STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

November 13, 1992

Barry E. Taylor, M.D.
1520 S. Main Street
Dayton, Ohio 45409

Dear Doctor Taylor:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Kevin P. Byers, 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 11, 1992, including a Motion approving and confirming the Findings of Fact and the Conclusions of Law of the Hearing Examiner, and adopting an amended Order.

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

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and 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

Carla S. O'Day

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

CSO:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 290 319 167
RETURN RECEIPT REQUESTED

cc: Thomas M. Hanna, Esq.

CERTIFIED MAIL NO. P P290 319 168
RETURN RECEIPT REQUESTED

Mailed 11/24/92

STATE MEDICAL BOARD OF OHIO
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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 Kevin P. Byers, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on November 11, 1992, including a Motion approving and confirming the Findings of Fact and the Conclusions of Law of the Hearing Examiner, and adopting an amended Order, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Barry E. Taylor, 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)

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

11/12/92
Date

23-S

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

BARRY E. TAYLOR, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 11th day of November, 1992.

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

It is hereby ORDERED that:

1. The certificate of Barry E. Taylor, M.D., to practice medicine and surgery in Ohio, shall be SUSPENDED for an indefinite period of time.

2. The State Medical Board shall not consider reinstatement of Dr. Taylor's certificate to practice medicine and surgery unless and until all of the following minimum requirements are met:

   a. Dr. Taylor shall submit an application for reinstatement, accompanied by appropriate fees.

   b. Dr. Taylor shall provide the Board with written report of evaluation by a psychiatrist acceptable to and approved in advance by the Board, indicating that Dr. Taylor's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. The report shall describe with particularlity the bases for this determination and shall set forth any recommended limitations upon Dr. Taylor's practice. Prior to evaluating Dr. Taylor, the Board shall provide the evaluating psychiatrist with a copy of the Findings and Order of the State Medical Board of Ohio in this Matter.

c. Dr. Taylor shall attend a personal interview by the Board or its designee.

d. In the event that Dr. Taylor has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Taylor's fitness to resume practice.

3. Upon reinstatement, Dr. Taylor's certificate shall be subject to the following probationary terms, conditions and limitations for a minimum period of three (3) years:

a. Dr. Taylor shall obey all federal, state and local laws and all rules governing the practice of medicine in Ohio.

b. Dr. Taylor shall submit quarterly declarations under penalty of perjury stating that there has been compliance with all the terms of probation.

c. Dr. Taylor shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals or as otherwise directed by the Board.

d. Dr. Taylor shall comply with all limitations under paragraph 2b, above, which are imposed by the Board at the time of reinstatement of his certificate to practice medicine and surgery.

e. Dr. Taylor shall undertake and continue counseling with a psychiatrist or counselor approved in advance by the Board at such intervals as are deemed appropriate by the counselor or psychiatrist, but not less than once per month, until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from the approved counselor or psychiatrist. Dr. Taylor shall ensure that these reports are forwarded to the Board on a quarterly basis, or as otherwise directed by the Board.

f. In the event that Dr. Taylor should leave Ohio for three (3) consecutive months or reside or practice outside the State, he must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.

g. Dr. Taylor shall provide a copy of this Order to all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges.

4. Upon successful completion of probation, Dr. Taylor's license will be fully restored.

This Order shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board of Ohio. In the thirty (30) day interim, Dr. Taylor shall not undertake the care of any patient not already under his care.

Carla S. O'Day

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

(SEAL)

11/12/92

Date

STATE MEDICAL BOARD OF OHIO
92 OCT 13 PM 1:27

REPORT AND RECOMMENDATION
IN THE MATTER OF BARRY E. TAYLOR, M.D.

On July 22 and 23, and September 11, 1992, the Matter of Barry E. Taylor, M.D., came on for hearing before Kevin P. Byers, Attorney Hearing Examiner for the State Medical Board.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

A. By letter dated March 11, 1992, mailed March 12, 1992 (State's Exhibit #1), the State Medical Board notified Barry E. Taylor, M.D., that it intended to determine whether to take disciplinary action against his certificate to practice medicine and surgery or to place him on probation due to his first degree misdemeanor assault conviction and the circumstances underlying the conviction.

The Board alleged that Dr. Taylor'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), Revised Code; "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude", as that clause is used in Section 4731.22(B)(13), Revised Code; "failure to use reasonable care discrimination in the administration of drugs", as that clause is used in Section 4731.22(B)(2), Revised Code; "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Revised Code; and, " the violation of any provision of a code of ethics of a national professional organization as specified in this division", as that clause is used in Section 4731.22(B)(18), Revised Code, to wit: Principles I, II, III, IV, and V of the American Medical Association Principles of Medical Ethics.

B. By letter received April 6, 1992 (State's Exhibit #2), Dr. Taylor, through counsel, requested a hearing.

II. Appearances

A. On behalf of the State of Ohio: Lee I. Fisher, Attorney General, by Susan C. Walker and Odella Lampkin, Assistant Attorneys General

B. On behalf of the Respondent: Coolidge, Wall, Womsley & Lombard, by Thomas M. Hanna, Esq., and Roger J. Makely, Esq.

III. Testimony Heard

A. Presented by the State

1. Bobbie L. Adams, L.P.N.
2. Karen Hauser, R.N.
3. Paige Pahanish, L.P.N.
4. Eileen Krynzel Janobsky, R.N.
5. Lu Ann Carpenter, R.N.
6. Oscar W. Clarke, M.D.
7. Jeanne McAleer, R.N.
8. Mark H. Striebel, D.O.
9. Robert Guthrie, M.D.
10. Barry E. Taylor, M.D., as on cross-examination

B. Presented by the Respondent

1. Junius Cromartie, M.D.
2. Stephen Levitt, M.D.
3. Reverend Paul W. Heine
4. Donald O. Collins
5. Michael W. Craig, M.D.
6. Barry E. Taylor, M.D.

STATE MEDICAL BOARD
OF OHIO
92 OCT 13 PM 1:27

IV. Exhibits Examined

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

A. Presented by the State

1. State's Exhibit #3: April 6, 1992 letter to Attorney Hanna from the State Medical Board advising him that a hearing set for April 20, 1992 was postponed until further notice pursuant to Section 119.09, Revised Code.

STATE MEDICAL BOARD OF OHIO
92 OCT 13 PM 1:27

2. State's Exhibit #4: April 8, 1992 letter to Attorney Hanna from the State Medical Board scheduling Dr. Taylor's hearing for June 9, 1992.

3. State's Exhibit #5: May 22, 1992 Entry by the State Medical Board granting the State's motion for continuance. The Matter was set to convene for hearing on July 22, and July 23, 1992.

4. State's Exhibit #6: June 26, 1992 Entry granting the State's motion to depose a witness in lieu of live testimony.

5. State's Exhibit #7: January 25, 1992 two-page hand-written statement by Bobbie Adams, L.P.N.

6. State's Exhibit #8: February 4, 1992 handwritten statement by Karen Hauser, R.N.

7. State's Exhibit #9: January 27, 1992 handwritten statement by Paige Pahanish, L.P.N.

8. State's Exhibit #10: January 24, 1992 handwritten statement by Eileen Krynzel Janobsky, R.N.

9. State's Exhibit #11A: An empty 1000 ml. "Jevity" feeding bottle.

10. State's Exhibit #11B: "Flexiflo" pump set and tubing for use with State's Exhibit #11A.

11. State's Exhibit #12(a-i): Nine photographs of Helen Pansing at Walnut Creek Nursing Center from January 16, 1992 through July 10, 1992.

12. State's Exhibit #13: Curriculum vitae of Oscar W. Clarke, M.D.

13. State's Exhibit #14: January 15, 1992 single page of notes taken by Jeanne McAleer, R.N., during a telephone conversation with Dr. Taylor.

14. State's Exhibit #15: Notes made by Jeanne McAleer, R.N., detailing the events of January 15, 1992.

15. State's Exhibit #16: January 27, 1992 four-page statement of Jeanne McAleer, R.N..

16. State's Exhibit #17: January 15, 1992 two-page notes made by Jeanne McAleer, R.N.

STATE MEDICAL BOARD OF OHIO
92 OCT 13 PM 1:27

17. State's Exhibit #18: January 15, 1992 note by Jeanne McAleer, R.N., regarding delivery of a Jevity bottle to a laboratory.

18. State's Exhibit #19: February 3, 1992 handwritten note by Jeanne McAleer, R.N.

19. State's Exhibit #20: January 15, 1992 two-page notes of Dr. Mark Striebel.

20. State's Exhibit #21: January 27, 1992 two-page statement by Dr. Mark Striebel.

21. State's Exhibit #22: Walnut Creek Nursing Center no code policies.

22. State's Exhibit #23: 29-page curriculum vitae and biographical sketch of Robert M. Guthrie, M.D.

23. State's Exhibit #24A: Excerpt from the 1992 PDR about Benadryl.

24. State's Exhibit #24B: Excerpt from the 1992 PDR with a picture of Benadryl.

25. State's Exhibit #24C: Excerpt from the 1992 PDR about Compazine.

26. State's Exhibit #24D: Excerpt from the 1992 PDR with a picture of Compazine.

27. State's Exhibit #25: July 21, 1992 two-page affidavit of Medical Technologist Ernie Chaffin along with seven documents indicating the chain of custody for the Jevity bottle from the Walnut Creek Nursing Center, a urine sample from Mrs. Pansing, and the toxicology results from the bottle and urine sample.

28. State's Exhibit #26: June 3, 1992 letter to Robert Guthrie, M.D., from Jan L. Worster, M.D., Senior Director, Professional Service for Parke-Davis.

29. State's Exhibit #27A: Hospital and nursing center records for Helen Pansing from November 13, 1991 through December 7, 1991.

30. State's Exhibit #27B: Hospital and nursing center records for Helen Pansing from December 13, 1991 through February 13, 1992.

STATE MEDICAL BOARD OF OHIO
92 OCT 13 PM 1:27

31. State's Exhibit #27C: Hospital and nursing center records for Helen Pansing from February 13, 1992 through July 10, 1992.

32. State's Exhibit #28: Montgomery County Bill of Information charging Dr. Taylor with Attempted Assault; Dr. Taylor's no contest plea; and, the Judgment Entry of March 5, 1992 finding Dr. Taylor guilty of misdemeanor Attempted Assault.

33. State's Exhibit #29: Five pages of current opinions from the Council on Ethical and Judicial Affairs, American Medical Association.

34. State's Deposition Exhibit #1: January 15, 1992 notes made by John Hochwalt during meeting with Dr. Taylor.

35. State's Deposition Exhibit #2: January 15, 1992 written statement by Dr. Taylor.

36. State's Deposition Exhibit #3: January 15, 1992 order by Dr. Taylor transferring Helen Pansing's care to Dr. Striebel.

37. State's Deposition Exhibit #4: January 15, 1992 statement written by Sara Sachs.

38. State's Deposition Exhibit #5: January 30, 1992 three-page statement by John Hochwalt.

B. Presented by the Respondent

1. Respondent's Exhibit B: July 12, 1992 letter to the State Medical Board about Dr. Taylor from Mildred M. Bingham.

2. Respondent's Exhibit C: March 24, 1992 letter to Judge William MacMillan about Dr. Taylor from Ellen Rosenthal, R.N., B.S.N.

3. Respondent's Exhibit E: March 24, 1992 letter to Judge William MacMillan about Dr. Taylor from Elaine Wheaton, R.N.

4. Respondent's Exhibit F: March 24, 1992 letter to Judge William MacMillan about Dr. Taylor from Mary Murphy, R.N., M.S.

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:27

5. Respondent's Exhibit G: March 24, 1992 letter to Judge William MacMillan about Dr. Taylor from Betty L. Schmoll, R.N., M.S.

6. Respondent's Exhibit I: March 21, 1992 letter to Judge William MacMillan about Dr. Taylor from Zellor Henry.

7. Respondent's Exhibit J: February 27, 1992 letter to Dr. Taylor from Donna Glascoe.

8. Respondent's Exhibit K: January 27, 1992 letter to Dr. Taylor from Vinod K. Patwa, M.D.

9. Respondent's Exhibit L: February 27, 1992 letter to Dr. Taylor from Mrs. Charles Truax.

10. Respondent's Exhibit M: Undated letter to Dr. Taylor from W. B. Ayers, M.D.

11. Respondent's Exhibit N: March 2, 1992 letter to the Montgomery County Medical Society about Dr. Taylor from Keith Schrader.

12. Respondent's Exhibit Q: February 17, 1992 letter to Dr. Taylor from Douglas Romer, M.D.

13. Respondent's Exhibit R: Undated letter to Dr. Taylor from S. Henry Dimlich, M.D.

14. Respondent's Exhibit S: March 14, 1992 letter to Judge William MacMillan about Dr. Taylor from Thomas L. Salmon.

15. Respondent's Exhibit T: March 12, 1992 letter to Judge William MacMillan about Dr. Taylor from Jack P. McDonald, Associate Professor, University of Dayton.

16. Respondent's Exhibit U: March 13, 1992 letter to Judge William MacMillan about Dr. Taylor from Donna B. Moon, Montgomery County Commissioner.

17. Respondent's Exhibit V: March 12, 1992 letter to Dr. Taylor from Rod and Jenny Wood.

18. Respondent's Exhibit W: March 14, 1992 four-page letter to Judge William MacMillan about Dr. Taylor from Walter Reck.

19. Respondent's Exhibit X: March 16, 1992 letter to Judge William MacMillan about Dr. Taylor from David Laughter.

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

20. Respondent's Exhibit Y: March 16, 1992 letter to Judge William MacMillan about Dr. Taylor from Gary Lee Brown.

21. Respondent's Exhibit Z: March 14, 1992 letter to Judge William MacMillan about Dr. Taylor from Frank L. Gilland, II.

22. Respondent's Exhibit AA: March 16, 1992 letter to Judge William MacMillan about Dr. Taylor from Raymond A. Hause.

23. Respondent's Exhibit BB: March 19, 1992 letter to Judge William MacMillan about Dr. Taylor from Monica A. Cengia, M.B.A., M.S.E.d., R.D., and L.D.

24. Respondent's Exhibit CC: March 24, 1992 letter to Judge William MacMillan about Dr. Taylor from Patricia Sue Babian, R.N.

25. Respondent's Exhibit DD: March 19, 1992 letter to Judge William MacMillan about Dr. Taylor from Paul and Mildred Arnold.

26. Respondent's Exhibit EE: March 20, 1992 letter to Judge William MacMillan about Dr. Taylor from J. Stephen Belcher, R.Ph.

27. Respondent's Exhibit HH: February 7, 1992 letter to Dr. Taylor from Robert H. Goldenberg, M.D.

28. Respondent's Exhibit II: Eight additional letters of support for Dr. Taylor which were submitted directly to the State Medical Board and returned to the authors by Lauren Lubow, Case Control Officer for the State Medical Board.

V. Others Matters

All objections raised during the deposition of John Hochwalt are OVERRULED. Respondent's objections to Deposition Exhibits #1, #4, and #5 are also OVERRULED and Deposition Exhibits #1, #2, #3, #4, and #5 are ADMITTED. At hearing on July 23, 1992 the State was granted leave to conduct a posthearing deposition of a witness. Respondent's request to orally close after submission of all the evidence was granted. Pursuant to the July 29, 1992 Entry of the Hearing Examiner, the Matter reconvened for oral closing on September 11, 1992. At that time the State advised that the witness had not been deposed and the State's evidence as admitted at the July hearing was complete. By oral order of the Hearing Examiner on September 11, 1992, the record in this Matter closed that day.

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

FINDINGS OF FACT

1. Barry E. Taylor, M.D., received his medical education at Indiana University and graduated in 1983. He completed an internship and residency at the Miami Valley Hospital, Dayton, Ohio in 1986. In September, 1986 Dr. Taylor became board certified in internal medicine. Since 1986 he has practiced internal medicine in Dayton. Around 1987 or 1988 he assumed the care of Helen and Dwain Pansing. Mrs. Pansing suffers from diabetes mellitus Type II and Dr. Taylor saw either Mr. or Mrs. Pansing on a regular basis since they began treating with him. Generally, Dr. Taylor would see the Pansings at least once a month. On October 27, 1991 Mrs. Pansing was admitted to the Miami Valley Hospital when Mr. Pansing was unable to arouse her. An MRI scan was done and revealed a thalamic mid-brain and pontine infarction on the right. Mrs. Pansing had a history of prior cerebrovascular accident in March of 1991. The October 1991 cerebrovascular accident resulted in left hemiparesis and dysphagia. Due to Mrs. Pansing's dysphagia, a gastrostomy tube was placed in late November or early December, 1991. She never returned home to live after the gastrostomy tube was placed. Due to her hemiparesis, Dr. Taylor had Mrs. Pansing transferred to an intensive physical rehabilitation program at Miami Valley Hospital in November, 1991. Approximately three weeks later she was discharged to a medical floor due to poor tolerance to physical therapy. It was recommended that further rehabilitation be undertaken in a nursing home. In Dr. Taylor's discharge summary of December 13, 1991, when Mrs. Pansing was transferred to the Walnut Creek Nursing Center, primary diagnosis was listed as fever with secondary diagnoses of arteriosclerotic cerebrovascular disease, left hemiparesis, dysphagia, diabetes mellitus, hypertension, and chronic atrial fibrillation. He also noted during her stay in the rehab unit she became increasingly somnolent, difficult to arouse, and exhibited altered mental consciousness.

   On January 2, 1992, less than one month after her arrival at Walnut Creek Nursing Center, Mrs. Pansing was transferred back to Miami Valley Hospital due to intermittent fevers and widely fluctuating blood sugars. Prior to transfer to the hospital, she also had a urine culture which grew out a group D. streptococcus which was highly resistent to all antibiotics which Mrs. Pansing could tolerate. A January 2, 1992 social work entry from the nursing center notes that Mrs. Pansing was alert and responsive with occasional whispered verbal responses. She followed people with her eyes and appeared interested in her surroundings. A Walnut Creek nursing note from that day reflects that Mrs. Pansing was non-verbal but responded with facial gestures. Walnut Creek discharge summaries dated January 3, 1992 indicate Mrs. Pansing had "limited verbal responses", required "total assistance" and was incontinent.

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

At the time of the January 2, 1992 hospital admission, Mrs. Pansing had a temperature of 102.2 with a pulse of 108 and high blood sugars. Dr. Taylor's principle diagnosis was sepsis with secondary diagnoses of urinary tract infection, uncontrolled diabetes mellitus, cerebrovascular disease, dysphagia, left hemiparesis, and chronic atrial fibrillaltion. During Mrs. Pansing's eight-day hospital stay, she was treated with intravenous Imipenem in high doses. Eventually, all cultures returned negative and Mrs. Pansing was discharged to the Walnut Creek Nursing Center on January 10, 1992. At Mr. Pansing's request, IV antibiotics were terminated. In Dr. Taylor's discharge summary dictated January 25, 1992, he noted that Mr. Pansing had requested that no further Accu-Checks or labs be drawn, and that Mrs. Pansing would receive no CPR, ACLS, countershock, or intubation. This was a continuation of the "no code" order initially entered on December 18, 1992.

These facts are established by the testimony of Dr. Taylor (Tr. at 369-370, 517-519), and State's Exhibit #27A.

2. On January 14, 1992 the Walnut Creek Nursing Center called Dr. Taylor's office to request that he come by the Center to sign the no code order that he had placed in her chart when she was transferred from the hospital. This no code initially appeared in the nursing center chart on December 18, 1992, and is also noted in the hospital chart as of January 10, 1992. As Dr. Taylor was leaving his office, he removed eight Benadryl capsules and four Compazine capsules from his office medications, dumped the contents into a pill holder, and took them with him to the Walnut Creek Nursing Center. At this time, Dr. Taylor formulated a plan to place the drugs in Mrs. Pansing's feeding bottle in the hopes it would sedate her to the point of unarousability by the next morning. His intent was to temporarily make her oblivious to her impaired health and functioning. Compazine is a controlled substance which has a sedative side effect and Benadryl is an over-the-counter medication which also has a sedative effect. When Dr. Taylor arrived at the Walnut Creek Nursing Center, he stopped at the nursing station and signed the no code order. In accord with Mr. Pansing's wishes, he also entered a "no transport" order in Mrs. Pansing's patient record. Mr. Pansing was his wife's legal guardian. Dr. Taylor went to Mrs. Pansing's room where he observed her sleeping. He pulled the curtain around the bed, opened the Jevity bottle holding the feeding solution, and emptied the contents of the pill holder into the feeding bottle. Dr. Taylor expected the Benadryl to be a quick-acting sedative which would go in through the feeding pump at a moderate rate and then the Compazine, in sustained release form, would maintain the sedative effect initiated by the Benadryl. Dr. Taylor put 200 mg. of Benadryl and 60 mg. of Compazine in Mrs. Pansing's Jevity solution. Shortly thereafter, the feeding tube clogged due to the drugs

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

inserted by Dr. Taylor and the staff at the Walnut Creek Nursing Center discovered the foreign substance in the feeding bottle. A call was placed to Dr. Taylor to request a toxicology screen for Mrs. Pansing to determine if any of the unknown substance had entered her system. Dr. Taylor authorized the screen, although he did not tell the Walnut Creek Nursing Center staff that he knew what the substances were in the feeding bottle and that he was the responsible party. Dr. Taylor had no long-term plan of action if he had succeeded in placing Mrs. Pansing in a drug-induced unarousable state. He simply acted impulsively and without considering the implications and consequences of his decision to sedate Mrs. Pansing without medical justification.

These facts are established by the testimony of Dr. Taylor (Tr. at 311-382, and 508-521), the testimony of Bobbie Lynn Adams (Tr. at 19-44), and State's Exhibits #7 and #27B.

3. At approximately 8:45 A.M. on January 15, 1992, Dr. Taylor called the Walnut Creek Nursing Center and spoke with Jeanne McAleer, the Director of Nursing. During this conversation, Dr. Taylor implicated himself as the individual who placed the Benadryl and Compazine into Helen Pansing's Jevity bottle the previous evening. Dr. Taylor indicated to Ms. McAleer that he intended to have Helen Pansing "sleep permanently" and that he felt stupid because the medication clogged the feeding tube. Dr. Taylor also told Ms. McAleer about the agony Mr. Pansing had been going through due to the deteriorating condition of this wife and how distraught he was because they had promised one another that they would not allow the other to slowly wither away. Dr. Taylor told Ms. McAleer that he was so distraught by the events of the previous evening that he had not gone to his office that day and he was available by beeper if the Nursing Center wished to contact him. He also volunteered to come in at 1:00 P.M. and speak with the administrator, John Hochwalt, and Ms. McAleer. Ms. McAleer testified that after the substances were found in Mrs. Pansing's feeding bottle, she was moved to another room because the Nursing Center was quite concerned for her safety since they did not know who had been tampering with Mrs. Pansing's Jevity bottle or why. When Dr. Taylor arrived for the meeting, he inquired about Mr. Pansing. Dr. Taylor indicated that he had spoken with Mr. Pansing who agreed to attend the 1:00 P.M. meeting. However, the meeting proceeded without Mr. Pansing. Dr. Taylor willingly wrote out an explanation of what he had done for the Nursing Center records and also willingly wrote an order transferring the care of Helen Pansing to the Medical Director at Walnut Creek Nursing Center. Dr. Taylor was cooperative and candid in his conversations with Ms. McAleer and Mr. Hochwalt. No one at the nursing center had seen Dr. Taylor in the facility on January 14, 1992.

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

These facts are established by the testimony of Jeanne McAleer (Tr. at 167-210), the testimony of John Hochwalt (Depo. at 33-36), and State's Exhibits #14, #15, #16, #17, and #19.

4. Shortly after Dr. Taylor left the nursing facility on January 15, 1992, Mr. Pansing accompanied by his daughter, came in to speak with Mr. Hochwalt and Ms. McAleer. Mr. Hochwalt informed Mr. Pansing and his daugher of the incident with the feeding tube and Mr. Pansing acknowledged that he knew about it, that he had been in earlier that morning and talked with the social services director about the matter. Mr. Hochwalt asked Mr. Pansing if he would tell them about the incident. Mr. Pansing then turned to his daughter and told her he wished she didn't have to hear about this but he had asked Dr. Taylor to do whatever was possible to ease his wife's misery. He went on to say that he had seen her through three strokes now and that neither he nor Mrs. Pansing ever wanted to live in the condition that she was presently in. He said they had promised each other that they would not artificially prolong one another's lives and he had also promised Helen he would not allow doctors to put tubes in her to maintain her life. During this conversation with Mr. Pansing and his daughter, Mr. Hochwalt asked for written assurance from Mr. Pansing that Mrs. Pansing would be safe and not suffer intentional harm while at Walnut Creek Nursing Center. Mr. Pansing was too upset to write the statement but offered to sign anything that Mr. Hochwalt would write. Mr. Hochwalt refused and said it had to be in Mr. Pansing's own handwriting. Mr. Pansing's daughter eventually took the pen and paper from Mr. Pansing and wrote, "January 15, 1992 There will no more attempts made to take Helen Pansing's life". Prior to her participation in this conference, Mr. Pansing's daughter did not know of her parents' promises to each other or their discussions with Dr. Taylor. Mr. Pansing signed this statement as did his daughter with witness signatures by Mr. Hochwalt and Ms. McAleer.

These facts are established by the testimony of Jeanne McAleer (Tr. at 180-182 and 193-195), the testimony of John Hochwalt (Depo. at 23-29 and 42-45), and State's Deposition Exhibit #4).

5. Although Dr. Taylor placed Benadryl and Compazine into the feeding bottle of Helen Pansing, she did not test positive for either substance on January 15, 1992. Furthermore, there were no known reactions or side effects to Mrs. Pansing from Dr. Taylor's actions of January 14, 1992.

These facts are established by the testimony of John Hochwalt (Depo. at 45-46), the testimony of Dr. Guthrie (Tr. at 278-280), and State's Exhibits #25 and #27B.

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

6. Due to his actions of January 14, 1992, Dr. Taylor was charged with Attempted Assault. On February 26, 1992, he appeared in court and entered a no contest plea to the Attempted Assault charge. He was found guilty of the offense.

   These facts are established by State's Exhibit #28.

7. Prior to January 14, 1992, Dr. Taylor had discussions with Mr. and Mrs. Pansing regarding their respective wishes about Mrs. Pansing's care and treatment. These discussions led to the original no code order of December 18, 1991. Dr Taylor testified that both Pansings had made it clear that they did not want Helen's life prolonged through what she perceived to be an agonizing and prolonged deterioration. Dr. Taylor testified that during Mrs. Pansing's January 1992 hospitalization, Mr. Pansing was extremely distraught at his wife's condition and he was often in tears when discussing his wife's health with Dr. Taylor. Dr. Taylor observed her to be essentially noncommunicative and unresponsive each time he visited her during the eight-day hospitalization. He visited her daily and observed a rapid decline in her condition to the point where she had to be turned in her bed by nursing staff. During this time, Mr. Pansing asked Dr. Taylor to remove the IV tube from his wife, thereby terminating antibiotic therapy. Dr. Taylor testified that during his physican-patient relationship with the Pansings, he became too close to them and felt toward them as he would toward his own grandparents. He now realizes the drastic impact his personal feelings for the Pansings had on the treatment he rendered to Mrs. Pansing and he realizes that he abdicated his medical judgment when he allowed personal feelings to prevail over sound medical judgment.

   These facts are established by the testimony of Dr. Taylor (Tr. at 316-320, 324-336, 345-353, 363-364, 368-370, 372-375, 379-380, 511-512, 515-516, and 519-520), the testimony of John Hochwalt (Depo. at 14-15 and 36-39), and the testimony of Jeanne McAleer (Tr. at 188, 193-195).

8. Oscar W. Clarke, M.D., testified on behalf of the State as a medical ethics expert. Dr. Clarke has been a licensed physician in Ohio since 1950. He has been board certified in internal medicine since 1953 and has served as both President of the Ohio State Medical Association and President of the State Medical Board in the past. Since 1988 Dr. Clarke has been a member of the American Medical Association Council of Ethical and Judicial Affairs. He has been Chairman of this council for the past two years. He also serves as Chief of Staff for his local hospital. Dr. Clarke testified that, based upon his review of the records and documents provided to him by the State, Dr. Taylor violated AMA Principle I by failing to provide competent medical service while maintaining

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

compassion and respect for human dignity. He felt that Dr. Taylor's administration of medically unjustified drugs to Mrs. Pansing was not in conformity with the appropriate compassion and respect for human dignity required by the American Medical Association Principles. He also testified that Dr. Taylor did not deal honestly with Mrs. Pansing since there was no documentation in the records that Mrs. Pansing was informed of Dr. Taylor's intentions or gave her informed consent. Dr. Clarke testified that this dishonest dealing with Mrs. Pansing was in violation of AMA Principle II. Dr. Clarke testified that Principle III requires a physician to respect the law and he felt that Dr. Taylor violated this Principle by his obvious illegal behavior which resulted in a criminal conviction. He also testified that Dr. Taylor did not respect the rights of Mrs. Pansing when he placed the substances in her feeding bottle and therefore violated Principle IV of the AMA Principles of Medical Ethics. Dr. Clarke did distinguish Dr. Taylor's conduct from an apparent euthanasia attempt as he testified that there were not lethal doses of drugs involved in Dr. Taylor's conduct on January 14, 1992. Finally, Dr. Clarke testified that Dr. Taylor violated Principle V of the AMA when he failed to seek available help and consultation in addressing the treatment problems and issues with Mrs. Pansing. Dr. Clarke testified that it would never be ethical for a physician to take affirmative actions such as Dr. Taylor did if it was intended to end a patient's life or put the patient into "permanent sleep". However, Dr. Clarke admitted that a physician may follow a patient's legal advance directives and not breach Principles II and IV.

These facts are established by the testimony of Dr. Clarke (Tr. at 117-151), and State's Exhibits #1, #13, and #29.

9. Robert M. Guthrie, M.D., testified on behalf of the State. Dr. Guthrie received his M.D. from the University of Maryland School of Medicine in 1974. He then entered a two-year residency in family practice at the University of Maryland Hospitals and followed that with an internal medicine residency from 1976 through 1978 at the Union Memorial Hospital in Baltimore, Maryland. From 1978 through 1982 he practiced medicine and also from 1981 through 1982 he completed a third year of family practice residency in Pennsylvania. Dr. Guthrie obtained his Ohio license in 1982 and also maintains his Maryland license. He is board certified in both family practice and internal medicine and has been on the staff of Ohio State Unversity, Department of Family Medicine, since 1983. He is also a member of the United States Pharmacopeial Convention and engages in extensive clinical research for pharmaceutical manufacturers.

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

Dr. Guthrie testified that there is no known fatal dose of Benadryl, although there is one reported case of an infant ingesting a large amount of Benadryl and dying. He testified that the manufacturer's expectation of a minimum fatal dose would be 500 mg. of Benadryl. The manufacturer speculates that if death were to occur from a Benadryl overdose, it would be caused by respiratory depression and cardiovascular collapse. Dr. Guthrie also testified, based upon his review of State's Exhibits #27A and #27B, that Mrs. Pansing had suffered three cerebrovascular accidents over approximately an 18 month period. He found evidence of hemiparesis and dysphagia in the record as well as the use of a gastrostomy tube for enteral feeding. Dr. Guthrie also found documentation of a Foley bag which he suspects to be the cause for Mrs. Pansing's frequent urinary tract infections. Dr. Guthrie testified that he did not find evidence that Mrs. Pansing was in a chronic vegetative state. It was documented throughout the records that she was nonverbal although she did appear to be alert. He found documentation of her efforts to communicate through attempted verbalization and nodding or shaking her head or using hand motions. Dr. Guthrie testified that there was no reason to place medication in a patient's feeding bottle. He found no medical justification for either Benadryl or Compazine to have been administered to Mrs. Pansing on January 14, 1992. Dr. Guthrie also testified that Dr. Taylor's no code order was not an unusual notation in a medical record for a patient such as Mrs. Pansing. However, he did find it unusual that there would also be a no transport order in the medical record. Dr. Guthrie testified that generally only those patients in a chronic vegetative state have such an order in their record. Dr. Guthrie testified that the no code order was in the records prior to January 14, 1992 although the no transport order was first put in the chart on January 14, 1992 by Dr. Taylor. He acknowledged that a no transport order would be superfluous in a hospital chart and that Mrs. Pansing was readmitted to the nursing center from the hospital on January 10, 1992. Dr. Guthrie also testified that Benadryl is available in liquid form and if a physician wished the patient to receive 200 mg. of Benadryl, it would be a simple matter to inject the drug, especially when the patient has a gastrostomy tube. Such an administration would likely result in a bolus sedative effect. Dr. Guthrie also testified that prior to rendering his opinions, he reviewed and considered the written witness statements and other police-generated information which was provided to him by the State.

These facts are established by the testimony of Dr. Guthrie (Tr. at 233-304), and State's Exhibits #23, #24A, #24B, #24C, #24D, #25, #26, #27A, and #27B.

STATE MEDICAL BOARD OF OHIO
92 OCT 13 PM 1:28

10. Dr. Taylor is highly-regarded as a compassionate, conscientious, competent, and dedicated physician by his medical peers and his patients. He has contributed to the betterment of his community through voluntary services and his medical practice. Dr. Taylor has never been suspected of any type of impropriety or faulty judgment in rendering medical care and he enjoys the strong support of his peers and patients.

    These facts are established by the testimony of Dr. Cromartie (Tr. at 446-475), Dr. Levitt (Tr. at 475-482), Reverend Heine (Tr. at 475-491), Mr. Collins (Tr. at 491-499), Dr. Craig (Tr. at 500-508, Mr. Hochwalt (Depo. at 24-26), Respondent's Exhibits B, C, F, G, I, J, K, L, M, N, Q, R, S, T, U, V, W, Y, Z, AA, BB, CC, DD, EE, HH, II, and State's Exhibits #16 and #21.

CONCLUSIONS

1. The evidence admitted at hearing indisputably proves that Dr. Taylor was convicted of a misdemeanor "committed in the course of practice", as that clause is used in Section 4731.22(B)(11), Revised Code. Dr. Taylor did not contest the subject matter of his conviction and its direct relationship to his medical practice.

2. Dr. Taylor was also charged by the State with being convicted of a "misdemeanor involving moral turpitude", as that clause is used in Section 4731.22(B)(13), Revised Code. Although the legal standard for "moral turpitude" is amorphous and fact-dependent, that term is generally understood to connote conduct which is depraved, vile, or base and is universally condemned by society. Although the facts proven at hearing indicate that Dr. Taylor grossly violated ethical standards, this aberrational judgment is not necessarily indicative of moral turpitude. The evidence admitted at hearing convincingly shows that Dr. Taylor's sound medical judgment regarding the care and treatment of Mrs. Pansing was clouded by his strong emotional attachment for both of the Pansings. While the egregious violation of medical standards committed by Dr. Taylor is inexcusable, the evidence at hearing was unrebutted that his motives and intent were humanitarian. Furthermore, without his candid, unsolicited admissions, the clogged feeding bottle may not have been attributed to him. Thus, the allegation of moral turpitude is unsupported by the record.

3. Dr. Taylor's acts, conduct, and/or omissions as shown through the evidence admitted at hearing, constitute "failure to use reasonable care discrimination in the administration of drugs", as that clause is used in Section 4731.22(B)(2), Revised Code. Dr. Taylor did not

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

contest the fact that his administration of Benadryl and Compazine to Mrs. Pansing was medically unjustified and his mode of administration was also inappropriate and medically improper.

4. Dr. Taylor's acts, conduct, and/or omissions as shown by the evidence admitted at hearing, constitute "administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Revised Code. Again, Dr. Taylor did not argue that his administration of Benadryl and Compazine was medically necessary and he admitted it was not done for a legitimate therapeutic purpose.

5. Dr. Taylor's acts, conduct, and/or omissions as shown by the evidence admitted at hearing, constitute "the violation of any provision of a code of ethics of a national professional organization as specified in this division", as that clause is used in Section 4731.22(B)(18), Revised Code, to wit: Principles II, III, IV, and V of the American Medical Association's Principles of Medical Ethics. Dr. Taylor's conduct violated Principle II because it was an example of dishonest interactions with a patient; he violated Principle III by showing disrespect for the law, which resulted in a criminal conviction; he violated Principle IV by failing to respect patient rights, especially in view of the admitted higher susceptibility to brain damage from oversedation in a patient with prior cerebrovascular accidents. Finally, Dr. Taylor also violated Principle V by failing to consult other professionals prior to engaging upon a course of conduct which was potentially hazardous to his patient.

   Dr. Taylor's acts, conduct, and/or omissions as shown by the evidence admitted at hearing, do not constitute "the violation of any provision of a code of ethics of a national professional organization as specified in this division", as that clause is used in Section 4731.22(B)(18), Revised Code, to wit: Principle I of the American Medical Association's Principles of Medical Ethics. This standard mandates that "a physician shall be dedicated to providing competent medical service with compassion and respect for human dignity." This ethical standard provides that the required competent medical service shall be accompanied by compassion and respect for human dignity. These are the precise ideals which led Dr. Taylor to undertake the unfortunate plan he contrived on January 14, 1992. Dr. Taylor was acutely concerned with Mrs. Pansing's dignity and was overly compassionate with her perceived mental agony. Dr. Taylor's compassion and respect for Mrs. Pansing's dignity and the wishes of Mr. Pansing, who was her legal guardian, led him to a momentary lapse of judgment because of his misplaced humantarian goals. Although his medical services were less than competent, he was driven by his "compassion and respect for human dignity."

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

* * * * *

Dr. Taylor's conduct on January 14, 1992 was an extreme, albeit transient, lapse in medical judgment. At that point his objectivity had been compromised by his personal feelings toward Mr. and Mrs. Pansing and the horrible plight they perceived themselves as facing. Unfortunately, the Pansings' circumstances are not unique in our society nor is there convincing evidence that Mrs. Pansing had deteriorated to the point that there was "no hope of recovery" as noted by Dr. Taylor in State's Deposition Exhibit #2. The evidence is uncontroverted that the dose administered by Dr. Taylor was non-lethal, information known to Dr. Taylor. Dr. Taylor did not attempt to end the life of Mrs. Pansing although his humanitarian goals were undertaken in a fashion indicating significant disregard for patient well-being and medical standards.

Although Dr. Taylor has suffered shame and humiliation from the public revelation of his conduct and the consequent conviction, this Board must gauge his fitness as a physician in view of the conduct he admits -- not based upon consequences he has already endured. Thus, a four-tiered analysis faces this Board. First, what is the defect or problem which led Dr. Taylor to abandon his training and experience and try to surreptitiously sedate Helen Pansing? Second, is the problem, if identified, susceptible to remedial measures? Third, do corrective measures or techniques exist and can "improvement" or "rehabilitation" be quantified? Finally, does concern for the public safety outweigh any concerns for Dr. Taylor's continued practice of medicine and the benefit his immediate community has received by his past medical services?

Dr. Taylor's demeanor and testimony at hearing indicates that he is now acutely aware of the danger of emotional identification or bonding with patients. It appears unlikely that Dr. Taylor will ever again allow his independent medical judgment to be compromised by his emotional attachment to a patient. Didactic remedial courses may be available, but the necessity of such pursuits is suspect given Dr. Taylor's exemplary reputation and standing as a physician. The order as proposed recognizes Dr. Taylor's single erroneous judgment as an anomaly in an otherwise unblemished career. It also emphasizes public safety through the use of peer evaluation on a long-term basis.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Barry E. Taylor, M.D., to practice medicine and surgery in Ohio, shall be REVOKED. Such revocation is STAYED, and Dr. Taylor's certificate is hereby SUSPENDED for an indefinite period of time.

STATE MEDICAL BOARD
OF OHIO

92 OCT 13 PM 1:28

2. The State Medical Board shall not consider reinstatement of Dr. Taylor's certificate to practice medicine and surgery unless and until all of the following minimum requirements are met:

   a. Dr. Taylor shall submit an application for reinstatement, accompanied by appropriate fees.

   b. Dr. Taylor shall provide the Board with written reports of evaluation by two physicians, approved in advance by the Board, indicating that Dr. Taylor is capable of practicing medicine and surgery in accordance with acceptable and prevailing standards of care. Each report shall describe with particularlity the bases for this determination and shall set forth any recommended limitations upon Dr. Taylor's practice. Prior to evaluating Dr. Taylor, the Board shall provide each physician with a copy of the Findings and Order of the State Medical Board of Ohio in this Matter.

   c. Dr. Taylor shall submit to the Board and receive its approval for a plan of practice in Ohio which, unless and until otherwise determined by the Board, shall be limited to a supervised, structured environment in which Dr. Taylor's practice will be directly supervised and overseen by another physician approved by the Board.

   d. Dr. Taylor shall attend a personal interview by the Board or its designee.

3. Upon reinstatement, Dr. Taylor's certificate shall be subject to the following probationary terms, conditions and limitations for a minimum period of five (5) years:

   a. Dr. Taylor shall obey all federal, state and local laws and all rules governing the practice of medicine in Ohio.

   b. Dr. Taylor shall submit quarterly declarations under penalty of perjury stating that there has been compliance with all the terms of probation.

   c. Dr. Taylor shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals or as otherwise directed by the Board.

   d. Dr. Taylor shall comply with all limitations under paragraph 2b, above, which are imposed by the Board at the time of reinstatement of his certificate to practice medicine and surgery.

e. Dr. Taylor shall obtain the Board's prior approval for any alteration to the practice plan which was approved by the Board prior to the reinstatement of Dr. Taylor's certificate. In the event that Dr. Taylor's supervising physician under this practice plan becomes unable or unwilling to so serve, Dr. Taylor shall immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Taylor shall be responsible for ensuring that his supervising physician submits written quarterly reports to the Board.

f. In the event that Dr. Taylor should leave Ohio for three (3) consecutive months or reside or practice outside the state, he must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.

g. Dr. Taylor shall provide a copy of this Order to all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges.

4. If Dr. Taylor violates the terms of this Order in any respect, the Board, after giving him notice and an opportunity to be heard, may set aside the stay order and impose the permanent revocation of his certificate.

5. Upon successful completion of probation, Dr. Taylor's license will be fully restored.

This Order shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board of Ohio. In the thirty (30) day interim, Dr. Taylor shall not undertake the care of any patient not already under his care.

KEVIN P. BYERS
Kevin P. Byers
Attorney Hearing Examiner

92 OCT 13 PM 1:28
STATE MEDICAL BOARD

STATE MEDICAL BOARD OF OHIO
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EXCERPT FROM THE MINUTES OF NOVEMBER 11, 1992

REPORTS AND RECOMMENDATIONS

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

Dr. Gretter asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Barry E. Taylor, M.D.; Anastacio A. Belleza, M.D.; John P. Ellis, D.P.M.; and Richard S. Krabill, D.O. He noted that the Board would not consider the matter of Mohammed Galal Ziady, M.D., as originally scheduled because the Board has been unable to obtain notice of service. A roll call was taken:

ROLL CALL:	Dr. O'Day	- aye
	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- aye
	Dr. Kaplansky	- aye
	Dr. Heidt	- aye
	Dr. Agresta	- aye
	Ms. Rolfes	- aye
	Dr. Gretter	- aye

Dr. Hom joined the meeting at this time.

Dr. Gretter 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:	Dr. O'Day	- aye
	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- aye
	Dr. Kaplansky	- aye
	Dr. Heidt	- aye
	Dr. Hom	- aye
	Dr. Agresta	- aye
	Ms. Rolfes	- aye
	Dr. Gretter	- aye

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

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

Dr. Gretter asked Dr. Hom whether she had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Barry E. Taylor, M.D.; Anastacio A. Belleza, M.D.; John P. Ellis, D.P.M.; and Richard S. Krabill, D.O. He noted that the Board would not consider the matter of Mohammed Galal Ziady, M.D., as originally scheduled because the Board has been unable to obtain notice of service. Dr. Hom indicated that she did not read the materials in the matter of Dr. Krabill, and would therefore abstain from voting in that case.

REPORT AND RECOMMENDATION IN THE MATTER OF BARRY E. TAYLOR, M.D.

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

Dr. Gretter advised Mr. Hanna that there is not a court reporter present, but instead the Board's minutes serve as the Board's official record of the meeting. Mr. Hanna stated that he did not have any objection to the absence of a court reporter.

Dr. Gretter reminded Mr. Hanna that the Board members have read the entire hearing record, including the exhibits and any objections filed. He added that the Board will not retry the case at this time, and that pursuant to Section 4731.23(C), Revised Code, oral arguments made at this time are to address the proposed findings of fact and conclusions of the hearing examiner. Dr. Gretter stated that Mr. Hanna would be allowed approximately five minutes for his address.

Dr. Stephens joined the meeting at this time.

Dr. Gretter asked Dr. Stephens whether he had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Barry E. Taylor, M.D.; Anastacio A. Belleza, M.D.; John P. Ellis, D.P.M.; and Richard S. Krabill, D.O. He noted that the Board would not consider the matter of Mohammed Galal Ziady, M.D., as originally scheduled because the Board has been unable to obtain notice of service. Dr. Stephens indicated that he had.

Dr. Gretter asked Dr. Stephens whether he 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. Dr. Stephens stated that he understands.

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

Mr. Hanna thanked the Board members for permitting him the opportunity to address them concerning this case. He remarked that the Board staff with whom he had contact dealt with this matter in a very courteous and efficient fashion. This is the first time he has dealt with a Board, and he was grateful for the assistance provided to him by the staff.

Mr. Hanna commented that he wished to address two areas of the Hearing Officer's proposed recommendation. The first area deals with the required monitoring of Dr. Taylor's practice by a physician approved by the Board upon reinstatement of Dr. Taylor's license. Mr. Hanna stated that he interprets this requirement to mean monitoring on a day-to-day basis. If that is the case, he would respectfully suggest that that would be impractical. He asked whether practicing Board members would have time to monitor another physician on a day-to-day basis. Mr. Hanna suggested what he felt was a viable alternative; i.e., Dr. Taylor would meet with a physician mentor on an ongoing basis, who would report to the Board. Mr. Hanna stated that it appears that Mr. Byers' concerns were not with Dr. Taylor's practice, but with Dr. Taylor's treatment of elderly patients near the end of their lives. That concern could be addressed through a physician/mentor with whom Dr. Taylor could discuss such cases.

Mr. Hanna stated that Mr. Byers' comments at the end of the Report and Recommendation are very apropos, coming from an unbiased individual viewing the testimony at the hearing. The incident in question was an aberration which Dr. Taylor does not expect to occur again. Mr. Hanna stated that Dr. Taylor is an excellent physician.

Mr. Hanna continued that the other aspect he would like to bring to the Board's attention is the proposed probationary period of five years. Mr. Hanna stated that he and Dr. Taylor feel that a minimum period of one year would be more appropo in this case, given Mr. Byers' remarks. During that one-year period the Board would have sufficient time to view Dr. Taylor in his practice once his license is reinstated and become comfortable with whether or not Dr. Taylor is in a position to continue practice without being monitored.

Dr. Gretter asked Ms. Walker whether she wished to respond to Mr. Hanna's statements.

Ms. Walker stated that this case has presented the Board with a most unusual set of facts. The evidence covered hundreds of pages of testimony and documentation. Ms. Walker stated that she does not believe the Findings of Fact set forth what really happened in this case.

Ms. Walker stated that on January 14, 1992, Dr. Taylor decided to have one of his patients sleep permanently. Dr. Taylor testified that it was a spur-of-the-moment

decision on his behalf. After office hours, Dr. Taylor removed some Benadryl and Compazine from his office medications. The Board only has Dr. Taylor's word on the amount of each drug he used. There was no independent verification of the amounts. Dr. Taylor drove to the nursing home, got the patient's chart and signed a "no code" order. At that time he also signed a "no transport" order. The State's expert testified that the "no transport" order is only used when the patient is to be written off. After Dr. Taylor did this, he went to the patient's room.

At this time Dr. Gretter interrupted Ms. Walker's statement and asked whether she intends to summarize the case or to respond to Mr. Hanna's remarks.

Ms. Walker stated that she is addressing the Findings of Fact and Conclusions of Law. She asked whether she was only to respond to opposing counsel's statements.

Dr. Gretter stated that the Board has not had this type of discussion before, but he noted that the Board members have read the entire transcript in this case and know everything Ms. Walker is saying. He added that the same rules should apply to Ms. Walker as apply to the physician's attorney.

Ms. Walker stated that there were several facts not mentioned in the Report and Recommendation.

Dr. Stienecker stated that listening to new facts would amount to retrying the case at this time.

Dr. Heidt stated that the facts Ms. Walker is relating are contained in the transcript, although they may not be mentioned in the Report and Recommendation.

Dr. Stephens stated that the Board does not allow the attorney representing the physician to summarize the transcript. He stated that what the Board wants to hear from the Assistant Attorney General is a rebuttal of opposing counsel's statements, and not a restatement of the case and facts.

Ms. Walker, addressing the Report and Recommendation's Conclusions of Law, stated that she agrees with them, but thinks it is important to point out that the Hearing Examiner found that one and one-fifth of the Board's charges were unsupported. She urged the Board to reconsider the charge involving Dr. Taylor's conviction of a misdemeanor involving moral turpitude, as defined in Ohio law. She asked that the Board consider information in the transcript and find that there is evidence supporting that charge.

Ms. Walker continued that the other Conclusion with which she disagrees is the one concerning the medical ethics charge. The Report and Recommendation finds that this charge is supported as to the A.M.A.'s Principles of Medical Ethics numbers II, III,

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

IV, V, and VI, but not I. Ms. Walker stated that the State's expert, Oscar W. Clarke, M.D., who is eminently qualified as an ethicist, testified that all the ethics charges were well founded. Ms. Walker asked that the Board reconsider the Hearing Examiner's findings in this regard.

Ms. Walker asked that the Board consider an appropriate sanction against Dr. Taylor, in light of the events that occurred on January 14, 1992.

Mr. Hanna asked that Dr. Taylor be permitted to address the Board.

Dr. Gretter noted that Mr. Hanna has already used the five minutes allotted on behalf of Dr. Taylor.

Dr. O'Day stated that she would like to hear what Dr. Taylor has to say.

Mr. Hanna stated that Dr. Taylor's remarks would be brief.

Dr. Taylor stated that he has been practicing medicine for about six or seven years, and his practice has been characterized by a lot of good care. In this instance, a mistake was made. The circumstances surrounding the relationship he had with the couple involved were very unusual. The patient and her husband are very special people and were special to him. Dr. Taylor stated that he hopes the Board can see its way to allowing him to continue his services to his patients.

DR. GARG MOVED TO APPROVE AND CONFIRM MR. BYERS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF BARRY E. TAYLOR, M.D. DR. AGRESTA SECONDED THE MOTION.

Dr. Gretter asked if there were any questions concerning the proposed findings of fact, conclusions, and order in the above matter.

Dr. O'Day asked to offer an amendment.

DR. O'DAY MOVED THAT THE PROPOSED ORDER IN THE MATTER OF BARRY E. TAYLOR, M.D., BE AMENDED BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that:

1. The certificate of Barry E. Taylor, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.

2. The State Medical Board shall not consider reinstatement of Dr. Taylor's certificate to practice medicine and surgery unless and until

all of the following minimum requirements are met:

a. Dr. Taylor shall submit an application for reinstatement, accompanied by appropriate fees.

b. Dr. Taylor shall provide the Board with a written report of evaluation by a psychiatrist acceptable to and approved in advance by the Board indicating that Dr. Taylor's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. The report shall describe with particularity the bases for this determination and shall set forth any recommended limitations upon Dr. Taylor's practice. Prior to evaluating Dr. Taylor, the Board shall provide the evaluating psychiatrist with a copy of the Findings and Order of the State Medical Board of Ohio in this Matter.

c. Dr. Taylor shall attend a personal interview by the Board or its designee.

d. In the event that Dr. Taylor has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Taylor's fitness to resume practice.

3. Upon reinstatement, Dr. Taylor's certificate shall be subject to the following probationary terms, conditions and limitations for a minimum period of three (3) years:

a. Dr. Taylor shall obey all federal, state and local laws and all rules governing the practice of medicine in Ohio.

b. Dr. Taylor shall submit quarterly declarations under penalty of perjury stating that there has been compliance with all of the terms of probation.

c. Dr. Taylor shall appear in person for interviews before the full Board or its designated representative at three (3) month intervals or as otherwise directed by the Board.

d. Dr. Taylor shall comply with all limitations under paragraph 2b, above, which are imposed by the Board at the time of reinstatement

of his certificate to practice medicine and surgery.

e. Dr. Taylor shall undertake and continue counseling with a psychiatrist or counselor approved in advance by the Board at such intervals as are deemed appropriate by the counselor or psychiatrist, but not less than once per month, until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require quarterly reports from the approved counselor or psychiatrist. Dr. Taylor shall ensure that these reports are forwarded to the Board on a quarterly basis, or as otherwise directed by the Board.

f. In the event that Dr. Taylor should leave Ohio for three (3) consecutive months or reside or practice outside the State, he must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period unless otherwise determined by motion of the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.

g. Dr. Taylor shall provide a copy of this Order to all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges.

4. Upon successful completion of probation, Dr. Taylor's license will be fully restored.

This Order shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board of Ohio. In the thirty (30) day interim, Dr. Taylor shall not undertake the care of any patient not already under his care.

Dr. O'Day stated that her sense about this case is that Dr. Taylor is an excellent practitioner, and that this was an unusual event. Dr. Taylor has certainly been sanctioned in the community. The Board's responsibility is to monitor him and see if he is fit to practice. She wants someone else, a psychiatrist, to make that determination. She also wants Dr. Taylor to undergo counseling.

DR. HEIDT SECONDED DR. O'DAY'S MOTION TO AMEND.

Dr. Garg asked whether he could offer an alternative amendment at this time.

Dr. Gretter stated that Dr. Garg could amend the amendment currently on the floor.

Dr. Garg stated that he agrees with Dr. O'Day, and the features of his amendment are essentially the same, with the exception that he would like to amend the Conclusions. Dr. Garg stated that he believes Mr. Byers concluded this case very well, but he did have problems with the second conclusion.

DR. GARG MOVED THAT DR. O'DAY'S AMENDMENT BE AMENDED TO SUBSTITUTE THE FOLLOWING LANGUAGE WITH RESPECT TO THE CONCLUSIONS IN THE MATTER OF BARRY E. TAYLOR, M.D.:

A. By substituting the following for Conclusion #2:

2. Dr. Taylor was also charged by the State with being convicted of a "misdemeanor involving moral turpitude", as that clause is used in Section 4731.22(B)(13), Revised Code. Although the legal standard for "moral turpitude" is amorphous and fact-dependent, that term is generally understood to connote conduct which is depraved, vile, or base and is universally condemned by society. Although the facts proven at hearing indicate that Dr. Taylor exhibited aberrational judgment, that judgment is not necessarily indicative of moral turpitude. The evidence admitted at hearing convincingly shows that Dr. Taylor's sound medical judgment regarding the care and treatment of Mrs. Pansing was clouded by his strong emotional attachment for both of the Pansings. The evidence was unrebutted that Dr. Taylor's motives and intent were humanitarian. Furthermore, without his candid, unsolicited admissions, the clogged feeding bottle may not have been attributed to him. Thus, the allegation of moral turpitude is unsupported by the record.

B. By substituting the following for Conclusion #5:

5. Dr. Taylor's acts, conduct, and/or omissions as shown by the evidence admitted at hearing constitute "the violation of any provision of a code of ethics of a national professional organization as specified in this division," as that clause is used in Section 4731.22(B)(18), Revised Code, to wit: Principle III of the American Medical Association's Principles of Medical Ethics. Dr. Taylor violated Principle III by showing disrespect for the law, which resulted in a misdemeanor conviction. However, the evidence presented at hearing was insufficient to support a conclusion that Dr. Taylor's acts, conduct, and/or omissions constituted violations of Principles I, II, IV and V of the American Medical Association's Principles of Medical Ethics.

C. By deleting the last two lines of the first unnumbered conclusionary paragraph, so that the final sentence of that paragraph reads as

follows: "Dr. Taylor did not attempt to end the life of Mrs. Pansing."

D. By deleting the last sentence of the third and final unnumbered conclusionary paragraph.

DR. STEPHENS STATED THAT HE WOULD SECOND DR. GARG'S AMENDMENT IN ORDER TO HAVE THE OPPORTUNITY TO SPEAK AGAINST IT.

Dr. Garg stated that he would also like to add to his motion an amendment to Dr. O'Day's amended Order.

DR. GARG FURTHER MOVED THAT DR. O'DAY'S PROPOSED AMENDMENT TO THE ORDER IN THE MATTER OF BARRY E. TAYLOR, M.D., BE FURTHER AMENDED BY SUBSTITUTING THE FOLLOWING FOR PARAGRAPH 1:

1. That Barry E. Taylor, M.D, be and is hereby REPRIMANDED.

HE FURTHER MOVED TO DELETE PARAGRAPH 2d OF DR. O'DAY'S PROPOSED AMENDMENT.

DR. STEPHENS WITHDREW HIS SECOND TO DR. GARG'S MOTION TO AMEND.

DR. STIENECKER SECONDED DR. GARG'S MOTION TO AMEND DR. O'DAY'S AMENDMENT TO THE PROPOSED ORDER.

Dr. Heidt stated that Dr. Taylor committed a rather unusual crime in that he used Benadryl and Compazine in an insufficient dosage to do anything, let alone put a patient in a permanent coma, which he stated he had intended to do and which would border on putting the patient to death. Medically speaking, he should have been cognizant of that fact.

Dr. Heidt stated that he believes the Board is dealing with some amount of derangement in that Dr. Taylor's entire action was somewhat incomprehensible since what he did wouldn't have achieved what he said he tried to do. Yet, it was a definite violation against the patient and something the Board cannot overlook. Dr. Heidt stated that he felt from the start that Dr. Taylor should have some psychiatric attention since the primary issue is a psychiatric problem. He spoke in favor of Dr. O'Day's motion, adding that three years' probation is very much indicated in this case. Dr. Heidt stated that he was speaking against Dr. Garg's motion.

Dr. Stephens also spoke in favor of Dr. O'Day's amendment. He stated that although this was probably a one-time aberration of Dr. Taylor's character and treatment of patients, the Board must be very sure and clear that he is psychiatrically evaluated and that the Board can be assured that this type of thing won't happen again. He

stated that that is the Board's responsibility. He did not feel that the Board could allow Dr. Taylor to practice until it has this assurance. Dr. Stephens spoke against Dr. Garg's proposed amendment. He stated that Dr. Taylor should be indefinitely suspended until such time as he meets the requirements outlined in Dr. O'Day's Order.

Dr. Stienecker stated that he had similar feelings to those of Dr. Heidt. Irrespective of the Findings or ethics involved, far and above that, a physician must "do no harm." Whether Dr. Taylor meant to do what he did or just did it impulsively, he did harm to a patient even though he meant to do the patient good. This demonstrates a psychiatric aberration. Dr. Stienecker suggested that the Board adopt Dr. Garg's changes to the Conclusions because they are apropos.

Dr. Garg stated that he will agree to Dr. O'Day's proposed amended Order, and would just offer his proposed changes to the conclusions unless Dr. O'Day would accept them as a friendly amendment.

DR. GARG WITHDREW THE PORTION OF HIS MOTION DEALING WITH AMENDMENT OF DR. O'DAY'S PROPOSED AMENDMENT. DR. STIENECKER, AS SECOND, AGREED.

Dr. Hom stated that she has difficulty with Dr. Garg's proposed amendments to the conclusions, in particular, paragraph c. She stated that the testimony did imply that Dr. Taylor did attempt to end the patient's life. She stated that she feels that was his clear intent.

Mr. Albert stated that he also had an amendment to offer, and asked at what point it would be appropriate.

Dr. Gretter requested Mr. Albert to await resolution of the amendment to the amendment as it was presently being discussed.
Dr. O'Day stated that she wants to clarify something on the "no transport" issue, which seemed to have some implications for the Board's expert witness. Dr. O'Day stated that it is her experience that that is not an unusual order for "no code" patients in nursing homes. If the nursing home would call 911, the emergency unit providers are not empowered to honor the "no code" directive and would have to begin lifesaving measures. A "no transport" order is in keeping with the patient's and her family's wishes that lifesaving measures not be taken.

Ms. Rolfes stated that Dr. O'Day's Order contradicts Dr. Garg's conclusions. She added that she believes Dr. Taylor did try to kill the patient and the "no transport" order was done to ensure that the patient died.

Dr. Garg stated that he doesn't believe that that was Dr. Taylor's intention. The next of kin asked for the "no code" status. The patient's husband was making that

decision. Dr. Taylor was only doing as the family wished.

Ms. Rolfes stated that Dr. O'Day has said that Dr. Taylor did not intend to kill the patient.

Dr. Gretter stated that throughout the hearing there was no mention of anything other than discussion about a sleep state. There was no discussion concerning killing the patient. That allegation was not made by the Board in the citation letter.

Dr. Garg agreed with Dr. Gretter, stating that it is very important to keep that fact in mind.

Ms. Rolfes asked what "permanent sleep" meant if it doesn't mean death.

Dr. O'Day stated that she doesn't think Dr. Taylor meant death by his words. He just wanted the patient to sleep until the next day. Dr. O'Day stated that she thought Dr. Taylor saw the patient and her husband in such emotional pain, and he felt such emotional pain for them, that he just wanted them all to get the needed rest. He didn't know what to do. The only things he could use were the things in the feeding tube. Dr. Taylor wanted the patient to sleep until he could get himself in a better condition to cope with the situation. Dr. O'Day stated that she doesn't think he ever meant to kill the patient. The "no code" was the family's and the patient's decision. The amount of medicine used by Dr. Taylor was insufficient to do anything but make the patient sleep.

Dr. Garg stated that the real issue was whether or not Dr. Taylor meant to do it and why. He stated that he didn't think Dr. Taylor's heart was in what he was doing. Dr. Garg stated that he believes Dr. Taylor was acting more like a family member than a physician. He became too emotionally involved with the patient and her family. Psychiatric evaluation and monitoring is appropriate in this case.

A roll call vote was taken on Dr. Garg's motion to amend Dr. O'Day's amendment with respect to the Conclusions:

ROLL CALL VOTE:	Dr. O'Day	- aye
	Mr. Albert	- nay
	Dr. Stienecker	- aye
	Dr. Stephens	- nay
	Dr. Garg	- aye
	Dr. Kaplansky	- abstain
	Dr. Heidt	- nay
	Dr. Hom	- nay
	Dr. Agresta	- aye

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Ms. Rolfes - nay

The motion failed.

Dr. Gretter asked whether there was further discussion of Dr. O'Day's amendment.

MR. ALBERT MOVED TO AMEND DR. O'DAY'S AMENDMENT BY SUBSTITUTING THE FOLLOWING LANGUAGE WITH RESPECT TO THE CONCLUSIONS IN THE MATTER OF BARRY E. TAYLOR, M.D., BE AMENDED AS FOLLOWS:

A. By substituting the following for Conclusion #2:

2. Dr. Taylor's misdemeanor conviction for attempted assault constitutes conviction of a "misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Revised Code. The facts proven at hearing indicate that Dr. Taylor grossly violated ethical standards by unilaterally and surreptitiously undertaking a course of action that was not medically necessary or justifiable. Apart from Dr. Taylor's self-serving testimony, the record is devoid of any evidence of legal directives to undertake such a course of action. Mrs. Pansing had no living will; nor was her purported request that Dr. Taylor help her avoid living under such circumstances documented in her medical records. Although Mrs. Pansing may, indeed, have been in a declining state of health prior to January 14, 1992, she was not in a vegetative state with "no hope of recovery," as Dr Taylor's January 15, 1992 chart note suggests.

   Dr. Taylor would have this Board believe that his actions on the night of January 14, 1992 were spontaneous, and that they were sparked by his compassion for the patient and her family. His claim of humanitarian motives and intentions, however, is contradicted not only by evidence of the careful efforts Dr. Taylor took to prepare for and carry out his crime, but also by his statement to Jeanne McAleer the following morning that "some people would consider this murder." (State's Exhibit #16)

   Dr. Taylor's admissions with respect to the incident of January 14, 1992 may have been born of guilt or fear about the consequences of his actions once they were ultimately discovered. Those admissions do not make his actions any less despicable.

B. By substituting the following for the second paragraph of Conclusion #5:

Dr. Taylor's acts, conduct and/or omissions as shown by the evidence admitted at hearing also violate Principle I of the American Medical Association's Principles of Medical Ethics. This standard mandates that "a physician shall be dedicated to providing competent medical service with compassion and respect for human dignity." There is nothing -- no living will, no chart notation, no verification of informed consent -- to document Dr. Taylor's own self-serving statements about Mrs. Pansing's wishes, purportedly expressed several months prior to the incident in question. Neither Mrs. Pansing nor her husband was given an opportunity to express their wishes before Dr. Taylor made his choice on their behalf to help Mrs. Pansing "sleep permanently."

C. By deleting the three unnumbered conclusionary paragraphs on page 17 of the Hearing Examiner's Report and Recommendation.

MR. ALBERT FURTHER MOVED THAT DR. O'DAY'S AMENDMENT TO THE PROPOSED ORDER IN THE MATTER OF BARRY E. TAYLOR, M.D., BE AMENDED BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that the certificate of Barry E. Taylor, M.D., to practice medicine and surgery in Ohio shall be permanently revoked.

This ORDER shall become effective thirty (30) days from the date of mailing of notification of approval by the State Medical Board of Ohio. In the thirty (30) day interim, Dr. Taylor shall not undertake the care of any patient not already under his care.

Mr. Albert stated that he read the entire transcript. In going through it, he felt that, although Dr. Taylor became emotionally involved with these people, Dr. Taylor's sole purpose in doing what he did was to put this lady into a permanent sleep to end her life. Mr. Albert stated that he believes Dr. Taylor violated the A.M.A. Principles of Medical Ethics. He was convicted of a misdemeanor of attempted assault, a violation of moral turpitude. Dr. Taylor violated the Medical Practices Act and he violated a code everyone must operate under. Mr. Albert stated that the practice of medicine is not a right but a privilege, and Dr. Taylor violated the privilege.

MS. ROLFES SECONDED MR. ALBERT'S MOTION.

Ms. Rolfes agreed that this involved much more than just concern for the patient. She got the feeling that Dr. Taylor was meeting his own needs before anyone else's. It was his feelings with which he was concerned, and his feelings upon which he acted. She stated that it is very interesting that there has been no discussion about the testimony of the expert witnesses, and in particular Dr. Clarke. Dr.

Clarke does not come from an isolated position. He was on this Board as President and has been exposed to many cases. The Board has revoked the licenses of other physicians who are known to be compassionate practitioners, including that of Dr. Sicking who traded drugs for sexual favors. Dr. Taylor harmed a patient by putting her in a permanent state of sleep. Ms. Rolfes stated that the Board must get its priorities straight. It may be that Dr. Taylor is compassionate, but she questions whether his compassion was for himself rather than his patient.

Dr. Stephens stated that he objects to even comparing Dr. Taylor's case with that of Dr. Sicking. The cases are not comparable. Dr. Stephens stated that he doesn't believe Dr. Clarke or anyone else has had a large experience with this type of case. He added that he cannot remember another case like this in the years he has been on the Board.

Dr. O'Day stated that if Dr. Taylor had wanted to do the patient harm, he would have done it. He would have known what to use. Dr. Taylor used only enough medication to let the patient sleep until the next day. To revoke his license would be a grave injustice, not only to him, but to patients who would be deprived of his services. Dr. O'Day stated that the Board shouldn't make the circumstances more than they are. Expert testimony shows that the drugs were nowhere near a lethal dose, and Dr. Taylor was smart enough to know that.

Dr. Garg objected to Ms. Rolfes' remarks about the Board getting its priorities right. He stated that the Board's priorities are right. The case has been looked into by the courts. Dr. Taylor did not have to come out and tell anyone that he put the medication in the patient's feeding tube. No one saw him do it. Dr. Garg reminded the Board that the transcript showed that Dr. Taylor was treating another terminal cancer patient at the time. That patient was also in a lot of pain, but there was no pressure on Dr. Taylor from the husband of that patient. If it was Dr. Taylor's pattern to put all such patients to sleep, he would have done so with the second patient as well. Dr. Garg stated that he doesn't think that Dr. Taylor was serving his own purpose, or that this is the way Dr. Taylor normally settles problems.

Dr. Heidt stated that this case is like someone trying to attack someone with a rubber knife. The attacker might think he can inflict damage, but really knows deep down that it's not going to work. Dr. Taylor is not a fool. He is a competent physician. He must have known that he could have used lots of other things if he intended to kill the patient, but he didn't. He used a rubber knife. Dr. Heidt spoke against revoking Dr. Taylor's license.

Dr. Hom stated that even if Dr. Taylor used a rubber knife, there was still an attack against the integrity of the patient, and the Board must consider that. She spoke in favor of Dr. O'Day's proposal, but asked for some modifications. Dr. Hom

stated that she believes Dr. Taylor needs to be under fairly close supervision. She doesn't think an interview with a psychiatrist will be enough, nor does she think counseling will be enough. Dr. Hom stated that she recognizes Mr. Albert's concerns, and she has similar concerns. But she also recognizes that the dosages used probably wouldn't have achieved more than a good night's sleep for the patient. Although she believes Dr. O'Day's proposed amendment is the better choice, she would request a modification to include monitoring.

Dr. Agresta stated that there is a lot of emotion involved in this case, but the Board must base its decision on the facts. He stated that he doesn't think it will serve anyone to revoke Dr. Taylor's license. Certainly, Dr. Taylor has violated the Code of Ethics and should be punished. The Board can write an appropriate proposal to accomplish what it needs to accomplish. He added that he hopes the Board can come up with the right decision, based on the material in the transcript and not based on personal feelings. The Board will never know what transpired to make Dr. Taylor do what he did. Dr. Agresta added that he personally feels that Dr. Taylor is a very compassionate individual who got too involved in this case. Dr. O'Day's proposal will attempt to prevent it from happening in other cases.

Mr. Albert stated that the Board doesn't know how much medication Dr. Taylor put into the feeding tube. It only has Dr. Taylor's word as to how much was used.

Dr. Agresta stated that the Board must make its decision based on the record. If Dr. Taylor wanted to, with the medical knowledge he has, he certainly could have ended the woman's life.

Mr. Albert stated that Dr. Taylor assaulted a patient.

Ms. Rolfes stated that she understands Dr. Agresta's comments, but she thinks that this is a very important case. She suggested that the matter be tabled to come up with an Order to cover all points.

MS. ROLFES MOVED TO TABLE THE MATTER OF BARRY E. TAYLOR, M.D. MR. ALBERT SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. O'Day	- nay
	Mr. Albert	- aye
	Dr. Stienecker	- nay
	Dr. Stephens	- nay
	Dr. Garg	- nay
	Dr. Kaplansky	- abstain
	Dr. Heidt	- nay
	Dr. Hom	- abstain
	Dr. Agresta	- nay

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Ms. Rolfes - aye

The motion failed.

Dr. Heidt stated that the Board already has a pretty good amendment proposed, and he doesn't know what it would want to add.

Dr. Stephens stated that the psychiatric evaluation will give the Board guidance. It doesn't need anything else in the Order.

Dr. Kaplansky stated that there appears to be enough leeway in the Order for the Board to fashion a program for monitoring on the advice of the psychiatrist. He asked for a vote on the amendment.

Ms. Rolfes stated that the Board has discussed the need in a case this serious for punitive action. She would like to see Dr. Taylor suspended for a year and during that year be required to perform community service with respect to physical therapy rehabilitation and be required to take a course in medical ethics.

A roll call vote was taken on Mr. Albert's motion to amend Dr. O'Day's amendment:

ROLL CALL VOTE:	Dr. O'Day	- nay
	Mr. Albert	- aye
	Dr. Stienecker	- nay
	Dr. Stephens	- nay
	Dr. Garg	- nay
	Dr. Kaplansky	- abstain
	Dr. Heidt	- nay
	Dr. Hom	- abstain
	Dr. Agresta	- nay
	Ms. Rolfes	- aye

The motion failed.

MS. ROLFES MOVED TO AMEND DR. O'DAY'S PROPOSED AMENDMENT TO INCORPORATE AN INDEFINITE SUSPENSION OF DR. TAYLOR'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO FOR A PERIOD NOT LESS THAN ONE (1) YEAR; A REQUIREMENT THAT HE TAKE 30 HOURS OF C.M.E. IN MEDICAL ETHICS, AND PERFORM 100 HOURS OF COMMUNITY SERVICE IN A PHYSICAL THERAPY UNIT IN THAT YEAR; AND A PROBATIONARY PERIOD OF FIVE (5) YEARS. DR. HOM SECONDED THE MOTION.

Ms. Rolfes stated that the Board has a responsibility to protect the public. The Board can't send out the message that this type of behavior is acceptable. Dr. Taylor did assault a patient. The requirements are intended for his rehabilitation.

Ms. Rolfes added that one has to wonder whether Dr. Taylor understood what he was doing and the possibility of the patient's rehabilitation. As time went on, the patient did get rehabilitated.

Dr. Stephens stated that he wants to make it perfectly clear that the Board isn't overlooking this situation and doesn't condone what Dr. Taylor did. The Board is not sending a message. It is trying to do what is fair and equitable as a regulatory agent. He believes the Board has addressed the situation in Dr. O'Day's amendment. It provides ample means for the Board to be assured through psychiatric evaluation. Dr. Stephens spoke against Ms. Rolfes' amendment.

Dr. Garg also spoke against Ms. Rolfes' amendment, stating that the Board has discussed this case thoroughly. He doesn't believe anyone will think that the Board is closing its eyes to the situation. It is taking action. No one is saying that no wrong was done. There were some principles of ethics broken. There is also a question of caring. One hears all the time about physicans not caring. In this case there may be over-caring. Dr. Taylor acted more like a human being than a robot. Dr. Garg stated that Dr. O'Day's amendment does address the problems. Dr. Taylor is already performing community service under the court's order. The Court is monitoring him, and the Board will be monitoring him. Nothing more than this is warranted for a physician who is compassionate and caring.

Ms. Rolfes stated that there is no C.M.E. provision in Dr. O'Day's Order.

Dr. O'Day stated that she wants to rely on the psychiatrist's recommendations. Her Order has a provision that Dr. Taylor follow the psychiatrist's recommendations.

Dr. Stienecker spoke against imposing a minimum one year suspension on Dr. Taylor.

A roll call vote was taken on Ms. Rolfes' motion to amend Dr. O'Day's amendment:

ROLL CALL VOTE:	Dr. O'Day	- nay
	Mr. Albert	- aye
	Dr. Stienecker	- nay
	Dr. Stephens	- nay
	Dr. Garg	- nay
	Dr. Kaplansky	- abstain
	Dr. Heidt	- nay
	Dr. Hom	- aye
	Dr. Agresta	- nay
	Ms. Rolfes	- aye

The motion failed.

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A roll call vote was taken on Dr. O'Day's motion to amend:

ROLL CALL VOTE:	Dr. O'Day	- aye
	Mr. Albert	- nay
	Dr. Stienecker	- aye
	Dr. Stephens	- aye
	Dr. Garg	- aye
	Dr. Kaplansky	- abstain
	Dr. Heidt	- aye
	Dr. Hom	- nay
	Dr. Agresta	- aye
	Ms. Rolfes	- nay

The motion carried.

DR. STIENECKER MOVED TO APPROVE AND CONFIRM MR. BYERS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF BARRY E. TAYLOR, M.D. DR. HEIDT SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. O'Day	- aye
	Mr. Albert	- nay
	Dr. Stienecker	- aye
	Dr. Stephens	- aye
	Dr. Garg	- aye
	Dr. Kaplansky	- abstain
	Dr. Heidt	- aye
	Dr. Hom	- nay
	Dr. Agresta	- aye
	Ms. Rolfes	- nay

The motion carried.

STATE MEDICAL BOARD OF OHIO

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March 11, 1992

Barry E. Taylor, M.D.
1520 S. Main Street
Dayton, OH 45409

Dear Doctor Taylor:

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 February 26, 1992, you pleaded no contest to and were found guilty of Assault, in violation of Section 2903.13(A), Ohio Revised Code, a misdemeanor of the first degree, after you were charged by the Prosecuting Attorney of Montgomery County, Ohio, of knowingly attempting to cause physical harm to Helen E. Pansing, a 75 year old nursing home patient, on or about January 14, 1992. The alleged incident occurred at the Walnut Creek Nursing Home in Miami Township, when you administered 200 mg. of Benadryl powder into the patient's feeding tube. Subsequently, you admitted that your intention was to cause an overdose and that you wanted the patient to sleep permanently.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, 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.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively constitute "failure to use reasonable care discrimination in the administration of drugs," as that clause is used in Section 4731.22(B)(2), Ohio Revised Code.

Mailed 3/12/92

March 11, 1992

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "(t)he violation of any provision of a code of ethics of a national professional organization as specified in this division," as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I, II, III, IV, and V of the American Medical Association's Principles of Medical Ethics.

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,

Henry G. Cramblett MD

Henry G. Cramblett, M.D.
Secretary

HGC:jmb

Enclosures:

CERTIFIED MAIL #P 569 363 481
RETURN RECEIPT REQUESTED

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AMERICAN MEDICAL ASSOCIATION

PRINCIPLES OF MEDICAL ETHICS

PREAMBLE:

The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. As a member of this profession, a physician must recognize responsibility not only to patients, but also to society, to other health professionals, and to self. The following Principles adopted by the American Medical Association are not laws, but standards of conduct which define the essentials of honorable behavior for the physician.

I. A physician shall be dedicated to providing competent medical service with compassion and respect for human dignity.

II. A physician shall deal honestly with patients and colleagues, and strive to expose those physicians deficient in character or competence, or who engage in fraud or deception.

III. A physician shall respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient.

IV. A physician shall respect the rights of patients, of colleagues, and of other health professionals, and shall safeguard patient confidences within the constraints of the law.

V. A physician shall continue to study, apply and advance scientific knowledge, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated.

VI. A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical services.

VII. A physician shall recognize a responsibility to participate in activities contributing to an improved community.