

**REQUEST FOR PERMANENT WITHDRAWAL OF
APPLICATION FOR MEDICAL LICENSURE**

I, Donald R. Kirks, M.D., hereby request that my pending restoration of my certificate to practice medicine and surgery in the State of Ohio be withdrawn.

Further, I have found permanent employment elsewhere and do not desire to practice in the State of Ohio. I agree that I will not at any time apply for a certificate to practice medicine and surgery in the State of Ohio, and that any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

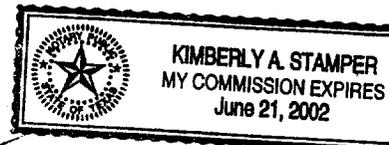
I, Donald R. Kirks, M.D., hereby release the State Medical Board of Ohio, its members, employees, agents and officers, jointly and severally, from any and all liability arising from the within matter.

It is understood and agreed that this Request for Permanent Withdrawal of Application is in lieu of further formal proceedings based upon the violations of Section 4731.22, Ohio Revised Code, set forth in the Notice of Opportunity for Hearing issued by the Board on August 11, 1999, attached hereto as Appendix A. I further understand and agree that this Request for Permanent Withdrawal of Application shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this Request for Permanent Withdrawal of Application shall be accepted and become effective upon the last date of signature below.


DONALD R. KIRKS, M.D.

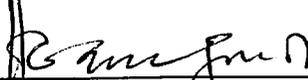
Sworn to before me on this 18th day of
November, 1999.

(Seal)

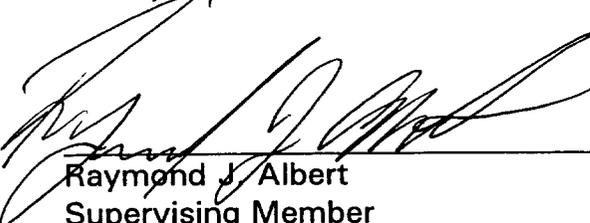



Notary

Accepted by the State Medical
Board of Ohio:


Anand G. Garg, M.D.
Secretary

12/08/99
Date
kirks/withdrawal.doc


Raymond J. Albert
Supervising Member
12/7/99
Date

1999 NOV 21 A 8:20

STATE MEDICAL BOARD
OF OHIO



State Medical Board of Ohio

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

August 11, 1999

Donald R. Kirks, M.D.
11901 Pleasant Ridge Road, Apt. 613
Little Rock, AR 72212

Dear Doctor Kirks:

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 9, 1998, you submitted an application for restoration of your license to practice medicine and surgery to the State Medical Board of Ohio ("Application"). The Application is currently pending.
- (2) By signing the Application, you certified that the information provided therein was true. You answered "No" in response to the following question:
 3. Have you ever resigned from, withdrawn from, or terminated, or have you ever been requested to resign from, withdraw from, or otherwise been terminated from, a position with a medical partnership, professional association, corporation, health maintenance organization, or other medical practice organization, either private or public?

In fact, you were requested by the Children's Hospital Radiology Foundation, Inc. ["Foundation"] in Boston, Massachusetts, to resign from and you in fact resigned from your positions as President of the Foundation, Chairman of the Board of Directors of the Foundation, Chairman of the Department of Radiology, and as a member of the Foundation on or about February 4, 1998. In addition, you agreed to repay \$520,000.00 to the Foundation for funds that you, in the opinion of the directors of the Foundation, improperly paid yourself.

Mailed 8/12/99

- (3) On or about June 7, 1999, you pled guilty to one felony count of Theft or Embezzlement in Connection with Health Care, in violation of 18 U.S.C. Section 669, in the United States District Court for the District of Massachusetts. The acts underlying this guilty plea included your having sought and received reimbursement from both the Foundation and third party radiological associations for travel expenses; your having sought and received reimbursement for a computer from both the Foundation and third party radiological association; your having sold Boston Bruin's tickets that had already been paid for by the Foundation; and your having sought and received reimbursement from both the Foundation and third party radiological association for a private golf outing, for a total of over \$70,000.00 in embezzled funds.
- (4) Further, the Affidavit and Release of Applicant Section of your application for license restoration contained the following instructions for you to follow in applying for restoration of your license:

I will immediately notify the State Medical Board of Ohio in writing of any changes to the answers to any of the questions contained in the ADDITIONAL INFORMATION section of the restoration application if such change in an answer is warranted at any time prior to licensure being granted to me by the State Medical Board of Ohio.

In the "Additional Information" Section of the above application for license restoration you answered "NO" to the following question:

17. Have you ever been convicted or found guilty of a violation of federal law, state law, or municipal ordinance other than a minor traffic violation?

In fact, on or about June 7, 1999, you pled guilty to one felony count of Theft or Embezzlement in Connection with Health Care in the United States District Court for the District of Massachusetts and, as of the date of this letter you have not notified the State Medical Board of Ohio of this guilty plea, nor have you changed or attempted to change your answer to question number 17 above.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for

or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code, as in effect prior to March 9, 1999.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, as in effect prior to March 9, 1999.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code, to wit: Title 18, Section 669, United States Code, Theft or Embezzlement in Connection with Health Care.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "[f]raud, misrepresentation or deception in applying for or securing any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code, as in effect on or after March 9, 1999.

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

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

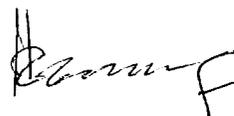
In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate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

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to

practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/bjs
Enclosures

CERTIFIED MAIL #P 152 984 624
RETURN RECEIPT REQUESTED

DUPLICATE MAILING TO:
South Texas Radiology Group
7950 Floyd Curl Drive, Suite SL1-20
San Antonio, TX 78229
CERTIFIED MAIL #Z 395 591 235
RETURN RECEIPT REQUESTED

Children's Hospital
Radiology Department
Cincinnati, OH 45229-2099
CERTIFIED MAIL #Z 395 591 236
RETURN RECEIPT REQUESTED

cc: Max D. Stern, Esq.
CERTIFIED MAIL #Z 395 591 237
RETURN RECEIPT REQUESTED

S. Stephen Rosenfeld, Esq.
CERTIFIED MAIL #Z 395 591 238
RETURN RECEIPT REQUESTED