State Medical Board of Ohio

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

October 8, 2003

Virginia K. Winter, M.D.
51359 S.E. Springlake Loop
Scappoose, OR 97056

Dear Doctor Winter:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 8, 2003, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7000 0600 0024 5150 9845
RETURN RECEIPT REQUESTED

Mailed 10-10-03

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 8, 2003, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Virginia K. Winter, 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.

Lance A. Talmage, M.D.
Secretary

(SEAL)

October 8, 2003
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF	*
	*
VIRGINIA K. WINTER, M.D.	*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on October 8, 2003.

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

It is hereby ORDERED that:

A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Virginia K. Winter, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Winter's certificate shall be SUSPENDED for an indefinite period of time, but not less than 180 days. The minimum suspension period shall be calculated from May 14, 2003, the date of the Board's Notice of Immediate Suspension and Opportunity for Hearing.

B. **INTERIM MONITORING**: During the period that Dr. Winter's certificate to practice medicine and surgery in Ohio is suspended, Dr. Winter shall comply with the following terms, conditions, and limitations:

1. **Obey the Law and Terms of Intervention in Lieu of Conviction**: Dr. Winter shall obey all federal, state and local laws; all rules governing the practice of medicine and surgery in Ohio; and all terms imposed by the Cuyahoga County Court of Common Pleas in criminal case number CR-427120.

2. **Personal Appearances**: Dr. Winter shall appear in person for interviews before the full Board or its designated representative within three months of the effective date of this Order, upon the reinstatement or restoration of her certificate to practice medicine and surgery, or as otherwise requested by the Board.

3. **Quarterly Declarations**: Dr. Winter shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

4. **Abstention from Drugs**: Dr. Winter shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to her by another so authorized by law who has full knowledge of Dr. Winter's history of chemical dependency.

5. **Abstention from Alcohol**: Dr. Winter shall abstain completely from the use of alcohol.

6. **Drug & Alcohol Screens; Supervising Physician**: Dr. Winter shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Dr. Winter shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

   Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Winter shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Dr. Winter shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Winter. Dr. Winter and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

   Dr. Winter shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order,

whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Winter must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Winter shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Winter's quarterly declaration. It is Dr. Winter's responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request**: Dr. Winter shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Winter's expense.

8. **Rehabilitation Program**: Dr. Winter shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Winter shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Dr. Winter's quarterly declarations.

9. **Contact Impaired Physicians Committee**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Winter shall contact an impaired physicians committee, approved by the Board, to arrange for assistance in recovery and/or aftercare.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION**: The Board shall not consider reinstatement or restoration of Dr. Winter's certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration**: Dr. Winter shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Compliance with Interim Conditions**: Dr. Winter shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.

3. **Completion of Inpatient Treatment**: Dr. Winter shall complete a minimum of twenty-eight days of inpatient or residential treatment, or a combination thereof, for her chemical dependency. Such inpatient or residential treatment shall be completed without interruption. Further, such inpatient or residential treatment shall be provided in accordance with Rule 4731-16-08(A)(13), Ohio Administrative Code, by a treatment provider approved under Section 4731.25, Ohio Revised Code.

   In addition, upon discharge from treatment, Dr. Winter shall enter into, and thereafter maintain compliance with, a post-discharge aftercare contract which complies with Rule 4731-16-10, Ohio Administrative Code, with a treatment provider approved under Section 4731.25, Ohio Revised Code, who has access to Dr. Winter's treatment records.

4. **Demonstration of Ability to Resume Practice**: Dr. Winter shall demonstrate to the satisfaction of the Board that she can resume practice in compliance with acceptable and prevailing standards of care under the provisions of her certificate. Such demonstration shall include but shall not be limited to the following:

   a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Winter has successfully completed the required inpatient treatment.

   b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.

   c. Evidence of continuing full compliance with this Order.

   d. Two written reports indicating that Dr. Winter's ability to practice has been evaluated for chemical dependency and/or impairment and that she has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Dr. Winter's application for restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Winter has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon her practice.

5. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Winter 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 or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of her fitness to resume practice.

D. **PROBATION**: Upon reinstatement or restoration, Dr. Winter's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Terms, Conditions, and Limitations Continued from Suspension Period**: Dr. Winter shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order, and shall continue to comply with the terms of her aftercare contract as specified in Paragraph C.3.b of this Order.

2. **Practice Plan**: Prior to Dr. Winter's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Winter shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Winter's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Winter shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

   At the time Dr. Winter submits her practice plan, she shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Winter and who is engaged in the same or similar practice specialty.

   The monitoring physician shall monitor Dr. Winter and her practice, and shall review Dr. Winter's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

   Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Winter and her practice, and on the review of Dr. Winter's patient charts. Dr. Winter shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Winter's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Winter must immediately so notify the Board in writing. In addition, Dr. Winter shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Winter shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

3. **Tolling of Probationary Period While Out of State**: In the event that Dr. Winter should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Winter must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

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

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

F. **RELEASES**: Dr. Winter shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Winter's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

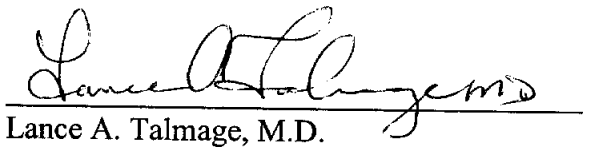
Dr. Winter shall also provide the Board written consent permitting any treatment provider from whom Dr. Winter obtains treatment to notify the Board in the event she fails to agree to or comply with any recommended treatment or with any treatment or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

G. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, Dr. Winter shall provide a copy of

this Order to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Winter shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.

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

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



Lance A. Talmage, M.D.
Secretary

(SEAL)

October 8, 2003
Date

STATE MEDICAL BOARD
OF OHIO

2003 SEP 12 A 8:57

REPORT AND RECOMMENDATION
IN THE MATTER OF VIRGINIA K. WINTER, M.D.

The Matter of Virginia K. Winter, M.D., was heard by R. Gregory Porter, Hearing Examiner for the State Medical Board of Ohio, on September 3, 2003.

INTRODUCTION

I. Basis for Hearing

A. By letter dated May 14, 2003, the State Medical Board of Ohio [Board] notified Virginia K. Winter, M.D., that, pursuant to Section 3719.121(C), Ohio Revised Code, the Board had immediately suspended her certificate to practice medicine and surgery in the State of Ohio. The Board further notified Dr. Winter that continued practice of medicine or surgery would be considered practicing medicine without a certificate in violation of Section 4731.41, Ohio Revised Code.

In addition, the Board notified Dr. Winter that it had proposed to take disciplinary action against her certificate to practice medicine and surgery in Ohio. The Board based its proposed action on an allegation that, on March 14, 2003, in the Court of Common Pleas for Cuyahoga County, Ohio, Dr. Winter pled guilty to one felony count of Theft, in violation of Section 2913.02, Ohio Revised Code, and was found to be eligible for intervention in lieu of conviction. The Board further alleged that the facts underlying Dr. Winter's guilty plea had involved Dr. Winter ordering 5200 dosage units of alprazolam in 2002, and her admission to an Investigator for the United States Drug Enforcement Administration that she had ordered the alprazolam for her own use.

The Board alleged that Dr. Winter's plea of guilty and/or the judicial finding of eligibility for intervention in lieu of conviction constitute "'[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,' as that clause is used in Section 4731.22(B)(9), Ohio Revised Code." The Board further alleged that Dr. Winter's conduct and the judicial finding of eligibility for intervention in lieu of conviction constitute "'[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice,' as that clause is used in Section 4731.22(B)(26), Ohio Revised Code."

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

B. By document received by the Board on June 6, 2003, Dr. Winter requested a hearing. (State's Exhibit 1B)

II. Appearances

A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Rebecca J. Albers, Assistant Attorney General.

B. On behalf of the Respondent: Dr. Winter, having previously been advised of her right to appear at the hearing in person or by representative, did not appear at the hearing, but instead presented her defense in writing.

EVIDENCE EXAMINED

I. Testimony Heard

Janice Margreta

II. Exhibits Examined

A. Presented by the State

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

2. State's Exhibit 2: Certified copy of a February 25, 2003, Information filed in the Cuyahoga County Court of Common Pleas in *State of Ohio v. Virginia Winter,* Case No. CR-427120.

3. State's Exhibit 3: Certified copy of a March 19, 2003, Journal Entry filed in *State v. Winter*.

4. State's Exhibit 4: Certified copy of a Transcript of Proceedings for March 14, 2003, in *State v. Winter*.

5. State's Exhibit 5: August 29, 2003, Affidavit of Kristina Riddle.

B. Presented by the Respondent

1. Respondent's Exhibit A: Dr. Winter's written defense.

2. Respondent's Exhibit B: August 21, 2003, letter to the Board from Robert Olmstead, B.S., CADC II, Site Manager/Chemical Dependency Therapist, Columbia Community Mental Health, Scappoose, Oregon.

3. Respondent's Exhibit C: Copy of an August 13, 2003, letter to the Board from Douglass S. Johnson, M.D.

SUMMARY OF THE EVIDENCE

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

1. Janice Margreta testified that she is a diversion investigator for the United States Drug Enforcement Administration [DEA] in Cleveland, Ohio. (Hearing Transcript [Tr.] at 8-9)

   Investigator Margreta testified that, in June 2002, Moore Medical, a wholesale distributor of pharmaceutical products, contacted Investigator Margreta's supervisor. Moore Medical advised Investigator Margreta's supervisor that Virginia K. Winter, M.D., had purchased a large quantity of alprazolam tablets from Moore Medical. Investigator Margreta further testified that Moore Medical had contacted the DEA because Dr. Winter "had indicated to Moore Medical that it was for her personal use and that it was cheaper to buy the alprazolam from Moore Medical than to go to a pharmacy." Investigator Margreta was assigned to investigate the matter. (Tr. at 10)

2. Investigator Margreta testified that she had first tried unsuccessfully to contact Dr. Winter at Dr. Winter's registered location in Solon Ohio, which was a business called Physicians Staffing, but learned that Dr. Winter had been living in Oregon. Investigator Margreta further testified that she contacted Dr. Winter by telephone. Dr. Winter acknowledged to Investigator Margreta that she had placed an order for 5200 tablets of alprazolam, and that she had not had a prescription for that amount. However, Dr. Winter advised Investigator Margreta that she had a prescription for 40 alprazolam 1 mg, one-half tablet twice per day. (Tr. at 10-12, 15)

   Investigator Margreta testified that Dr. Winter had stated that she had ordered such a large quantity because she suffered from panic attacks, and it had been cheaper to obtain the medication from a wholesale distributor than from a pharmacy. (Tr. at 12-13)

   Investigator Margreta testified that, during her telephone conversation with Dr. Winter, she had informed Dr. Winter "that it was against Ohio state law for her to prescribe for herself." (Tr. at 13)

3. Investigator Margreta testified that, during her telephone conversation with Dr. Winter, she had asked Dr. Winter if Dr. Winter was addicted to alprazolam. Dr. Winter replied that she was not, stating "that she had been off the alprazolam three or four times before." (Tr. at 13-14)

4. Investigator Margreta testified that, after she had spoken to Dr. Winter, she contacted the DEA office in Portland, Oregon, and requested that they go to Dr. Winter's location and retrieve the alprazolam. She also requested that they contact the pharmacy where Dr. Winter fills her prescriptions, and contact Dr. Winter's treating physician. (Tr. at 14-15)

   Investigator Margreta testified that the Oregon DEA investigators had later informed her that, when they visited Dr. Winter's treating physician, the treating physician had been surprised to learn that Dr. Winter had ordered such a large supply of alprazolam, and that Dr. Winter had been taking eight to ten tablets per day. (Tr. at 16)

5. Investigator Margreta testified that she had referred the matter to the Cuyahoga County Prosecuting Attorney, and a criminal charge was filed. Finally, Investigator Margreta testified that she had called Dr. Winter to ask that Dr. Winter voluntarily return to Ohio to address the criminal charge, and that Dr. Winter complied. (Tr. at 16-18)

6. By affidavit dated August 29, 2003, Kristina Riddle stated that she is a diversion investigator for the DEA in Portland, Oregon. Investigator Riddle further stated that the Cleveland office of the DEA had contacted her concerning Dr. Winter. (State's Exhibit [St. Ex.] 5)

   Investigator Riddle stated that she and another DEA diversion investigator went to Dr. Winter's residence on August 5, 2002, to pick up the alprazolam. Investigator Riddle stated that they had retrieved "20 sealed bottles of 100 0.5 mg tablets; 12 sealed bottles of 100 0.25 tablets; 16 sealed bottles of 100 1 mg tablets, and 4 empty bottles of which each had held 100 1 mg tablets." Investigator Riddle further stated that Dr. Winter had had a prescription bottle that contained 19 alprazolam 1 mg tablets, and that Dr. Winter had told her that she had moved some of her supply into that bottle from the manufacturer's bottle. Investigator Riddle stated that she did not seize those tablets from Dr. Winter "because of the known dangers associated with rapid withdrawal from alprazolam." (St. Ex. 5)

   Investigator Riddle stated that she had informed Dr. Winter that it had been Investigator Riddle's understanding that, at the time that Dr. Winter had spoken to Investigator Margreta, Dr. Winter had used only one bottle of the alprazolam. Investigator Riddle further stated that Dr. Winter had replied that she had continued to use the medication after speaking to Investigator Margreta. (St. Ex. 5)

   Investigator Riddle stated that Dr. Winter had advised that she had been using alprazolam "on and off" since 1984. Investigator Riddle stated that Dr. Winter had further advised

"that she was taking 8 to 10 alprazolam tablets a day, more than what her physician was currently prescribing." Finally, Investigator Riddle testified that her investigation had revealed that Dr. Winter had consumed 381 alprazolam 1 mg tablets in about 38 days. (St. Ex. 5)

7. On February 25, 2003, an Information was filed in the Cuyahoga County Court of Common Pleas charging Dr. Winter with one count of Theft, in violation of Section 2913.02, Ohio Revised Code. (St. Ex. 2)

   On March 14, 2003, Dr. Winter appeared in the Cuyahoga Court of Common Pleas. At that time, Dr. Winter pleaded guilty to one felony count of Theft as charged in the Information. Dr. Winter requested that she be granted intervention in lieu of conviction, and the prosecutor agreed with Dr. Winter's request, stating, "I believe [Dr. Winter's counsel] does have the appropriate paperwork that would satisfy the Court that this crime was committed as a result of the dependency that Ms. Winter had." (St. Ex. 3; St. Ex. 4 at 5) Moreover, Dr. Winter's counsel presented the court with "an evaluation from an out-patient facility in Oregon which Ms. Winter is going to enter." Accordingly, the court found that Dr. Winter was eligible for intervention in lieu of conviction. The court placed Dr. Winter on probation for one year, and required Dr. Winter to complete the treatment program. Finally, Dr. Winter surrendered her DEA registration. (St. Ex. 3; St. Ex. 4 at 10-15)

8. On May 14, 2003, the Board issued to Dr. Winter a Notice of Immediate Suspension and Opportunity for Hearing. (St. Ex. 1A)

9. By letter dated August 21, 2003, Robert Olmstead, B.S., CADC II, Site Manager/Chemical Dependency Therapist, Columbia Community Mental Health, Scappoose, Oregon, addressed the Board. Mr. Olmstead stated:

   > Virginia has been enrolled in our out patient program at our Scappoose office since March 31, 2003. She attended a drug and alcohol assessment on that date. That assessment consisted of an extensive personal interview and a urine screen. At that time she reported a history of alprazolam use, but had voluntarily not used that medication for six months prior to enrollment. Her intake urine screen was negative for all chemical substances. Virginia was court ordered to attend a substance abuse education program for one year. She began attending sessions twice weekly and is currently attending one time weekly. She has been providing monthly random urines screens all of which have been negative. Virginia has been a willing and active participant in sessions. Her progress to this point is excellent and the prognosis is good. If you have any questions please contact me.

   (Respondent's Exhibit [Resp. Ex.] B) (Note that the State did not have an opportunity to cross-examine Mr. Olmstead.)

10. By letter dated August 13, 2003, Douglass S. Johnson, M.D., addressed the Board. Dr. Johnson stated that he has been treating Dr. Winter for mental and emotional issues since September 2002, and has seen her fairly regularly since that time. Dr. Johnson stated that, at the time of Dr. Winter's initial visit, he had diagnosed "DSM-IV Panic Disorder without agoraphobia (300.01) and generalized anxiety disorder (300.02)." Dr. Johnson indicated that Dr. Winter is responding well to therapy, and "no longer requires tranquilizers or anti-depressants." Dr. Johnson further indicated that Dr. Winter uses Phenergan 25 mg for recurring nausea relating to an inner ear disorder. (Resp. Ex. C)

    Moreover, Dr. Johnson stated:

    > Dr. Winter has never been a danger to herself or others as a result of either the anxieties or her use of medication. She has not had an intent to defraud or circumvent the rules of medicine. She has a history of good patient care without any previous censor and I am satisfied when she returns to practice she will again perform her duties in a very capable and responsible manner.

    (Resp. Ex. C) Finally, Dr. Johnson stated that, after Dr. Winter completes the intervention program imposed by the court, Dr. Winter's Ohio certificate "could then be safely reinstated without causing any danger to herself or others." (Resp. Ex. C) (Note that the State did not have an opportunity to cross-examine Dr. Johnson.)

11. In her written defense, Dr. Winter stated as follows:

    > I would like to take this opportunity to thank you for granting me this hearing; further, let me apologize for not being able to appear before you in person, which is not logistically possible for me at this time.
    >
    > I am writing this letter to explain the circumstances which led to the recent suspension of my medical license.
    >
    > At the time I purchased the alprazolam, I had been under the care of a physician for panic attacks for approximately one year; the alprazolam had been prescribed for this disorder. During this time I was tried on other anti-anxiety medications (Buspar, Effexor and Paxil) which I discontinued on the advice of my physician, due to side effects and lack of efficacy. I had also voluntarily weaned off the alprazolam, but the panic attacks returned. At this same time, I lost my job with the Indian Health Service, due to a loss of funding for my position. I was in a very depressed state of mind with job loss, financial insecurity and health problems. My future looked very bleak indeed—I thought I would never work again and would probably be on the medication for months or even years. When my doctor gave me a new

prescription, I thought it made sense to buy it directly from a medical supply company, where I could buy it at a [significant] discount. I ordered it by phone and paid for it with a credit card. I did not believe I was doing anything illegal. The thought never entered my mind. I ordered a legal substance from a reputable company and paid for it. They did not hesitate to sell it to me or send it to me.

I ordered 52 bottles, although I had a much smaller amount in mind when I placed the phone call. The salesperson kept quoting better prices to buy in bulk quantities. I didn't even realize how much I had ordered until the order was on its way. (I remember thinking that I would probably end up throwing most of it away because I would never use it all before the expiration date.) I was surprised when the DEA called—I assumed they just wanted to be sure the medication was in the hands of a licensed physician. I explained everything to them and asked if I could return it—I was told I could not. They stated they would have to come and pick it up from me directly, so I turned it over to them. I cooperated fully with the DEA and I was completely honest with them about how and why I purchased the medication. [Approximately] 3 months later they called to inform me I was going to have criminal charges brought against me. I wasn't even on the medication any longer. I had been seeing a psychiatrist and was responding well to therapy alone.

This was the beginning of a nightmare for me and my family. I had to get a criminal attorney. I had to turn down two job offers, including one with the US military. I was told I could go to prison.

I never intended to break the law. There was never any criminal intent on my part. I admit I used poor judgment related to my severe depression and state of mind at the time. I recognized this and tried to set things straight. I cooperated with the DEA. I was totally honest with my family and my physician. I wasn't doing anything clandestine. All of the medication was accounted for; the agent even left me with enough tabs until my next appointment. I never intended to use the medication in anything but an FDA approved manner to treat a medical disorder while I was under the care of my physician.

I accepted a plea of intervention in lieu of conviction because I could not afford the expense of a trial. My record is to be expunged upon successful completion of a year of probation in March 2004. I do not know why I was charged with theft, as I did not steal anything—the medication was paid for in full. I did not know I was being charged with theft until I was in court and I could not question it at that time. (I can only assume the prosecutor did not feel I was guilty of drug possession or drug trafficking.) The description of "5200 doses" is misleading. At FDA approved dosage for panic disorder (up to 10 mg/day) a

.25 mg bottle of 100 tabs would last only 2 ½ days; even a bottle of 1 mg tabs would only last 10 days. Of the bottles I ordered only 20 were 1 mg; 20 were .5 mg and 12 were .25 mg. As I previously stated, I never intended to order such a large quantity. I ordered progressively smaller doses as I intended to use the smallest dose necessary and to wean myself off as soon as possible.

I have been dealing with major depression and anxiety disorder since I was 17 years old. I have never allowed it to interfere with my professional life. I made it through years of school, residency and private practice as a dedicated physician. I have been prescribed various medications by physicians to treat these disorders over the years. I have bought prescription meds directly from medical supply companies in the past without it becoming an issue. I used medications in [an] FDA approved manner to treat medically recognized disorders. I was never guilty of supporting a secretive drug habit. I voluntarily discontinued the alprazolam one year ago in the normal course of my treatment. The only medication I currently take is an anti-emetic, occasionally, for nausea associated with an inner-ear dysfunction.

I know we have a serious drug problem in this country. I have never been a part of the problem. I have never used an illegal substance in my entire life; nor have I ever associated with people who do. I never experimented with drugs even as a teenager. I am a law-abiding citizen. I never intended to break a law nor would I ever do so. I believe I should have to answer as to why I ordered 52 bottles of a controlled substance—and I did. I am not above any law, but I never intended to break a law. I made a mistake; that doesn't make me a criminal. I do not abuse drugs or alcohol. I am seeing a psychiatrist regularly for therapy for my depression and anxiety. I am fulfilling all of the requirements of my probation, including a court-ordered substance abuse education program.

I am a credible and hard working person. I am a good doctor and a board-certified Ob-gyn; I have never been sued. I am not a danger to patients or society. I have never been impaired to practice medicine. I am being more than adequately punished for what I did. I will never do it again. Not being able to work is putting a tremendous financial burden on me and my family. I believe I deserve a second chance. My record will be expunged in March 2004, upon successful completion of my probationary period. I respectfully ask you to take this into consideration and to allow my license to be reinstated at that time. Thank you very much.

(Resp. Ex. A)

FINDINGS OF FACT

On or about March 14, 2003, in the Court of Common Pleas for Cuyahoga County, Ohio, Virginia K. Winter, M.D., pled guilty to one felony count of Theft in violation of Section 2913.02, Ohio Revised Code, and was found eligible for intervention in lieu of conviction. The facts underlying Dr. Winter's guilty plea were that Dr. Winter had ordered 5200 dosage units of alprazolam in 2002. Dr. Winter admitted to a DEA diversion investigator that she had ordered the alprazolam for her personal use.

CONCLUSIONS OF LAW

1. The plea of guilty and/or the judicial finding of eligibility for intervention in lieu of conviction of Virginia K. Winter, M.D., as set forth in the Findings of Fact, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

2. Rule 4731-16-02(B)(3), Ohio Administrative Code, states, in pertinent part:

   (3) * * * The presence of one or more of the following circumstances shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination:

   * * *

   (b) The individual has applied for or requested treatment in lieu of conviction of a criminal charge or intervention in lieu of conviction of a criminal charge, or has applied for or requested entry into a similar diversion or drug intervention program[.]

   (Ohio Adm.Code 4731-16-02[B][3][b])

   Accordingly, Dr. Winter's conduct and the judicial finding of eligibility for intervention in lieu of conviction, as set forth in the Findings of Fact, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

* * * * *

The evidence in this matter indicates that Dr. Winter obtained a large quantity of alprazolam for her personal use from a pharmaceutical supply company. As a result, Dr. Winter faced a criminal charge for which a court granted her request for treatment in lieu of conviction. Although Dr. Winter had

been prescribed alprazolam by her physician, the physician had prescribed only one-half milligram twice per day. However, Dr. Winter was using from eight to ten milligrams per day, far in excess of the dose prescribed.

Dr. Winter provided mitigating evidence from her psychiatrist and her substance abuse counselor. These individuals stated that Dr. Winter's problems are being appropriately addressed through psychiatric treatment, and through the substance abuse treatment ordered by the Cuyahoga County Court of Common Pleas. Moreover, Dr. Winter's substance abuse counselor further stated that Dr. Winter has been free of alprazolam since March 2003, verified by twice weekly, then weekly, urine screens, and that Dr. Winter had reported that she had been free of alprazolam for six months prior to that.

Nevertheless, as noted in the Conclusions of Law, Dr. Winter is an impaired physician. Board rules require that impaired physicians obtain a minimum of twenty-eight days of inpatient treatment from a Board-approved treatment provider before the Board will consider allowing that physician to return to practice. There is no evidence that Dr. Winter has yet received the minimum treatment required. Accordingly, the proposed order provides for a period of time out of practice, treatment, and monitoring, to ensure the safety of the public and, hopefully, to start Dr. Winter on a solid path of recovery.

PROPOSED ORDER

It is hereby ORDERED that:

A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Virginia K. Winter, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Winter's certificate shall be SUSPENDED for an indefinite period of time, but not less than 180 days. The minimum suspension period shall be calculated from May 14, 2003, the date of the Board's Notice of Immediate Suspension and Opportunity for Hearing.

B. **INTERIM MONITORING**: During the period that Dr. Winter's certificate to practice medicine and surgery in Ohio is suspended, Dr. Winter shall comply with the following terms, conditions, and limitations:

1. **Obey the Law and Terms of Intervention in Lieu of Conviction**: Dr. Winter shall obey all federal, state and local laws; all rules governing the practice of medicine and surgery in Ohio; and all terms imposed by the Cuyahoga County Court of Common Pleas in criminal case number CR-427120.

2. **Personal Appearances**: Dr. Winter shall appear in person for interviews before the full Board or its designated representative within three months of the effective date of

this Order, upon the reinstatement or restoration of her certificate to practice medicine and surgery, or as otherwise requested by the Board.

3. **Quarterly Declarations**: Dr. Winter shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

4. **Abstention from Drugs**: Dr. Winter shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to her by another so authorized by law who has full knowledge of Dr. Winter's history of chemical dependency.

5. **Abstention from Alcohol**: Dr. Winter shall abstain completely from the use of alcohol.

6. **Drug & Alcohol Screens; Supervising Physician**: Dr. Winter shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Dr. Winter shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

   Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Winter shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Dr. Winter shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Winter. Dr. Winter and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

   Dr. Winter shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Winter must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Winter shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Winter's quarterly declaration. It is Dr. Winter's responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request**: Dr. Winter shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Winter's expense.

8. **Rehabilitation Program**: Dr. Winter shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Winter shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Dr. Winter's quarterly declarations.

9. **Contact Impaired Physicians Committee**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Winter shall contact an impaired physicians committee, approved by the Board, to arrange for assistance in recovery and/or aftercare.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION**: The Board shall not consider reinstatement or restoration of Dr. Winter's certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration**: Dr. Winter shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Compliance with Interim Conditions**: Dr. Winter shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.

3. **Completion of Inpatient Treatment**: Dr. Winter shall complete a minimum of twenty-eight days of inpatient or residential treatment, or a combination thereof, for her chemical dependency. Such inpatient or residential treatment shall be completed without interruption. Further, such inpatient or residential treatment shall be provided

in accordance with Rule 4731-16-08(A)(13), Ohio Administrative Code, by a treatment provider approved under Section 4731.25, Ohio Revised Code.

In addition, upon discharge from treatment, Dr. Winter shall enter into, and thereafter maintain compliance with, a post-discharge aftercare contract which complies with Rule 4731-16-10, Ohio Administrative Code, with a treatment provider approved under Section 4731.25, Ohio Revised Code, who has access to Dr. Winter's treatment records.

4. **Demonstration of Ability to Resume Practice**: Dr. Winter shall demonstrate to the satisfaction of the Board that she can resume practice in compliance with acceptable and prevailing standards of care under the provisions of her certificate. Such demonstration shall include but shall not be limited to the following:

   a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Winter has successfully completed the required inpatient treatment.

   b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.

   c. Evidence of continuing full compliance with this Order.

   d. Two written reports indicating that Dr. Winter's ability to practice has been evaluated for chemical dependency and/or impairment and that she has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Dr. Winter's application for restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Winter has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon her practice.

5. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Winter 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 or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of her fitness to resume practice.

D. **PROBATION**: Upon reinstatement or restoration, Dr. Winter's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Terms, Conditions, and Limitations Continued from Suspension Period**: Dr. Winter shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order, and shall continue to comply with the terms of her aftercare contract as specified in Paragraph C.3.b of this Order.

2. **Practice Plan**: Prior to Dr. Winter's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Winter shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Winter's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Winter shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

   At the time Dr. Winter submits her practice plan, she shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Winter and who is engaged in the same or similar practice specialty.

   The monitoring physician shall monitor Dr. Winter and her practice, and shall review Dr. Winter's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

   Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Winter and her practice, and on the review of Dr. Winter's patient charts. Dr. Winter shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Winter's quarterly declaration.

   In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Winter must immediately so notify the Board in writing. In addition, Dr. Winter shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Winter shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

3. **Tolling of Probationary Period While Out of State**: In the event that Dr. Winter should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Winter must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

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

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

F. **RELEASES**: Dr. Winter shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Winter's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

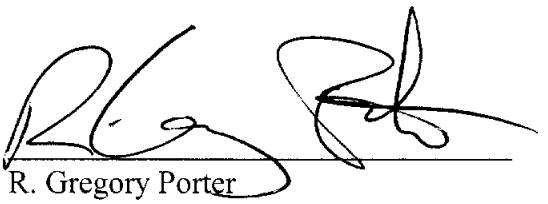
Dr. Winter shall also provide the Board written consent permitting any treatment provider from whom Dr. Winter obtains treatment to notify the Board in the event she fails to agree to or comply with any recommended treatment or with any treatment or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

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

H. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, Dr. Winter shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any

state or jurisdiction in which she currently holds any professional license. Dr. Winter shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which she applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Winter shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

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



R. Gregory Porter
Hearing Examiner

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

EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 8, 2003

REPORTS AND RECOMMENDATIONS

Mr. Browning announced that the Board would now consider the findings and orders appearing on the Board's agenda. He 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: Paul Evan Kelner, M.D., and Virginia K. Winter, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

Mr. Browning asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

Dr. Garg	- aye
Dr. Steinbergh	- aye
Mr. Browning	- aye

Mr. Browning noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

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

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

.....

VIRGINIA K. WINTER, M.D.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF VIRGINIA K. WINTER, M.D. DR. BHATI SECONDED THE MOTION.

.....

A vote was taken on Dr. Steinbergh's motion to approve and confirm:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

State Medical Board of Ohio

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

NOTICE OF IMMEDIATE SUSPENSION
AND
OPPORTUNITY FOR HEARING

May 14, 2003

Virginia K. Winter, M.D.
5055 N.E. Elliott Circle, #204
Corvallis, OR 97330

Dear Doctor Winter:

In accordance with Sections 2929.24 and/or 3719.12, Ohio Revised Code, the Office of the Prosecuting Attorney of Cuyahoga County, Ohio, reported that on or about March 14, 2003, in the Court of Common Pleas for Cuyahoga County, Ohio, you pleaded guilty to one felony count of Theft, in violation of Section 2913.02, Ohio Revised Code, and were found eligible for intervention in lieu of conviction.

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

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

(1) On or about March 14, 2003, in the Court of Common Pleas for Cuyahoga County, Ohio, you pled guilty to one felony count of Theft in violation of Section 2913.02, Ohio Revised Code, and were found eligible for intervention in lieu of conviction. The facts underlying your guilty plea involved you ordering 5200 dosage units of Alprazolam in 2002. You admitted to a DEA Investigator that you ordered the Alprazolam for your own use. Copies of the Information, Journal Entry and Prosecutor's Reporting Form are attached hereto and incorporated herein.

Your plea of guilty and/or the judicial finding of eligibility for intervention in lieu of conviction as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Further, the judicial finding of eligibility for intervention in lieu of conviction and your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of

Mailed 5/15/03

care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

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

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Anand G. Garg, M.D.
Secretary

AGG/blt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5148 1172
RETURN RECEIPT REQUESTED

Duplicate mailing to: 51359 S.E. Springlake Loop
Scappoose, OR 97056

CERTIFIED MAIL # 7000 0600 0024 5148 1141
RETURN RECEIPT REQUESTED

CUYAHOGA COUNTY COMMON PLEAS

THE STATE OF OHIO
VS.
VIRGINIA WINTER

INFORMATION
THEFT
R.C. 2913.02

DATE OF OFFENSE	THE TERM OF	CASE NO.	COUNT
JUNE, 2002	JANUARY OF 2003	427120	1

) SS.
CUYAHOGA COUNTY)

The affiant, William D. Mason, Prosecuting Attorney of Cuyahoga County, State of Ohio, or his designee, being properly sworn, deposes, says and presents information that the above named Defendant, on or about the date of the offense set forth above, in the County of Cuyahoga, unlawfully, and by deception obtained or exerted control over Alprazolam, a dangerous drug, with the purpose to deprive the owner, Moore Medical, of said property or services, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

Assistant Prosecuting Attorney

STATE OF OHIO)
) SS.
CUYAHOGA COUNTY)

William D. Mason, being duly sworn, says that he is the duly appointed Prosecutor for Cuyahoga County, State of Ohio, **William D. Mason** or his designee Jerome Dowling, says that he makes this affidavit on behalf of the State of Ohio as such Prosecuting Attorney, and that the facts set forth in support of the foregoing information are true as he verily believes.

Assistant Prosecuting Attorney

SWORN TO AND SUBSCRIBED BEFORE ME, a Notary Public and in my presence, the said Jerome Dowling this 24th, day of February 2002.

Roberta L. Arnold
NOTARY PUBLIC

THE STATE OF OHIO
Cuyahoga County } SS. I. GERALD E. FUERST, CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY.
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL CRIMINAL Information CR-427120
NOW ON FILE IN MY OFFICE.
WITNESS MY HAND AND SEAL OF SAID COURT THIS 5th DAY OF March A.D. 20 03
GERALD E. FUERST, Clerk
By Lisa A. Jones Deputy

ROBERTA L. ARNOLD
NOTARY PUBLIC, STATE OF OHIO
Recorded in Cuyahoga County
My Comm. Expires Feb. 27, 2007

RECEIVED FOR FILING
FEB 25 2003
GERALD E. FUERST
BY _____ DEP.

4271200204716200303141335000 46P-S

STATE OF OHIO, CUYAHOGA COUNTY } SS. IN THE COURT OF COMMON PLEAS

JANUARY TERM, 2003

TO-WIT: MARCH 14 2003

NO. CR 427120

STATE OF OHIO PLAINTIFF

VS.

DEFENDANT } INDICTMENT THEFT

VIRGINIA WINTER
51359 S.E. SPRINGLAKE LOOP
SCAPPOOSE, OR 97056
09/06/53
ITN:

JOURNAL ENTRY

DEFENDANT IN COURT WITH COUNSEL ELIZABETH KELLY AND PROSECUTING ATTORNEY DANIEL KASARIS.

DEFENDANT ADVISED OF ALL CONSTITUTIONAL RIGHTS AND PENALTIES.

DEFENDANT WITHDRAWS FORMER PLEA OF NOT GUILTY AND ENTERS A PLEA OF GUILTY TO THEFT ORC 2913.02 F-4 (SB2) AS CHARGED IN THE INFORMATION.

COURT MAKES NO FINDINGS OF GUILT AT THIS TIME, ALL PROCEEDINGS STAYED.

DEFENDANT FILED MOTION FOR INTERVENTION IN LIEU OF CONVICTION, PURSUANT TO R. C.2951.041, MOTION FOR INTERVENTION IN LIEU OF CONVICTION IS GRANTED.

IT IS THEREFORE ORDERED THAT DEFENDANT IS PLACED IN INTERVENTION IN LIEU OF CONVICTION PROGRAM FOR A TERM OF 1 YEAR.

ORIGINAL BOND CONTINUED.

A HEARING IN THIS CASE IS SET FOR MARCH 15, 2004 AT 9:00 A. M.

THE STATE OF OHIO } SS. I, GERALD E. FUERST, CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY.
Cuyahoga County
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL CRIMINAL Journal Entry CR-427120
NOW ON FILE IN MY OFFICE.
WITNESS MY HAND AND SEAL OF SAID COURT THIS 5th DAY OF May A.D. 2003
GERALD E. FUERST, Clerk
By Lisa A. Jones Deputy

RECEIVED FOR FILING
MAR 19 2003
GERALD E. FUERST, CLERK
By _____ Dep.

03-14-2003
P-S RAT 03/17/03 10:04

JUDGE RICHARD J MCMONAGLE

COPIES SENT TO:
☒ Sheriff SC 3-19-03 ☐ Other Cost
☐ Defendant

2-7