State Medical Board of Ohio

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

May 13, 1998

Reginal C. Phillips, M.D.
C/O Bruce A. Zimet, Esq.
One Financial Plaza, Suite 2612
Fort Lauderdale, FL 33394

Dear Doctor Phillips:

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 May 13, 1998, 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 may be taken to the Franklin County Court of Common Pleas only.

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

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 839 052
RETURN RECEIPT REQUESTED

Mailed 5/19/98

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 May 13, 1998, 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 Reginald C. Phillips, 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.

Anand G. Garg, M.D.
Secretary

(SEAL)

May 13, 1998
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

REGINALD C. PHILLIPS, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on May 13, 1998.

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

It is hereby ORDERED that:

> The certificate of, Reginald C. Phillips, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

Anand G. Garg, M.D.
Secretary

(SEAL)

May 13, 1998
Date

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REPORT AND RECOMMENDATION
IN THE MATTER OF REGINALD C. PHILLIPS, M.D.

The Matter of Reginald C. Phillips, M.D., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on March 20, 1998.

INTRODUCTION

I. Basis for Hearing

A. By letter dated November 12, 1997, the State Medical Board of Ohio [Board] notified Reginald C. Phillips, M.D., that his certificate to practice medicine and surgery in the State of Ohio had been automatically suspended as of March 13, 1997. Furthermore, the Board advised Dr. Phillips that it had proposed initiating disciplinary action against his certificate. The Board's action was based on the following allegation:

> On or about March 13, 1997, in the Circuit Court of Broward County, Florida, Dr. Phillips was found guilty of one felony count of sexual battery with slight force, a violation of Section 794.011(5) of the Florida Statues.

The Board alleged that the judicial finding of guilt constitutes "'(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." (State's Exhibit 1).

B. By letter dated January 14, 1998, the Board issued a second notice of opportunity for hearing based on a different, but similar, set of allegations. The Board's action was based on the following allegations: (1) On or about November 14, 1997, in the Circuit Court of Broward County, Florida, Dr. Phillips was found guilty of one felony count of sexual battery; and (2) On or about November 14, 1997, in the Circuit Court of Broward County, Florida, Dr. Phillips was found guilty of two misdemeanor counts of battery.

The Board alleged that the judicial finding of guilt, as referenced in paragraph B(1), constitutes "'(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."

Additionally, the Board alleged that the judicial findings of guilt, as referenced in paragraph B(2), constitute "'(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice,' as that clause is used in Section 4731.22(B)(11), Ohio Revised Code [and] '(a) plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude,' as that clause is used in Section 4731.22(B)(13), Ohio Revised Code." (State's Exhibit 2).

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Finally, the Board advised Dr. Phillips of his right to request a hearing in these matters. (State's Exhibits 1 and 2).

C. By letters dated December 12, 1997, and January 22, 1998, Bruce A. Zimet, Esq., submitted written hearing requests on behalf of Dr. Phillips. (State's Exhibits 3 and 4).

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Anne Berry Strait, Assistant Attorney General.

B. On behalf of the Respondent: Dr. Phillips, having been apprised of his right to attend the hearing or to be represented by counsel, did not appear in person, by representation, or by submission of documents.

EVIDENCE EXAMINED

I. Testimony Heard

Neither party presented testimony.

II. Exhibits Examined

In addition to State's Exhibits 1, 2, and 3, noted above, the following exhibits were identified by the State and admitted into evidence:

A. State's Exhibit 5-13: Procedural exhibits.

* B. State's Exhibit 14: Certified copy of the Information filed in the Circuit Court for Broward County, Florida, in *The State of Florida vs. Reginald Phillips* [*Florida vs. Phillips*]. (10 pp.) (Note: Pages numbered, post-hearing, by the Hearing Examiner).

* C. State's Exhibit 15: Copies of documents regarding Dr. Phillips maintained by the Fort Lauderdale Police Department, OR #92-146914. (24 pp.) (Note: Pages numbered, post-hearing, by the Hearing Examiner).

* D. State's Exhibit 16: Certified copy of the Amended Information filed in *Florida vs. Phillips*. (3 pp.)

* E. State's Exhibit 17: Copies of documents regarding Dr. Phillips maintained by the Fort Lauderdale Police Department, OR # 95-28949. (52 pp.) (Note: Pages numbered, post-hearing, by the Hearing Examiner).

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* F. State's Exhibit 18: Copy of the transcript for the November 14, 1997, Sentencing Hearing in *Florida vs. Phillips,* Case No. 95-16913CF. (22 pp.)

* G. State's Exhibit 19: Copy of the transcript of the Deposition of Patient 2 in *Florida vs. Phillips,* Case No. 95-16913CF10A. (114 pp.)

(Note: Exhibits marked with an asterisk [*] have been sealed to protect patient confidentiality.)

PROCEDURAL MATTERS

By Entry dated February 11, 1998, the Attorney Hearing Examiner consolidated the matters addressed in the November 12, 1997, and January 14, 1998, notices of opportunity for hearing, and scheduled the hearing for March 20, 1998. (See State's Exhibit 13). Neither party presented an objection.

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. On September 28, 1995, the Prosecuting Attorney for the State of Florida in Broward County filed an Information in *The State of Florida vs. Reginald Phillips*. (State's Exhibit [St. Ex.] 14 at 1-2). The Prosecuting Attorney filed an Amended Information on February 16, 1996, alleging that, on October 29, 1992, Reginald Phillips, M.D., had committed Sexual Battery, a second degree felony, in violation of Section 794.011(5) of the Florida Statues. The Amended Information alleged that Dr. Phillips had committed the Sexual Battery upon Patient 1 "a person twelve (12) years of age or older, without his consent, and not for a bona fide medical purpose, by causing his finger to penetrate the anus of [Patient 1], and in the process thereof, Reginald Phillips did not use physical force and violence likely to cause serious personal injury, contrary to F.S. 794.011(5)." (St. Ex. 14 at 3-4).

   On April 11, 1997, in the Circuit Court for Broward County, Florida, Case No. 95-16914CF10, Dr. Phillips was found guilty of one count of sexual battery. The court sentenced Dr. Phillips to 2½ years incarceration followed by three years of probation. The court also ordered a psychiatric evaluation and treatment, as recommended. (St. Ex. 14 at 5-9).

   The charges were based on a report filed by Patient 1 with the Fort Lauderdale Police Department. Patient 1, a 29 year old male, had been a patient of Dr. Phillips at the Florida branch of the Cleveland Clinic. Dr. Phillips had been treating Patient 1 for epilepsy.

   In a statement to the Fort Lauderdale Police Department, Patient 1 reported that he had seen Dr. Phillips on October 29, 1992. On that visit, Dr. Phillips had initially questioned Patient 1 regarding his recent seizure activity. Dr. Phillips then asked Patient 1 to remove his pants and

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underwear. Dr. Phillips used a needle to "poke" Patient 1 in the stomach, leg, buttocks, genitals, and penis. Dr. Phillips gave Patient 1 a rectal examination, and then asked Patient 1 to stand and bend over a chair. Dr. Phillips proceeded to give Patient 1 additional rectal examinations. Patient 1 stated that it felt as if Dr. Phillips was using more than two fingers to perform the examination. Patient 1 stated that Dr. Phillips then proceeded to massage Patient 1's genitals. Patient 1 stated that Dr. Phillips was "panting" at this point. (St. Ex. 15 at 8-11, 15-19).

Patient 1 stated that when he left Dr. Phillips' office, he was experiencing lower abdominal pain. He went to local Sheriff's Office and was transported to a clinic for sexual assault victims. An examination revealed that Patient 1 had suffered trauma to his anus and rectum. Patient 1's rectum had lacerations and abrasions, some of which continued to bleed. (St. Ex. 15 at 2-5).

2. On February 16, 1996, the Broward County Prosecuting Attorney filed another Amended Information in *The State of Florida vs. Reginald Phillips.* The second Amended Information charged Dr. Phillips with two counts of Sexual Battery, both second degree felonies, in violation of Section 794.011(5) of the Florida Statues. The Amended Information further charged Dr. Phillips with one count of Battery, a misdemeanor, in violation of Section 784.03(1) of the Florida Statues. (St. Ex. 16 at 3-4). A jury found Dr. Phillips guilty of one count of sexual battery, and two counts of battery. The court sentenced Dr. Phillips to 7½ years incarceration, with credit for time served. (St. Ex. 16 at 3; St. Ex. 18 at 2, 20).

The charges in the February 16, 1996, Amended Information were based on a report filed by Patient 2 with the Fort Lauderdale Police Department. Patient 2, a 70 year old male, had also been a patient of Dr. Phillips through the Cleveland Clinic. Dr. Phillips had been treating Patient 2 for back pain. (St. Ex. 17 at 2).

In a sworn investigative statement, Patient 2 reported that he had seen Dr. Phillips on March 25, 1994. Patient 2 reported that, during that visit, Dr. Phillips had instructed Patient 2 to remove his clothes. Dr. Phillips explained that he had to massage Patient 2's prostate in order to relieve Patient 2's back pain. Patient 2 stated that Dr. Phillips had placed one hand inside Patient 2's rectum; he used his other hand to massage Patient 2's genitals until Patient 2 ejaculated. Thereafter, Dr. Phillips continued massaging Patient 2's rectum, and Patient 2 complained that Dr. Phillips was hurting him. Dr. Phillips locked the office door. Dr. Phillips inserted something else into Patient 2's rectum and Patient 2 felt something warm. Patient 2 believed that Dr. Phillips had inserted his penis into Patient 2's anus. When Dr. Phillips was done, Patient 2 looked behind him to see Dr. Phillips' exposed, semi-erect penis. (St. Ex. 17 at 17-19, 39-40, 44) (See also St. Ex. 19).

FINDINGS OF FACT

1. On or about March 13, 1997, in the Circuit Court of Broward County, Florida, Reginald C. Phillips, M.D., was found guilty of one felony count of sexual battery with slight force, a

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violation of Section 794.011(5) of the Florida Statues. This conviction was based on Dr. Phillips' conduct with a patient.

2. On or about November 14, 1997, in the Circuit Court of Broward County, Florida, Reginald C. Phillips, M.D., was found guilty of one felony count of sexual battery, in violation of Section 794.011(5) of the Florida Statues. Dr. Phillips was also convicted of two misdemeanor counts of battery, in violation of Section 784.03(1) of the Florida Statues. These convictions were based on Dr. Phillips' conduct with a patient.

CONCLUSIONS OF LAW

1. The March 13, 1997, judicial finding of guilt, as referenced in Findings of Fact 1, constitutes "a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

2. The November 14, 1997, judicial finding of guilt, as referenced in Findings of Fact 2, constitutes:

   a. "a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code;

   b. "a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code; and

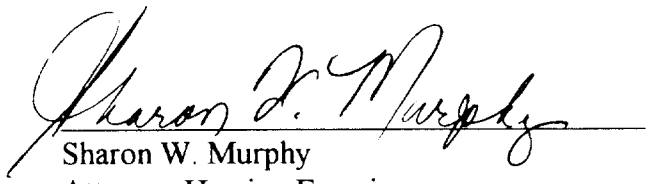
   c. "a judicial finding of guilt of, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

PROPOSED ORDER

It is hereby ORDERED that:

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

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



Sharon W. Murphy
Attorney Hearing Examiner

EXCERPT FROM THE DRAFT MINUTES OF MAY 13, 1998

REPORTS AND RECOMMENDATIONS

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

Dr. Buchan 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: Saul I. Blecher, M.D.; Joel E. Burrell, M.D.; Hazem S. Garada, M.D.; James M. Magri, Jr., M.D.; Joe Wesley Morgan, D.O.; John D. Ott, D.O.; Reginald C. Phillips, M.D.; Clifford Sonnie, M.D.; Edward Louis Woods, M.D.; And Thomas A. Zoldowski, D.P.M. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Somani	- aye
	Mr. Sinnott	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Buchan	- aye

Dr. Buchan 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. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Somani	- aye
	Mr. Sinnott	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Buchan	- aye

In accordance with the provision in Section 4731.22(C)(1), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

Dr. Buchan 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.

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Dr. Buchan asked Dr. Egner whether she had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Saul I. Blecher, M.D.; Joel E. Burrell, M.D.; Hazem S. Garada, M.D.; James M. Magri, Jr., M.D.; Joe Wesley Morgan, D.O.; John D. Ott, D.O.; Reginald C. Phillips, M.D.; Clifford Sonnie, M.D.; Edward Louis Woods, M.D.; and Thomas A. Zoldowski, D.P.M. Dr. Egner indicated that she had.

Dr. Buchan asked Dr. Egner whether she understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. Dr. Egner indicated that she understands.

.....

REGINALD C. PHILLIPS, M.D.

.....

DR. BHATI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF REGINALD C. PHILLIPS, M.D. DR. HEIDT SECONDED THE MOTION.

.....

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

Vote:	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye

Ms. Noble	- abstain
Dr. Stienecker	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Buchan	- aye

The motion carried.

State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43266-0315 • (614) 466-3934 • Website www.state.oh.us/med

NOTICE OF AUTOMATIC SUSPENSION
AND
OPPORTUNITY FOR HEARING

January 14, 1998

Reginald C. Phillips, M.D.
3000 W. Cypress Creek Road
Department of Neurology
Ft. Lauderdale, FL 33309

Dear Doctor Phillips:

Pursuant to Section 4731.22(F), Ohio Revised Code, you are hereby notified that your license to practice medicine and surgery in the State of Ohio has been automatically suspended as of November 14, 1997, by operation of law, based upon the judicial finding of guilt of one felony count of sexual battery, as detailed below. Practice in Ohio after this suspension shall be considered practicing medicine without a certificate.

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

(1) On or about November 14, 1997, in the Circuit Court of Broward County, Florida, you were found guilty of one felony count of sexual battery.

(2) On or about November 14, 1997, in the Circuit Court of Broward County, Florida, you were found guilty of two misdemeanor counts of battery.

The judicial finding of guilt, as alleged in paragraph (1) above, constitutes "[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.

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Further, the judicial findings of guilt, as alleged in paragraph (2) above, individually and/or collectively, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Further, the judicial findings of guilt, as alleged in paragraph (2) above, individually and/or collectively, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Anand G. Garg, M.D.
Secretary

Enclosures

CERTIFIED MAIL # Z 395 591 353
RETURN RECEIPT REQUESTED

cc: Bruce Zimet, Esq.
CERTIFIED MAIL # Z 395 591 354
RETURN RECEIPT REQUESTED

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

NOTICE OF AUTOMATIC SUSPENSION
AND
OPPORTUNITY FOR HEARING

November 12, 1997

Reginald C. Phillips, M.D.
3000 W. Cypress Creek Road
Department of Neurology
Ft. Lauderdale, FL 33309

Dear Doctor Phillips:

Pursuant to Section 4731.22(F), Ohio Revised Code, you are hereby notified that your license to practice medicine and surgery in the State of Ohio has been automatically suspended as of March 13, 1997, by operation of law, based upon the judicial finding of guilt of one felony count of sexual battery, as detailed below. Practice in Ohio after this suspension shall be considered practicing medicine without a certificate.

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

1. On or about March 13, 1997, in the Circuit Court of Broward County, Florida, you were found guilty of one felony count of sexual battery with slight force, a violation of Section 794.011(5) of the Florida Statutes.

The judicial finding of guilt as alleged in paragraph (1) above constitutes "(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.

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.

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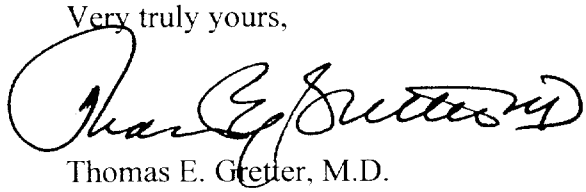
You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Thomas E. Gretter, M.D.
Secretary

TEG/par
Enclosures

CERTIFIED MAIL # P 152 982 773
RETURN RECEIPT REQUESTED