addition to taking patches, Dr. Stone had been "manipulating the patients' doses of the Duragesic [to provide] an opportunity to take the patches." Mr. Burdick testified that it had

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appeared to him that Dr. Stone had increased the does of medication ordered “without regard to what the patient needed.” (Tr. at 42-44).

Finally, Mr. Burdick testified that Dr. Stone had reported to him that she had received Vicodin in approximately January 2001. Nevertheless, Mr. Burdick stated that he had investigated pharmacies near Dr. Stone’s residence, and found evidence that Dr. Stone had been receiving Vicodin in early 2000, one year before the incident at Hospice. (Tr. at 45).

6. On April 30, 2001, Dr. Stone signed a written “Statement of Witness” in the presence of Det. Gabringer. The statement contains the following language:

I have a history of drug addiction and was treated in 1993. Earlier this year, I received a prescription for Vicodin from my dentist. I took the medication as prescribed. It set off a craving for narcotics. In late March, I began taking Duragesic patches from patients at Hospice for personal use. I took patches several times a week throughout April. Several patients I took patches from more than once. * * *

(St. Ex. 4).

7. Lori Gilbert testified at hearing on behalf of the State. Ms. Gilbert testified that she is the Chief Enforcement Coordinator for the Board. (Tr. at 13).

Ms. Gilbert testified that, on April 30, 2001, she had been contacted by Dr. Stone. Dr. Stone informed Ms. Gilbert that she was an impaired physician who had previously been under a Consent Agreement with the Board for opiate dependence. Dr. Stone further advised Ms. Gilbert, among other things, that:

- she had relapsed in March 2001;
- she had removed Duragesic patches from patients at the Hospice of Dayton approximately two or three times per week over the past four weeks;
- she had been confronted by an executive at Hospice, a Dayton Police Officer, and a Pharmacy Board representative;
- she had contacted the Ohio Physicians Effectiveness Program; and
- she was considering admission to Green Hall or Shepherd Hill.

(Tr. at 14-15).

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FINDINGS OF FACT

1. On August 10, 1994, the Board issued a Notice of Immediate Suspension and Opportunity for Hearing to Susan M. [Fesus] Stone, M.D. On August 11, 1994, Dr. Stone entered into a Consent Agreement with the Board, in lieu of formal action, based on violations of Sections 4731.22(B)(26) and 4731.22(B)(10), Ohio Revised Code. In the Consent Agreement, Dr. Stone admitted that she had abused opiates, including hydrocodone; and that she had pleaded guilty to one felony count of Theft in violation of Section 2925.02, Ohio Revised Code. Dr. Stone also admitted that she had been granted Treatment in Lieu of Conviction; and that the acts underlying the judicial granting of Treatment in Lieu of Conviction “constitute commission of acts ‘that constitute a felony in this State’ as that clause is used in Section 4731.22(B)(10), [and] ‘impairment of ability to practice according to acceptable or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice’ as that clause is used in Section 4731.22(B)(26) of the Ohio Revised Code.”
2. On April 30, 2001, Dr. Stone was confronted by a detective with the City of Dayton, Department of Police; and an investigator with the Ohio State Board of Pharmacy. At that time, Dr. Stone admitted the following:
 - a. she had been treating patients at the Hospice of Dayton;
 - b. for Dr. Stone’s personal use, Dr. Stone had been removing Duragesic patches, which contain Fentanyl, a Schedule II controlled substances, from patients’ bodies;
 - c. she had taken Duragesic patches several times a week throughout April 2001; and
 - d. she had been removing patches multiple times from several of the patients.
3. Dr. Stone contacted the Board on April 30, 2001. Dr. Stone admitted that she had relapsed in March 2001, and that she was considering admission to Green Hall or Shepherd Hill for treatment of chemical dependency.

CONCLUSIONS OF LAW

1. The conduct of Susan M. Stone, M.D., as described in Findings of Fact 2, constitutes “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.02, Ohio Revised Code, Theft.

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2. The conduct of Dr. Stone, as described in Findings of Fact 1, 2 and 3, constitutes “[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,” as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

* * * * *

The Board has a primary obligation to protect the public from physician harm. On the other hand, the Board has traditionally attempted to support impaired physicians in their recovery process, so long as no patient or public harm results.

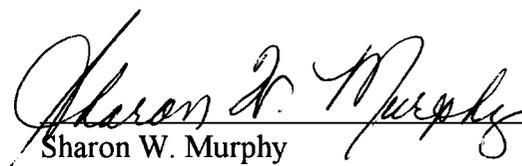
Dr. Stone presents a tragic case, which aptly demonstrates the devastation caused by addiction. Nonetheless, Dr. Stone’s addiction has induced her to breach the basic tenet of medicine, “First do no harm.” The evidence revealed that Dr. Stone’s addiction led her to take pain medication from dying patients who were suffering greatly. The evidence further revealed that Dr. Stone will go to great lengths to satisfy her addiction in the event of a relapse. It is also significant that, in 1994, Dr. Stone suffered detection, criminal consequences, and Board intervention; nevertheless, she again committed felonious acts in order to satisfy her addiction. Accordingly, the Board has no means by which to assure that the public will be free from harm should Dr. Stone be allowed to continue the practice of medicine and surgery in Ohio.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Susan M. Stone, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

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

EXCERPT FROM THE DRAFT MINUTES OF FEBRUARY 13, 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 John A. Campa, III, M.D.; Khozema Campwala, M.D.; Dannie K. Gipe, Jr., M.D.; Lonnie Marsh, II, M.D.; Arturo Portales, D.O.; Susan M. Stone, M.D.; Stephen J. Sveda, M.D.; Philip G. Wagman, M.D.; and Jimmie Steve Ward, P.A. 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. Garg	- 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. Garg	- 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.

.....

SUSAN M. STONE, M.D.

.....

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF SUSAN M. STONE, M.D. DR. STIENECKER SECONDED THE MOTION.

.....

A vote was taken on Mr. Browning's motion to approve and confirm:

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. Garg	- abstain
	Dr. Somani	- aye

The motion carried.

VER/SWM

JUL 24 2001

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO
CIVIL DIVISION

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
01 JUL 17 PM 4:47
CLERK OF COURTS

SUSAN M. STONE, M.D.,

Appellant,

vs.

OHIO STATE MEDICAL BOARD,

Appellee.

CASE NO. 01CVF06-6194
(Judge D. Crawford)

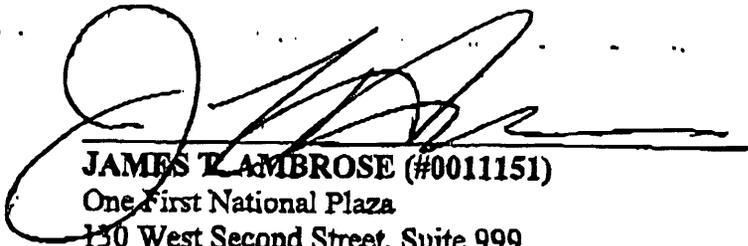
**NOTICE OF VOLUNTARY
DISMISSAL**

TERMINATION NO. 8
BY 

Now comes the Appellant, Susan M. Stone, M.D., by and through Counsel, and hereby gives notice of her voluntary dismissal of the within action, pursuant to Rule 41(A) of the Ohio Rules of Civil Procedure.

Respectfully submitted,

AMBROSE & DENNIS, Ltd.



JAMES T. AMBROSE (#0011151)

One First National Plaza
130 West Second Street, Suite 999
Dayton, OH 45402-1501
Tel. (937) 229-9999
Fax. (937) 229-7898
Attorney for Appellant

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO
CIVIL DIVISION

01 CV F 06 6194

SUSAN M. STONE, M.D.
139 Jones Street
Dayton, Ohio 45410,

Appellant,

vs.

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

Appellee.

CASE NO. _____

Crawford

NOTICE OF APPEAL

O.R.C. 119.12

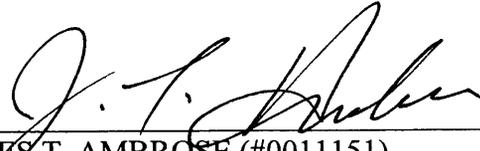
FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
CLERK OF COURTS
JUN 29 PM 12:42

Now comes the Appellant, Susan M. Stone, M.D., by and through Counsel, and hereby gives notice of her appeal from the Notice of Summary Suspension and Entry of Order (hereinafter "Order") of The State Medical Board of Ohio (hereinafter "Board"), issued on June 13, 2001 and mailed on June 14, 2001 (copy of which is attached hereto as "Exhibit A"). The grounds for the appeal include, but are not limited to, the following:

1. The Order was not supported by reliable probative and substantial evidence;
2. The Order is not in accordance with the law;
3. The Board abused its discretion;
4. The Board failed to follow applicable statutes and rules;
5. The Appellant was denied due process of law; and
6. The Appellant's equal protection rights were violated by the Board.

Respectfully submitted,

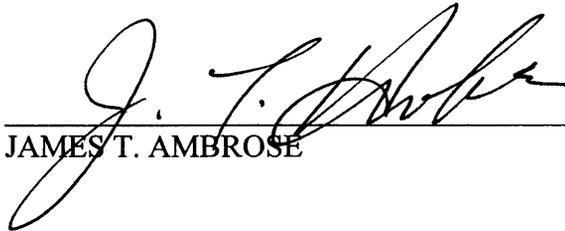
AMBROSE & DENNIS, Ltd.



JAMES T. AMBROSE (#0011151)
One First National Plaza, Suite 999
130 West Second Street
Dayton, OH 45402-1501
Tel. (937) 229-9999
Fax. (937) 229-7898

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served via hand delivery to The State Medical Board of Ohio, 77 South High Street, 17th Floor, Columbus, OH 43266-0315, on this 29th day of June, 2001.



JAMES T. AMBROSE

JOHN O'GRADY
CLERK OF THE FRANKLIN COUNTY COMMON PLEAS COURT, COLUMBUS, OHIO 43215
CIVIL DIVISION

JUDGE D. CRAWFORD

SUSAN M. STONE MD,
APPELLANT,

VS.

OHIO STATE MEDICAL BOARD,
APPELLEE.

01CVF-06-6194

CASE NUMBER

CLERK'S ORIGINAL BRIEFING SCHEDULE

-----	LATEST TIME OF OCCURRENCE
FILING NOTICE OF APPEAL (AND DEMAND FOR RECORD, IF REQUIRED)	06/29/01
FILING OF RECORD	07/27/01
DISPOSITIVE MOTIONS	08/10/01
FILING OF RECORD, IF EXTENSION GRANTED	08/24/01
FILING OF APPELLANT'S BRIEF	09/07/01
FILING OF APPELLEE'S BRIEF	09/21/01
FILING OF APPELLANT'S REPLY BRIEF AND NON-ORAL HEARING DATE	09/28/01

NOTICE TO ALL PARTIES

ALL ATTORNEYS AND PARTIES SHOULD MAKE THEMSELVES FAMILIAR WITH THE COURT'S LOCAL RULES, INCLUDING THOSE REFERRED TO IN THIS BRIEFING SCHEDULE. IN ORDER TO COMPLY WITH THE CLERK'S BRIEFING SCHEDULE IT WILL BE NECESSARY FOR ATTORNEYS AND PARTIES TO PURSUE THEIR APPEALS VIGOROUSLY FROM THE DAY THE APPEALS ARE FILED.

BY ORDER OF THE COURT OF COMMON PLEAS,
FRANKLIN COUNTY, OHIO

____/____/____
DATE

JOHN O'GRADY, CLERK



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

June 13, 2001

Susan M. Stone, M.D.
fka, Susan M. Fesus, M.D.
139 Jones Street
Dayton, Ohio 45410

Dear Doctor Stone:

Enclosed please find certified copies of the Entry of Order, the Notice of Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on June 13, 2001, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Opportunity for Hearing pursuant to Section 4731.22(G), Ohio Revised Code.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate, in violation of Section 4731.41, Ohio Revised Code.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order of Summary Suspension. 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 appeal, must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

Additionally, pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing on the allegations set forth in the Notice of Opportunity for Hearing. If you wish to request such hearing, that request must be made in writing and be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice. Further information concerning such hearing is contained within the Notice of Opportunity for Hearing.

THE STATE MEDICAL BOARD OF OHIO



Anand G. Garg, M.D., Secretary

Mailed 6-14-01

AGG/mpb
Enclosures

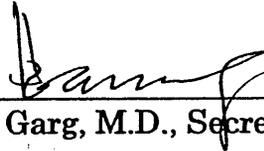
RECEIVED JUN 15 2001

tabbies
EXHIBIT
A

CERTIFICATION

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on June 13, 2001, to Adopt the Order of Summary Suspension and to Issue the Notice of Opportunity for Hearing, constitute true and complete copies of the Motion and Order as they appear 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)

JUNE 13, 2001

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :

Susan M. Stone, M.D. :

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 13th day of June, 2001.

Pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Anand G. Garg, M.D., Secretary, and Raymond J. Albert, Supervising Member; and

Pursuant to their determination that there is clear and convincing evidence that Susan M. Stone, M.D., has violated Section 4731.22(B)(26), Ohio Revised Code and Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.02, Ohio Revised Code, Theft, as alleged in Notice Opportunity for Hearing which is enclosed herewith and fully incorporated herein, which determination is based upon review of information received pursuant to an investigation; and

Pursuant to their further determination that Dr. Stone's continued practice presents a danger of immediate and serious harm to the public;

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 13th day of June, 2001;

It is hereby ORDERED that the certificate of Susan M. Stone, M.D., to practice medicine or surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Susan M. Stone, M.D., shall immediately close all her medical offices and immediately refer all active patients to other appropriate physicians.

This Order shall become effective immediately.

(SEAL)



Anand G. Garg, M.D., Secretary

JUNE 13, 2001

Date



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JUNE 13, 2001

SUSAN M. STONE, M.D., FKA SUSAN M. FESUS, M.D. ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Order of Summary Suspension and Notice of Opportunity For Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

DR. AGRESTA MOVED TO APPROVE THE ORDER OF SUMMARY SUSPENSION AND TO SEND THE NOTICE OF OPPORTUNITY FOR HEARING TO DR. STONE. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.



State Medical Board of Ohio

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NOTICE OF OPPORTUNITY FOR HEARING

June 13, 2001

Susan M. Stone, M.D.
fka, Susan M. Fesus, M.D.
139 Jones Street
Dayton, Ohio 45410

Dear Doctor Stone:

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 August 10, 1994, the State Medical Board Of Ohio issued to you a Notice of Immediate Suspension and Opportunity for Hearing alleging violations of Section 4731.22(B)(26) and 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.02, Ohio Revised Code, Theft. On or about August 11, 1994, you entered into a Consent Agreement with the State Medical Board of Ohio in lieu of further formal proceedings based upon the violations of Sections 4731.22(B)(26) and (B)(10), Ohio Revised Code. This Consent Agreement terminated the suspension of your license. Copies of the Notice of Immediate Suspension and Opportunity for Hearing and the Consent Agreement are attached hereto and incorporated herein.

In this Consent Agreement, you admitted that you excessively used or abused controlled substance opiates, including hydrocodone. You also admitted that on or about June 2, 1994, in the Montgomery County Court of Common Pleas, you pleaded guilty to one felony count of Theft in violation of Section 2925.22 [2913.02], Ohio Revised Code, and were subsequently granted Treatment in Lieu of Conviction pursuant to Section 2951.041, Ohio Revised Code. You further admitted that you received treatment for chemical dependency from August 1993 to January 1994 at Talbott Marsh Recovery System in College Park, Georgia, and that you were then evaluated by and entered into an aftercare contract with the Deaconess Recovery Center in Cincinnati, a Board approved treatment provider. You also therein agreed with the Board to certain probationary terms, conditions, and limitations for a minimum of two (2) years.

Mailed 6-14-01

On or about August 15, 1996, you were released from the terms of your probation.

- (2) On or about April 30, 2001, when you were confronted by a detective with the Dayton Police Department and an investigator with the Ohio State Board of Pharmacy, you admitted that you began treating patients at the Hospice of Dayton in Wilmington, Ohio, in the beginning of March 2001, and in or about the months of March and April 2001, you removed patches containing Duragesic, a scheduled II controlled substance, from patients for your personal use. You admitted that you took Duragesic patches several times a week throughout April. Additionally, you admitted that you took Duragesic patches multiple times from several of the patients.
- (3) On or about April 30, 2001, after being confronted by the detective and investigator, you admitted to the Board that you relapsed in or about the end of March and intended to enter a Board approved treatment provider for treatment of chemical dependency. On or about May 14, 2001, the Board was notified on your behalf that you entered Greene Hall at Greene Memorial Hospital.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.02, Ohio Revised Code, Theft.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1), (2) and (3) above, individually and/or collectively, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

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

You are further advised that, 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/mpb

CERTIFIED MAIL # 7000 0600 0024 5140 6038
RETURN RECEIPT REQUESTED

Enclosures

Cc: Jim Ambrose, Esq.
CERTIFIED MAIL # 7099 3220 0009 3045 9394
RETURN RECEIPT REQUESTED

STATE MEDICAL BOARD
OF OHIO
94 AUG 11 AM 9:31

**CONSENT AGREEMENT
SUSAN M. FESUS, M.D.
PHYSICIAN
AND
THE STATE MEDICAL BOARD OF OHIO**

This CONSENT AGREEMENT is entered into by and between SUSAN M. FESUS, M.D. and THE STATE MEDICAL BOARD OF OHIO, a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

SUSAN M. FESUS, M.D. enters into this Agreement being fully informed of her rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

This CONSENT AGREEMENT is entered into on the basis of the following stipulations, admissions and understandings:

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."**
- B. THE STATE MEDICAL BOARD OF OHIO is further empowered by Section 4731.22 (B)(10), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed."**
- C. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of further formal proceedings based upon the violations of Sections 4731.22(B)(26) and (B)(10), Ohio Revised Code, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.**

**CONSENT AGREEMENT
SUSAN M. FESUS, M.D.
PAGE 2**

- D. SUSAN M. FESUS, M.D. is licensed to practice medicine and surgery in the State of Ohio.
- E. SUSAN M. FESUS, M.D. ADMITS that she excessively used or abused controlled substance opiates, including hydrocodone which was her drug of choice. She began taking opiates in the fall of 1993 for her rheumatoid arthritis pain.
- F. Further, SUSAN M. FESUS, M.D., ADMITS that on or about June 2, 1994, in the Montgomery County Court of Common Pleas she pleaded guilty to one felony count of Theft in violation of Section 2925.02, Ohio Revised Code, and was subsequently granted Treatment in Lieu of Conviction pursuant to Section 2952.041, Ohio Revised Code.
- G. Further, SUSAN M. FESUS, M.D. ADMITS that the acts, conduct, and/or omissions underlying the judicial finding of Treatment in Lieu of Conviction as mentioned in paragraph (E) above constitute commission of acts "that constitute a felony in this State" as that clause is used in Section 4731.22(B)(10) of the Revised Code and "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice" as that clause is used in Section 4731.22(B)(26) of the Ohio Revised Code.
- H. Further, SUSAN M. FESUS, M.D., ADMITS that she participated ^{July} in treatment for her chemical dependency from August of 1993 to January of 1994 at Talbott Marsh Recovery System in College Park, Georgia. She was then evaluated by and entered into an aftercare contract with the Deaconess Recovery Center in Cincinnati, a BOARD approved treatment provider. Additionally, DOCTOR FESUS entered into an aftercare contract with the Ohio Physician's Effectiveness Program.
- I. Further, SUSAN M. FESUS, M.D. has been in compliance with her court-ordered rehabilitation, including aftercare.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any further formal proceedings pursuant to the notice of opportunity for hearing issued by the BOARD on August 10, 1994 at this time, SUSAN M. FESUS, M.D. knowingly and voluntarily agrees

**CONSENT AGREEMENT
SUSAN M. FESUS, M.D.
PAGE 3**

with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following PROBATIONARY terms, conditions and limitations:

1. The suspension of DOCTOR FESUS' certificate to practice medicine and surgery in the State of Ohio pursuant to Section 3719.121 of the Ohio Revised Code is terminated upon the effective date of this CONSENT AGREEMENT;
2. DOCTOR FESUS shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio;
3. DOCTOR FESUS shall submit quarterly declarations under penalty of BOARD disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this CONSENT AGREEMENT;
4. DOCTOR FESUS shall appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed by the BOARD;
5. In the event that DOCTOR FESUS should leave Ohio for three (3) continuous months, or reside or practice outside the State, DOCTOR FESUS must notify the BOARD in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under the CONSENT AGREEMENT, unless otherwise determined by motion of the BOARD in instances where the BOARD can be assured that probationary monitoring is otherwise being performed;
6. In the event DOCTOR FESUS is found by the Secretary of the Board to have failed to comply with any provision of this agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under the CONSENT AGREEMENT;
7. DOCTOR FESUS shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to her by another so authorized by law who has full knowledge of DOCTOR FESUS' history of chemical dependency;
8. DOCTOR FESUS shall abstain completely from the use of alcohol;

**CONSENT AGREEMENT
SUSAN M. FESUS, M.D.
PAGE 4**

9. **DOCTOR FESUS shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR FESUS shall ensure that all screening reports are forwarded directly to the BOARD on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board;**

Within thirty (30) days of the effective date of this Agreement, DOCTOR FESUS shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR FESUS shall submit the required urine specimens. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the BOARD of any positive screening results;

DOCTOR FESUS shall ensure that the supervising physician provides quarterly reports to the BOARD, on forms approved or provided by the BOARD, verifying whether all urine screens have been conducted in compliance with this CONSENT AGREEMENT, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR FESUS must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR FESUS shall further ensure that the previously designated supervising physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefor;

10. **The BOARD retains the right to require, and DOCTOR FESUS agrees to submit, blood or urine specimens for analysis upon request and without prior notice;**
11. **Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR FESUS shall submit for the BOARD's**

**CONSENT AGREEMENT
SUSAN M. FESUS, M.D.
PAGE 5**

prior approval the name of a monitoring physician, who shall otherwise monitor DOCTOR FESUS and provide the BOARD with quarterly reports on the doctor's progress and status. DOCTOR FESUS shall ensure that such reports are forwarded to the BOARD on a quarterly basis. In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, DOCTOR FESUS must immediately so notify the BOARD in writing, and make arrangements acceptable to the BOARD for another monitoring physician as soon as practicable. DOCTOR FESUS shall further ensure that the previously designated monitoring physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefor;

12. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR FESUS shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, approved in advance by the BOARD specifically for DOCTOR FESUS, no less than four (4) times per week. Substitution of any specific program must receive prior BOARD approval. At her appearances before the BOARD or its designated representative, DOCTOR FESUS shall submit acceptable documentary evidence of continuing compliance with this program;
13. DOCTOR FESUS shall maintain continued compliance with the terms of the aftercare contract entered into with her treatment provider, provided, that where terms of the aftercare contract conflict with terms of this Agreement, the terms of this Agreement shall control;
14. DOCTOR FESUS shall provide continuing authorization, through appropriate written consent forms, for disclosure by her treatment provider to the BOARD, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations; and
15. Within thirty (30) days of the effective date of this Agreement, DOCTOR FESUS shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which she contracts to provide physician services or receive training; and the Chief of Staff at each hospital where she has, applies for, or obtains privileges or appointments.

**CONSENT AGREEMENT
SUSAN M. FESUS, M.D.
PAGE 6**

This Agreement shall remain in force for a minimum of two (2) years prior to any request for termination of said Agreement. Otherwise, the above described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

If, in the discretion of the Secretary and Supervising Member of THE STATE MEDICAL BOARD OF OHIO, DOCTOR FESUS appears to have violated or breached any terms or conditions of this Agreement, THE STATE MEDICAL BOARD OF OHIO reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Agreement.

DOCTOR FESUS acknowledges that she has had an opportunity to ask questions concerning the terms of this Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the BOARD based on alleged violations of this CONSENT AGREEMENT shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

DOCTOR FESUS hereby releases THE STATE MEDICAL BOARD OF OHIO, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. It is expressly understood that this CONSENT AGREEMENT is subject to ratification by the BOARD prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

CONSENT AGREEMENT
SUSAN M. FESUS, M.D.
PAGE 7

Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

Susan M. Fesus
SUSAN M. FESUS, M.D.
8/9/94
DATE

Carla S. O'Day
CARLA S. O'DAY, M.D.
Secretary 8/11/94
DATE

Mark J. Friedman
MARK J. FRIEDMAN, ESQ.
Atty. for Dr. Fesus
8/9/94
DATE

Raymond J. Albert
RAYMOND J. ALBERT
Supervising Member
8/11/94
DATE

Anne C. Berry Strait
ANNE C. BERRY STRAIT, ESQ.
Assistant Attorney General
8/11/94
DATE



STATE MEDICAL BOARD OF OHIO

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

August 10, 1994

NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

Susan M. Fesus, M.D.
13 Westerly Lane
Centerville, OH 45458

Dear Doctor Fesus:

In accordance with Sections 2929.17 and/or 3719.12(B), Ohio Revised Code, the Office of the Prosecuting Attorney of Montgomery County, Ohio reported that on or about June 2, 1994, the Montgomery County Court of Common Pleas found you Eligible for Treatment in Lieu of Conviction for violations of Section 2913.02, Ohio Revised Code, Theft, pursuant to Section 2951.041 of the Ohio Revised Code.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your license to practice medicine and surgery in the State of Ohio is immediately suspended. Continued practice after this suspension shall be considered practicing medicine without a certificate in violation of Section 4731.41, Ohio Revised Code.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about June 2, 1994, in the Montgomery County Court of Common Pleas, you pleaded guilty to one felony count of Theft in violation of Section 2913.02, Ohio Revised Code, and were granted Treatment in Lieu of Conviction pursuant to Section 2951.041, Ohio Revised Code.
- (2) Moreover, in order to grant your request for Treatment in Lieu of Conviction, the Court was required by statute to find that your "drug dependence was a factor leading to the criminal activity with which (you were) charged, and rehabilitation through treatment would substantially reduce the likelihood of additional criminal activity."

The acts, conduct, and/or omissions underlying this judicial finding of Eligibility for Treatment in Lieu of Conviction for violations of Section 2913.02, Ohio Revised Code, Theft, as alleged in paragraph (1) above, individually and/or collectively, constitute "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.02, Ohio Revised Code, Theft.

Mailed 8/11/94

August 10, 1994

The acts, conduct, and/or omissions underlying this judicial finding of Eligibility for Treatment in Lieu of Conviction for violations of Section 2913.02, Ohio Revised Code, Theft, as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

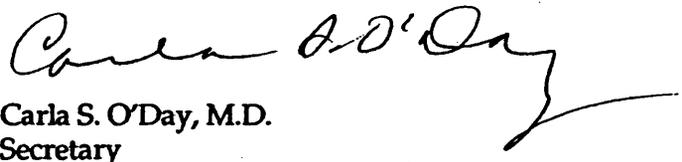
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Carla S. O'Day, M.D.
Secretary

CSO:jmb

Enclosures:

CERTIFIED MAIL #348 885 056
RETURN RECEIPT REQUESTED

cc: Mark J. Friedman, Esq.