

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
:
TERRENCE FRANCIS MCCOY, M.D. :

ENTRY OF ORDER

On October 9, 2012, Terrence Francis McCoy, M.D., executed a Surrender of his license to practice medicine and surgery in Ohio with consent to revocation, which document is attached hereto and fully incorporated herein.

Wherefore, upon ratification by the Board of the surrender, it is hereby ORDERED that Certificate No. 35-058974 authorizing Terrence Francis McCoy, M.D., to practice medicine and surgery in the state of Ohio be permanently REVOKED.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 10th day of October 2012, and the original thereof shall be kept with said Journal.



J. Craig Stafford, M.D., M.P.H.
Secretary

(SEAL)

October 10, 2012

Date

2012 OCT 10 AM 10:28

STATE OF OHIO
THE STATE MEDICAL BOARD
PERMANENT SURRENDER OF CERTIFICATE
TO PRACTICE MEDICINE AND SURGERY

Do not sign this agreement without reading it. An individual who permanently surrenders a certificate issued by the Board is forever thereafter ineligible to hold a certificate to practice or to apply to the Board for reinstatement of the certificate or issuance of any new certificate. You are permitted to be accompanied, represented and advised by an attorney, at your own expense, before deciding to sign this voluntary agreement.

I, Terrence F. McCoy, M.D., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein.

I, Terrence F. McCoy, M.D., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice medicine and surgery, License #35.058974, to the State Medical Board of Ohio [Board], thereby relinquishing all rights to practice medicine and surgery in Ohio.

I understand that as a result of the surrender herein I am no longer permitted to practice medicine and surgery in any form or manner in the State of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement or restoration of certificate to practice medicine and surgery License #35.058974 or issuance of any other certificate pursuant to the authority of the State Medical Board of Ohio, on or after the date of signing this Permanent Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I hereby authorize the State Medical Board of Ohio to enter upon its Journal an Order permanently revoking my certificate to practice medicine and surgery, License #35.058974, in conjunction with which I expressly waive the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board Members vote to revoke said certificate, and further expressly and forever waive all rights as set forth in Chapter 119., Ohio Revised Code, including but not limited to my right to counsel, right to a hearing, right to present evidence, right to cross-examine witnesses, and right to appeal the Order of the Board revoking my certificate to practice medicine and surgery.

I, Terrence F. McCoy, M.D., hereby release the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. I, Terrence F. McCoy, acknowledge that my social security

number will be used if this information is so reported and agree to provide my social security number to the Board for such purposes.

I stipulate and agree that I am taking the action described herein in lieu of further investigation of possible violations pursuant to Sections 4731.22(B)(6) and (B)(18), Ohio Revised Code.

EFFECTIVE DATE

It is expressly understood that this Permanent Surrender of Certificate is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.


TERRENCE F. McCOY, M.D.

9 OCT 2012
DATE


J. CRAIG STRAFFORD, M.D., M.P.H.
Secretary

10 Oct 2012
DATE


MARK A. BECHTEL, M.D.
Supervising Member

10 Oct 2012
DATE


REBECCA J. MARSHALL, ESQ.
Chief Enforcement Attorney

October 10, 2012
DATE


Daniel Zinsmeister, Esq.

October 10, 2012
DATE



State Medical Board of Ohio

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

July 9, 2003

Terrence Francis McCoy, M.D.
3084 Hawkslanding Drive
Cincinnati, OH 45244

Dear Doctor McCoy:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 9, 2003, including motions approving and confirming the Findings of Fact and Conclusions 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 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.
Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7000 0600 0024 5151 0933
RETURN RECEIPT REQUESTED

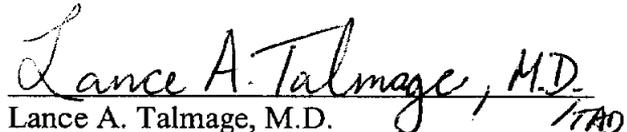
Cc: Deborah R. Lydon, Esq.
CERTIFIED MAIL NO. 7000 0600 0024 5151 0926
RETURN RECEIPT REQUESTED

Mailed 7/30/03

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 9, 2003, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and Terrence Francis McCoy, 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. /TAO
Secretary

(SEAL)

July 9, 2003
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

TERRENCE FRANCIS MCCOY, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on July 9, 2003.

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

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Terrence Francis McCoy, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. McCoy's certificate shall be SUSPENDED for an indefinite period of time, but not less than six months.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. McCoy's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. McCoy shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. McCoy 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 his/her fitness to resume practice.

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

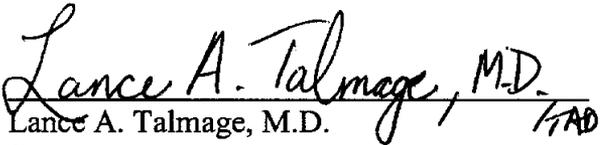
1. **Obey Laws in Ohio:** Dr. McCoy shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
2. **Quarterly Declarations:** Dr. McCoy shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether 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 Dr. McCoy's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. **Appearances:** Dr. McCoy shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. McCoy's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Professional Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. McCoy shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
5. **Personal Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. McCoy shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its

designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

6. **Absence from Ohio**: In the event that Dr. McCoy should leave Ohio for three continuous months, or reside or practice outside the State, Dr. McCoy 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 the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
 7. **Violation of Terms of Probation**: If Dr. McCoy violates the terms of his probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of his certificate.
- D. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. McCoy's certificate will be fully restored.
- E. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. McCoy shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. McCoy shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. McCoy 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 he currently holds any professional license. Dr. McCoy shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Dr. McCoy shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon mailing of notification of approval by the Board.

(SEAL)


Lance A. Talmage, M.D. *LAD*
Secretary

July 9, 2003

Date

2003 JUN -5 P 1:59

**REPORT AND RECOMMENDATION
IN THE MATTER OF TERRENCE FRANCIS MCCOY, M.D.**

The Matter of Terrence Francis McCoy, M.D., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on May 29, 2003.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated March 12, 2003, the State Medical Board of Ohio [Board] notified Terrence Francis McCoy, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board's proposed action was based on allegations that Dr. McCoy had engaged in sexual contact with a patient. The Board further alleged that Dr. McCoy's conduct constitutes "[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in Section 4731.22(B)(6), Ohio Revised Code [; and] "[v]iolation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule," as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I, II, and IV of the American Medical Association's Principles of Medical Ethics. Accordingly, the Board advised Dr. McCoy of his right to request a hearing in this matter. (State's Exhibit 1A).
- B. On March 31, 2003, Deborah R. Lydon, Esq., submitted a written hearing request on behalf of Dr. McCoy. (State's Exhibit 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Mark A. Michael, Assistant Attorney General.
- B. On behalf of the Respondent: Deborah R. Lydon, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Terrence Francis McCoy, M.D.

II. Exhibits Examined

A. Presented by the State:

1. State's Exhibits 1A-1L: Procedural exhibits.
2. State's Exhibit 2: Copy of a February 3, 2003, letter to the Board from Mark D. Gallagher, M.D.
3. State's Exhibit 3: Curriculum vitae of Dr. Gallagher.
4. State's Exhibit 4: Excerpt from the Principles of Medical Ethics, June 2001.

B. Presented by the Respondent:

1. Respondent's Exhibit 1: Curriculum vitae of Terrence F. McCoy, M.D.
2. Respondent's Exhibit 2: Medical Records for Patient 1 [redacted]. (Note: Exhibit sealed to protect patient confidentiality).
3. Respondent's Exhibit 3: Statement of Patient 1 to the Board [redacted]. (Note: Exhibit sealed to protect patient confidentiality).
4. Respondent's Exhibit 4: Statement in support of Dr. McCoy by David C. Reed, M.D. [redacted; see Hearing Transcript at 32-33].
5. Respondent's Exhibits 5A through 5C: Letters written by patients in support of Dr. McCoy [redacted; see Hearing Transcript at 34].
6. Respondent's Exhibit 6: Statement of Dr. McCoy to the Board [redacted]. (Note: Exhibit sealed to protect patient confidentiality).
7. Respondent's Exhibits 7A through 7D: Documents pertaining to disciplinary actions taken by the Board against four physicians.

PROFFERED EXHIBITS

State's Exhibits 5 through 7 are duplicates of Respondent's Exhibits 6, 3, and 2, respectively, but for the redaction of the name of Patient 1 in Respondent's Exhibits 6, 3, and 2. At the request of the Respondent, State's Exhibits 5 through 7 will not be admitted to the record, but are being sealed and proffered on behalf of the State. See Hearing Transcript at 24-30, 36.

SUMMARY OF THE EVIDENCE

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

1. Terrence Francis McCoy, M.D., received a medical degree in 1988 from the University of Illinois-Chicago. In 1991, Dr. McCoy completed a residency in internal medicine at the University of Cincinnati Medical Center. Thereafter, Dr. McCoy served in the United States Air Force from August 1991 through July 1993. In August 1993, Dr. McCoy joined a private internal medicine practice in Cincinnati. Dr. McCoy was board certified in internal medicine in 1992; he has taken the recertification examination and passed three of the five modules. (Hearing Transcript [Tr.] at 39-42; Respondent's Exhibit [Resp. Ex.] 1).

2. At hearing, the parties stipulated that the following facts are true:

From on or about January 23, 1996, through on or about April 22, 2002, in the course of Dr. McCoy's practice as an internist, Dr. McCoy treated Patient 1 for diagnoses that included uncontrolled hypertension, palpitations, and depression. Despite Dr. McCoy's ongoing physician-patient relationship with Patient 1, Dr. McCoy engaged in sexual contact with Patient 1 at her home on or about January 27, 2002; February 17, 2002; and March 10, 2002.

(Tr. at 9, 10; State's Exhibit [St. Ex.] 1A).

3. The parties also stipulated that the following conclusions of law are accurate:

a. The conduct of Dr. McCoy, as set forth in paragraph 2, above, constitutes "[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

b. The conduct of Dr. McCoy, as set forth in paragraph 2, above, constitutes "[v]iolation of any provision of a code of ethics of the American medical

association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule,” as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I, II, and IV of the American Medical Association’s Principles of Medical Ethics.

(Tr. at 9, 10; St. Ex. 1A).

4. Principles I, II, and IV of the American Medical Association’s Principles of Medical Ethics provide as follows:

- I. A physician shall be dedicated to providing competent medical service with compassion and respect for human dignity and rights.
- II. A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities.
- IV. A physician shall respect the rights of patients, and other health professionals, and shall safeguard patient confidences and privacy within the constraints of the law.

(St. Ex. 4).

5. By letter dated February 3, 2002, Mark D. Gallagher, M.D., issued to the Board an expert witness report regarding Dr. McCoy. Dr Gallagher noted that Dr. McCoy had failed “to conform to the minimal standards of care of similar practitioners under same or similar circumstances.” Dr Gallagher based his opinion on the fact that Dr. McCoy had “engaged in sexual intercourse with his patient while that patient was under his care.” Dr Gallagher further stated that his opinion stands whether Dr. McCoy or Patient 1 had initiated the sexual contact. Moreover, Dr Gallagher stated that ““at a minimum, a physician’s ethical duties include terminating the physician-patient relationship before initiating a dating, romantic, or sexual relationship with a patient.”” (St. Ex. 2; St. Ex. 3; Tr. at 9, 10).

Finally, Dr Gallagher stated that he had found “no departure from the standard of medical care regarding the patient’s complaints, diagnoses or [Dr. McCoy’s] documentation of [Patient 1’s] problems, or [Dr. McCoy’s] assessment and treatment.” (St. Ex. 2).

6. At hearing, Dr. McCoy testified that he had been Patient 1’s physician for six years. He stated that he had treated Patient 1 for headaches, elevated blood pressure, palpitations, depression, and adjustment reaction. Dr. McCoy testified that adjustment reaction is a

diagnosis used to refer to a condition that was once called situational depression. (Tr. at 43, 56-60).

Dr. McCoy first treated Patient 1 for depression in May 1998. At that time, Dr. McCoy prescribed Zoloft, an anti-depressant. Dr. McCoy testified that he had treated Patient 1 with different medications over the years "to try to stabilize her." Dr. McCoy testified that Patient 1 had emotional difficulties in her life, and had seen a marriage counselor and a psychiatrist. (Tr. at 56-63; Resp. Ex. 2 at 27).

7. Dr. McCoy testified that, in August or September 2001, Patient 1 had started writing him electronic mail messages "almost daily." Dr. McCoy stated that many of the messages were personal in nature. Dr. McCoy further testified that, after a few months, Patient 1 had started inviting him to her home, and that he had had "a pretty good idea" of the reasons for her invitations. (Tr. at 66-68).

Dr. McCoy testified that, in approximately January 2002, he had become sexually involved with Patient 1. Dr. McCoy stated that he had had three sexual encounters with Patient 1 which had taken place in Patient 1's home. Dr. McCoy stated that these encounters had occurred in January through March 2002. Dr. McCoy further testified that he had continued to see Patient 1 in a physician-patient relationship despite the on-going sexual relationship. (Tr. at 43-44, 69).

Dr. McCoy testified that his sexual relationship with Patient 1 had ended in April 2002. Dr. McCoy testified that he had received an electronic mail message from Patient 1 advising that Patient 1's husband had learned of the affair. The electronic mail message further advised that Patient 1 would be seeking another physician. Dr. McCoy testified that he had agreed to terminate the physician-patient relationship and that he had assisted Patient 1 in finding a new physician. Dr. McCoy testified that he has not seen Patient 1 since that day. (Tr. at 44, 50-51).

Dr. McCoy acknowledged that he had made no effort to terminate the physician-patient relationship prior to Patient 1's advising him that she would be seeking a new physician. (Tr. at 70).

8. Dr. McCoy testified that, shortly after Patient 1 sent him the electronic message terminating their relationships, Dr. McCoy had met with a Board investigator. Dr. McCoy stated that he had signed a statement admitting to the facts set forth in the Board's March 12, 2003, notice of opportunity for hearing. (Tr. at 44-45; Resp. Ex. 6).
9. Dr. McCoy acknowledged that it is unethical and a violation of the minimal standard of care to engage in a sexual relationship with a patient. Dr. McCoy testified that he was aware of that at the time he entered into the sexual relationship with Patient 1. (Tr. at 46, 55).

Dr. McCoy further acknowledged that a patient who has a history of marital problems and depression may be more vulnerable to a physician who engages in sexual conduct with the patient. Moreover, Dr. McCoy acknowledged that the situation he had allowed to develop with Patient 1 had presented a potential for emotional and physical harm for Patient 1. (Tr. at 72, 78-80).

10. Patient 1 submitted a statement to the Board in support of Dr. McCoy. In the statement, Patient 1 maintained that she had been responsible for initiating the sexual contact with Dr. McCoy. Moreover, she stated that Dr. McCoy has been "nothing but a kind, knowledgeable and caring doctor." (Resp. Ex. 3).

Dr. McCoy testified that he had not solicited the statement from Patient 1. (Tr. at 46).

11. David C. Reed, M.D., wrote a letter in support of Dr. McCoy. (Resp. Ex. 4). Dr. McCoy testified that Dr. Reed is the Chief of Staff at the hospital where Dr. McCoy works. Dr. McCoy further testified that Dr. Reed is aware of Dr. McCoy's conduct and the allegations made by the Board. (Tr. at 51).

Three patients also submitted letters in support of Dr. McCoy. (Resp. Exs. 5A through 5C). Dr. McCoy testified that he had not asked the patients to write the letters. (Tr. at 46).

12. Dr. McCoy testified that he is planning to leave his current practice on July 15, 2003, and start a solo practice in Cincinnati. Dr. McCoy testified that the decision was made mutually by himself and his current practice partner. (Tr. at 42).
13. Dr. McCoy testified that he has not had any prior disciplinary actions by the Board, by any hospital, or by the military. (Tr. at 47-48).
14. Dr. McCoy testified that he will never again engage in an inappropriate relationship with a patient. Dr. McCoy testified that the repercussions from his conduct have been significant. He stated that his conduct had hurt his wife, whom he loves very much. Moreover, other people have been hurt by his conduct, including colleagues, patients and friends. Finally, Dr. McCoy testified that he loves being a physician and that he will never do anything again to jeopardize his privilege to practice medicine. (Tr. at 48-49, 53-54).

FINDINGS OF FACT

From on or about January 23, 1996, through on or about April 22, 2002, in the course of his practice as an internist, Terrence Francis McCoy, M.D., treated Patient 1 for diagnoses that included uncontrolled hypertension, palpitations, and depression. Despite his ongoing physician-patient relationship with Patient 1, Dr. McCoy engaged in sexual contact with Patient 1 at her home on or about January 27, 2002; February 17, 2002; and March 10, 2002.

CONCLUSIONS OF LAW

1. The conduct of Terrence Francis McCoy, M.D., as set forth in the Findings of Fact, constitutes “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.
2. The conduct of Dr. McCoy, as set forth in the Findings of Fact, constitutes “[v]iolation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule,” as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I, II, and IV of the American Medical Association’s Principles of Medical Ethics.

* * * * *

Dr. McCoy committed serious transgressions when he entered into a sexual relationship with Patient 1. Dr. McCoy’s conduct was even more objectionable because he was treating Patient 1 for psychiatric problems including depression. Moreover, Dr. McCoy was aware that, under the circumstances, Patient 1 may have been more vulnerable and dependent upon him as her physician. Accordingly, the Board would be justified in permanently revoking Dr. McCoy’s certificate to practice medicine and surgery in this state.

Nevertheless, Dr. McCoy presented mitigating evidence. Dr. McCoy testified that he had not intended any harm to Patient 1. In addition, Dr. McCoy had never before been disciplined by any agency or institution. Furthermore, Dr. McCoy accepted responsibility for his actions and cooperated fully with the Board. Finally, Dr. McCoy has suffered both personally and professionally as a result of his indiscretion, and it is unlikely that he will repeat such conduct at any time in the future.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Terrence Francis McCoy, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. McCoy’s certificate shall be SUSPENDED for an indefinite period of time, but not less than sixty days.

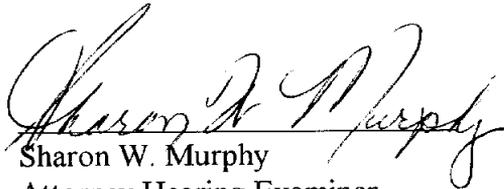
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. McCoy's certificate to practice medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Dr. McCoy shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. McCoy 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 his/her fitness to resume practice.
- C. **PROBATION:** Upon reinstatement or restoration, Dr. McCoy's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:
1. **Obey Laws in Ohio:** Dr. McCoy shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
 2. **Quarterly Declarations:** Dr. McCoy 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 Dr. McCoy's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 3. **Appearances:** Dr. McCoy shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. McCoy's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
 4. **Professional Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. McCoy shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical

Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

5. **Personal Ethics Course**: Before the end of the first year of probation, or as otherwise approved by the Board, Dr. McCoy shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
 6. **Absence from Ohio**: In the event that Dr. McCoy should leave Ohio for three continuous months, or reside or practice outside the State, Dr. McCoy 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 the Board in instances where the Board can be assured that probationary monitoring is otherwise being performed.
 7. **Violation of Terms of Probation**: If Dr. McCoy violates the terms of his probation in any respect, the Board, after giving him notice and the opportunity to be heard, may set aside the stay order and impose the permanent revocation of his certificate.
- D. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. McCoy's certificate will be fully restored.
- E. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. McCoy shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. McCoy shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. McCoy 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 he currently holds any professional license. Dr. McCoy shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or

restoration or restoration of any professional license. Further, Dr. McCoy shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon mailing of notification of approval by the Board.


Sharon W. Murphy
Attorney Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JULY 9, 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: Brett Bolton, D.O.; Ayman M. Kader, M.D.; Terrence Francis McCoy, M.D.; and Paramjit Singh, 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
	Dr. Robbins	- aye
	Dr. Garg	- 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
	Dr. Robbins	- aye
	Dr. Garg	- 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.

.....
TERRENCE FRANCIS MCCOY, M.D.

Mr. Browning directed the Board's attention to the matter of Terrence Francis McCoy, M.D. He advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

Mr. Browning continued that a request to address the Board has been timely filed on behalf of Dr. McCoy. Five minutes would be allowed for that address.

Dr. McCoy was accompanied by his attorney, Deborah R. Lydon.

Dr. McCoy thanked the Board for allowing him to address it. He stated that he takes full responsibility for his actions. He was wrong, and he's sorry. It will never happen again. Dr. McCoy added that he will make no excuse. He's willing to accept the consequences of his actions and follow through as the Board orders.

Mr. Browning asked whether the Assistant Attorney General wished to respond.

Mr. Michael stated that the State believes that the egregious conduct of Dr. McCoy would warrant a more severe sanction than is proposed in the Report and Recommendation. Dr. McCoy treated this patient for six years, leading up to the sexual encounters that took place. During the course of his treatment, the records and Dr. McCoy's testimony show that this patient was being treated for what Dr. McCoy called "adjustment reaction," which he described as a type of situational depression. This patient was being treated for depression. Dr. McCoy also knew that the patient had a history of marital problems and had been seeking counseling relating to those marital problems. Furthermore, three or four months prior to beginning the sexual encounters, the relationship between Dr. McCoy and this patient became personal through daily e-mails and contacts that were not within the physician/patient relationship. Furthermore, Dr. McCoy acknowledged that that part of the relationship was inappropriate at the time it was occurring. That led to three sexual encounters that occurred over a three-month period. This wasn't a spontaneous act. These acts were planned. It took a conscious decision on Dr. McCoy's part to go to this patient's house. Dr. McCoy testified that he knew full well what was going to happen when he went to the patient's

house. There was a significant period of time between each encounter.

Mr. Michael stated that Dr. McCoy took no positive steps on his own part to end the physician/patient relationship. It ended when the patient's husband found out about it. The patient called Dr. McCoy to end the relationship and to get a referral for another physician. Mr. Michael stated that he believes a more lengthy suspension would be appropriate in this case.

DR. BHATI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF TERRENCE FRANCIS MCCOY, M.D. DR. KUMAR SECONDED THE MOTION.

Mr. Browning stated that he would now entertain discussion in the above matter.

Dr. Bhati stated that he had a little problem with this case. In the past, the Board has had zero tolerance with sexual abuse cases. Dr. McCoy is young, he's admitted that he became sexually involved with a patient and he cooperated with the Board in this case. That does not excuse him for what he's done.

Dr. Talmage agreed with Dr. Bhati. Dr. Talmage stated that, as he reviewed this case, the comment he wrote concerning the Proposed Order was that the suspension period was too short. The Board has had cases of a similar nature. What makes this case particularly egregious is that Dr. McCoy was treating someone for an emotional problem, the patient was particularly vulnerable, and taking advantage of that vulnerability was egregious.

DR. TALMAGE MOVED TO AMEND THE SUSPENSION LANGUAGE OF THE PROPOSED ORDER TO SUSPEND DR. MCCOY'S LICENSE FOR A PERIOD OF ONE (1) YEAR.

Dr. Talmage stated that he believes this amendment would be consistent with past actions by the Board.

THE MOTION DIED FOR LACK OF A SECOND.

Dr. Egner stated that she doesn't want to justify anything Dr. McCoy did; certainly this was a terrible incident. Dr. Egner added, however, that every victim that the Board sees is a vulnerable patient. The physician never picks a patient who is independent, assertive and wouldn't get involved in this kind of relationship.

Dr. Egner continued that she believes Dr. McCoy's appearance before the Board adds something. She does believe that Dr. McCoy is truly remorseful and will not get himself involved in these situations again. Also, the Proposed Order is for a stayed permanent revocation. If the Proposed Order didn't include that, she would probably be more in favor of a longer suspension. With a stayed permanent revocation, she doesn't think that the suspension will do anything more to him or make him understand this any better. Dr. McCoy must understand that if he does anything that's against the Medical Practices Act, he'll lose his license. Dr. Egner stated that she does think this is a very serious Proposed Order.

DR. BHATI MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION. THE MOTION DIED FOR LACK OF A SECOND.

Dr. Robbins stated that he also went over this case with a lot of turmoil. He personally does not see a benefit in increasing the suspension period further than what it is now. He doesn't think that there is any question that what was done here was egregious, especially in light of the fact of the patient history; but he is convinced that Dr. McCoy has accepted the blame, and has not tried to sugarcoat anything. Dr. McCoy has stopped his current practice and is being forced to set up another practice. He has obviously undergone personal anguish. Dr. Robbins stated that he's having a hard time seeing the positive nature of an increased suspension period. He would personally favor not increasing the suspension time.

Dr. Buchan stated that the facts in this case are clear. His initial thoughts were more in line with Dr. Bhati. This individual needed to be revoked. As he reviewed this case, he does believe that Dr. McCoy understands the significance of this case, his indiscretions, and his exceedingly poor choices. Dr. Buchan stated that he can't imagine what an extended period of time out would mean to Dr. McCoy, whether it be one or two years. Dr. Buchan stated that he decided that, in his mind, permanent revocation wasn't necessary. He made a note that six months to a year's suspension would not be unreasonable. As he listens to his colleagues, he thinks that the message is loud and clear that there is no room for these kinds of choices. Dr. Buchan stated that he thinks that the point is well made. He added that the proposed suspension time is the minimum amount of time he would accept. Dr. Buchan stated that he believes Dr. McCoy has learned his lesson and can be a valuable practitioner in his community.

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

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

The motion failed.

**DR. BUCHAN MOVED TO AMEND THE SUSPENSION PERIOD TO SIX (6) MONTHS.
DR. EGNER SECONDED THE MOTION.**

Mr. Browning stated that he would entertain further discussion in the above matter.

Dr. Talmage stated that he would accept the proposed amendment as a compromise. He believes that a

suspension period of 60 days was a slap on the wrist. The Board uses suspensions for several purposes: one is to allow someone to prove that they have overcome an addiction or impairment, and for others it's a strong signal that this is a punishment meted out because of what was done. The Board doesn't fine individuals, but when it suspends a license, it does put someone at some financial jeopardy. Although that it somewhat regrettable, in some states they would be fined \$5,000 to \$10,000.

A vote was taken on Dr. Buchan's motion:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- nay
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Mr. Browning	- aye

The motion carried.

DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF TERRENCE FRANCIS MCCOY, M.D. DR. EGNER SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- nay
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Mr. Browning	- aye

The motion carried.



State Medical Board of Ohio

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March 12, 2003

Terrence Francis McCoy, M.D.
3084 Hawkslanding Drive
Cincinnati, Ohio 45244

Dear Doctor McCoy:

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) From on or about January 23, 1996, through on or about April 22, 2002, in the course of your practice as an internist, you treated Patient 1, as identified on the attached confidential Patient Key, for diagnoses that included uncontrolled hypertension, palpitations, and depression. [The confidential Patient Key is to be withheld from public disclosure.] Despite your ongoing physician-patient relationship with Patient 1, you engaged in sexual contact with Patient 1 at her home on or about January 27, 2002; February 17, 2002; and March 10, 2002.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[v]iolation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule,” as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I, II, and IV 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

Mailed 3-13-03

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 0670
RETURN RECEIPT REQUESTED