



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

June 14, 1991

Brian K. Bevacqua, M.D.
3699 Traver Road
Shaker Heights, Ohio 44122

Dear Doctor Bevacqua:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Joan Irwin Fishel, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on June 12, 1991, including Motions approving and confirming the Findings of Fact and Conclusions of Law of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO


Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 055 327 576
RETURN RECEIPT REQUESTED

Mailed 6/18/91

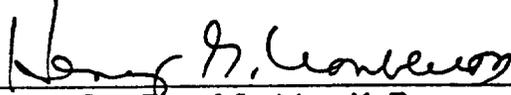
STATE OF OHIO
STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Joan Irwin Fishel, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on June 12, 1991, including Motions approving and confirming the Findings of Fact and Conclusions of Law of the Hearing Examiner, and adopting an amended Order, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Brian K. Bevacqua, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

(SEAL)



Henry G. Cramblett, M.D.
Secretary

June 14, 1991

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

★

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BRIAN K. BEVACQUA, M.D.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 12th day of June, 1991.

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

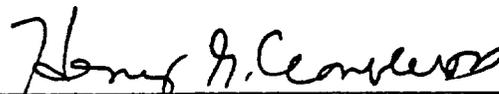
It is hereby ORDERED:

1. That the application of Brian K. Bevacqua, M.D., for licensure to practice medicine and surgery in the State of Ohio be GRANTED, provided that Dr. Bevacqua's application is otherwise in compliance;
2. Further, that Dr. Bevacqua be REPRIMANDED.
3. Further, that Dr. Bevacqua's certificate to practice medicine and surgery in the State of Ohio shall be subject to the following probationary terms, conditions and limitations for a period of five (5) years:
 - A. Dr. Bevacqua shall obey all federal, state and local laws and all rules governing the practice of medicine in Ohio.
 - B. Dr. Bevacqua shall appear in person for interviews before the full Board or its designated representative at one (1) year intervals, or as otherwise directed by the Board.

Brian K. Bevacqua, M.D.

- C. Dr. Bevacqua shall annually, or as frequently as otherwise directed by the Board, undergo psychiatric evaluation by a psychiatrist approved in advance by the Board for the purpose of assessing whether or not Dr. Bevacqua's behavior presents a risk to patients. Dr. Bevacqua shall ensure that, prior to each personal appearance required under paragraph B, above, a report of the most recent reevaluation has been forwarded to the Board for its prior review.
 - D. In the event that Dr. Bevacqua should leave Ohio for three (3) consecutive months, or reside or practice outside the State, Dr. Bevacqua must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.
 - E. Dr. Bevacqua shall obtain the Board's approval prior to changing his practice to another specialty.
4. Upon successful completion of probation, Dr. Bevacqua's certificate will be fully restored.

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



Henry G. Cramblett, M.D.
Secretary

(SEAL)

June 14, 1991
Date

REPORT AND RECOMMENDATION
IN THE MATTER OF BRIAN K. BEVACQUA, M.D.

STATE MEDICAL BOARD
91 MAY -6 P11 3:45

The Matter of Brian K. Bevacqua, M.D., came on for hearing before me, Joan Irwin Fishel, Esq., Hearing Examiner for the State Medical Board of Ohio, on April 9, 1991.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter dated February 13, 1991 (State's Exhibit #1), the State Medical Board notified Brian K. Bevacqua, M.D., that it proposed to refuse to register or to take disciplinary action against his certificate to practice medicine and surgery in the State of Ohio due to his guilty plea on or about July 12, 1988, to one count of Receiving Child Pornography in violation of 18 U.S.C. Section 2252(a)(2), a felony, in the United States District Court for the Middle District of Pennsylvania. The Board alleged that this constituted "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.
- B. By letter received by the State Medical Board on March 5, 1991 (State's Exhibit #2), Dr. Bevacqua requested a hearing.

II. Appearances

- A. On behalf of the State of Ohio: Lee Fisher, Attorney General, by Lisa A. Sotos, Assistant Attorney General
- B. On behalf of the Respondent: Having been duly advised of his right to counsel, Dr. Bevacqua appeared at hearing on his own behalf.

III. Testimony Heard

A. Presented by the State

The State presented no witnesses in this Matter.

B. Presented by the Respondent

- 1. Maryanne Bevacqua
- 2. H. S. Cascorbi, M.D., Ph.D.

STATE MEDICAL BOARD
OF OHIO

91 MAY -6 PM 3:45

IV. Exhibits Examined

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

A. Presented by the State

1. State's Exhibit #3: March 5, 1991, letter to Dr. Bevacqua from the State Medical Board advising that a hearing initially set for March 19, 1991, was postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit #4: March 7, 1991, letter to Dr. Bevacqua from the State Medical Board scheduling the hearing for April 9, 1991.
3. State's Exhibit #5: Notice of Appearance filed by Lisa A. Sotos, Assistant Attorney General, on March 20, 1991.
4. State's Exhibit #6: State's Request for List of Witnesses and Documents, filed on March 20, 1991.
5. State's Exhibit #7: Certified documents in the case United States of America v. Brian K. Bevacqua, CR 87-00191, United States District Court for the Middle District of Pennsylvania, including: Indictment; Plea; Defendant information sheet; and Judgment.
6. State's Exhibit #8: Dr. Bevacqua's Ohio licensure application.
7. State's Exhibit #9: 18 U.S.C. Section 2252.

B. Presented by the Respondent

1. Respondent's Exhibit A: April 4, 1991 letter in support of Dr. Bevacqua's application from Murray D. Altose, M.D., to the State Medical Board.
2. Respondent's Exhibit B: April 6, 1991 letter in support of Dr. Bevacqua's application from Stephen B. Levine, M.D., and Candace B. Risen, LISW, to the State Medical Board.
3. Respondent's Exhibit C: August 29, 1990 letter in support of Dr. Bevacqua's application from Mary W. Foreman, U.S. Probation Officer, on behalf of The Honorable William W. Caldwell, Judge of the United States District Court, Middle District of Pennsylvania, to the State Medical Board.

STATE MEDICAL BOARD
OF OHIO

4. Respondent's Exhibit D: March 26, 1991 letter in support of Dr. Bevacqua's application from Edward T. Carden, M.D., Chairman, Physicians Effectiveness Program, Ohio State Medical Association, to the Medical Board.
5. Respondent's Exhibit E: Adjudication and Order, dated November 28, 1990, of Frank C. Kahoe, Jr., Esquire, Hearing Examiner for the Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs, in the Matter of Commonwealth of Pennsylvania, State Board of Medicine v. Brian K. Bevacqua, M.D.
6. Respondent's Exhibit F: Transcript from the hearing on May 2, 1990, in the Matter of Commonwealth of Pennsylvania, State Board of Medicine v. Brian K. Bevacqua, M.D.

V. Other Matters:

By Entry dated April 30, 1991, the Hearing Examiner reopened the record for the submission of the transcript from Dr. Bevacqua's Pennsylvania disciplinary hearing. That document was received and by Entry dated May 3, 1991, the record was closed and the hearing transcript admitted as Respondent's Exhibit F. The May 3, 1991 Entry will become part of the record in this Matter.

FINDINGS OF FACT

1. On October 6, 1987, Brian K. Bevacqua, M.D., was charged with "knowingly and willfully receiv[ing] and caus[ing] to be received in the United States Mails child poronography, i.e., the visual depiction of a minor engaged in sexually explicit conduct...", in violation of 18 U.S.C. Section 2252(a)(2). On July 11, 1988, Dr. Bevacqua pled guilty to this felony charge. His sentence was suspended and he was placed on probation for two years and fined the sum of \$1,500. During his period of probation, Dr. Bevacqua was required to successfully complete a program of mental health counseling as directed by his probation officer.

These facts are established by State's Exhibit #7.

2. While he had purchased adult pornography in the past, Dr. Bevacqua had not purchased child pornography prior to the purchase for which he was convicted, nor has he made any subsequent purchases.

These facts are established by the testimony of Dr. Bevacqua (Tr. 30) and Respondent's Exhibit F (pgs. 86, 96).

3. Dr. Stephen B. Levine and Candace B. Risen, LISW, of the Center for Human Sexuality, University Hospitals of Cleveland, do not find Dr. Bevacqua to be a pedophile and do not find him to present a risk to children. In the opinions of Ms. Risen and Dr. Levine, Dr. Bevacqua does not need further monitoring or counseling, however, the Center offered to provide the same should the Board so request.

Dr. Abram Hostetter, a board certified psychiatrist practicing in Pennsylvania, began treating Dr. Bevacqua shortly after Dr. Bevacqua's arrest. He saw Dr. Bevacqua a total of 19 times and also interviewed Mrs. Bevacqua. From these interviews and from the results of the Minnesota Multiphasic Personality Inventory, Dr. Hostetter concluded that Dr. Bevacqua does not present a danger to child or adult patients.

These facts are established by State's Exhibit #8, Respondent's Exhibit B and Respondent's Exhibit F, (pgs. 30-51).

4. Prior to his conviction, Dr. Bevacqua had been working as an anesthesiologist at Hersey Medical Center, Pennsylvania State University Hospitals. Following the conviction, his contract at Hersey was not renewed. Dr. Bevacqua and his family moved to New Jersey and lived with relatives while Dr. Bevacqua looked for employment. After working as a house physician for four months at a hospital in Philadelphia, Dr. Bevacqua accepted a position with the Veterans Administration Medical Center in Cleveland, Ohio. He began as an attending physician on the anesthesiology staff in April, 1989 and in February, 1990 he was promoted to Chief of the Anesthesiology Section. He is also an assistant professor at Case Western Reserve University.

These facts are established by the testimony of Dr. Bevacqua (Tr. 31, 41) and State's Exhibit #8.

5. Dr. Bevacqua's supervisors and superiors at both the Veterans Administration and the University have been quite pleased with his performance and his character. They believe his conviction represented an isolated incident and they do not believe that Dr. Bevacqua presents a danger to the public. Dr. Bevacqua has improved and expanded the V.A.'s programs, including the development of an award-winning research program.

These facts are established by the testimony of Dr. Cascorbi (Tr. 24-26) and by Respondent's Exhibit A.

6. Dr. Bevacqua applied for an Ohio license to practice medicine and surgery on or about February 8, 1990. He is board certified in Internal Medicine and Anesthesiology. He is licensed in Pennsylvania, Wisconsin and Illinois, though only the Pennsylvania license is current. A disciplinary hearing has been conducted by the Pennsylvania board but, as of the date of Dr. Bevacqua's hearing in Ohio, no order had been issued.

Dr. Bevacqua does not need an Ohio license to practice at the V.A. However, he wants to feel a part of the professional community and needs an Ohio license in order to join various professional organizations. For Dr. Bevacqua, seeking a license from the state in

STATE MEDICAL BOARD
OF OHIO

which he lives and practices is part of the continual process of social rehabilitation. He has also sought out the impaired physicians programs in Pennsylvania, New Jersey and Ohio.

These facts are established by the testimony of Dr. Bevacqua (Tr. 12, 15, 33-36, 38-40), by State's Exhibit #8, and by Respondent's Exhibits D and F.

CONCLUSIONS

Dr. Bevacqua's plea of guilty, on or about July 11, 1988, to the felony charge of Receiving Child Pornography in violation of 18 U.S.C. Section 2252(a)(2), 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.

* * * * *

Dr. Bevacqua has provided this Board with as much assurance as is possible that his felonious act will not be repeated. He has been shamed by his conduct; he has been evaluated and pronounced mentally healthy by various professionals; he has exhibited a continued dedication to his profession; and he has stated his amenability to ongoing monitoring.

The disciplinary guidelines suggest a minimum sanction of licensure denial for a felony conviction. However, it is within this Board's discretion to recognize that Dr. Bevacqua has made a sincere effort to mend the breach in public trust created by his felonious conduct.

PROPOSED ORDER

It is hereby ORDERED:

1. That the application of Brian K. Bevacqua, M.D., for licensure to practice medicine and surgery in the State of Ohio be GRANTED, provided that Dr. Bevacqua's application is otherwise in compliance;
2. Further, that Dr. Bevacqua be REPRIMANDED.

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


Joan Irwin Fishel
Attorney Hearing Examiner



STATE MEDICAL BOARD OF OHIO

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EXCERPT FROM THE MINUTES OF JUNE 12, 1991

REPORTS AND RECOMMENDATIONS

Mr. Albert stated that the Findings and Orders appearing on today's agenda are those in the matters of: Walter W. Stoll, Jr., M.D.; Rogelio F. Arcuino, M.D.; and Brian K. Bevacqua, M.D.

Mr. Albert asked if 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 Walter W. Stoll, Jr., M.D.; Rogelio F. Arcuino, M.D.; and Brian K. Bevacqua, M.D. A roll call was taken:

ROLL CALL:	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- abstain
	Dr. Kaplansky	- aye
	Dr. Heidt	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

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

All Assistant Attorneys General and all Enforcement Coordinators left the meeting at this time.

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REPORT AND RECOMMENDATION IN THE MATTER OF BRIAN K. BEVACQUA, M.D.

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

DR. HOM MOVED TO APPROVE AND CONFIRM MS. FISHEL'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF BRIAN K. BEVACQUA, M.D. DR. KAPLANSKY SECONDED THE MOTION.

Mr. Albert asked if there were any questions or comments concerning the proposed findings of fact, conclusions, and order in the above matter.



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF JUNE 13, 1991
IN THE MATTER OF BRIAN K. BEVACQUA, M.D.

Page 2

MS. ROLFES MOVED THAT THE PROPOSED ORDER IN THE MATTER OF BRIAN K. BEVACQUA, M.D.,
BE AMENDED TO READ AS FOLLOWS:

It is hereby ORDERED:

1. That the application of Brian K. Bevacqua, M.D., for licensure to practice medicine and surgery in the State of Ohio be GRANTED, provided that Dr. Bevacqua's application is otherwise in compliance;
2. Further, that Dr. Bevacqua be REPRIMANDED.
3. Further, that Dr. Bevacqua's certificate to practice medicine and surgery in the State of Ohio shall be subject to the following probationary terms, conditions and limitations for a period of five (5) years:
 - A. Dr. Bevacqua shall obey all federal, state and local laws and all rules governing the practice of medicine in Ohio.
 - B. Dr. Bevacqua shall submit quarterly declarations under penalty of perjury stating whether or not there has been compliance with all the provisions of probation.
 - C. Dr. Bevacqua shall appear in person for interviews before the full Board or its designated representative at six (6) month intervals, or as otherwise directed by the Board.
 - D. Dr. Bevacqua shall undergo reevaluation by the Center for Human Sexuality, University Hospitals of Cleveland, every six (6) months, or as frequently as otherwise directed by the Board, for the purpose of assessing whether or not his behavior presents a risk to patients. Dr. Bevacqua shall ensure that, prior to each personal appearance required under paragraph C, above, a report of the most recent reevaluation has been forwarded to the Board for its prior review.
 - E. In the event that Dr. Bevacqua should leave Ohio for three (3) consecutive months, or reside or practice outside the State, Dr. Bevacqua must notify the State Medical Board in writing of the dates of departure and return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.
 - F. Dr. Bevacqua shall obtain the Board's approval prior to changing his practice to another specialty.
4. Upon successful completion of probation, Dr. Bevacqua's certificate will be



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF JUNE 13, 1991
IN THE MATTER OF BRIAN K. BEVACQUA, M.D.

Page 3

fully restored.

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

DR. AGRESTA SECONDED THE MOTION.

Ms. Rolfes stated that there were two things that bothered her about this case. The first concerned Dr. Bevacqua's testimony that this was his only experience with child pornography. Ms. Rolfes stated that she believes it is rather difficult to even get in touch with someone who knows where to purchase child pornography. She also questioned the coincidence of Dr. Bevacqua's making the purchase at the same time as a government sting.

Ms. Rolfes stated that she is also concerned that Dr. Bevacqua would be involved with this type of material when he has a daughter who is three or four years old at home. Ms. Rolfes stated that such behavior is very inappropriate, and she could not perceive of a young father purchasing child pornography with a toddler in the home.

Ms. Rolfes stated that she wants the Board to have the opportunity to observe Dr. Bevacqua. She continued that it could be that this was a one-time aberration, but the Board has an obligation to observe him in its role of protecting the public. Therefore she would like Dr. Bevacqua to be placed on probation, with reports from the Center for Human Sexuality every six months. Also, should Dr. Bevacqua change his field of practice, the Board should be advised and have input.

Dr. Kaplansky objected to paragraph D restricting Dr. Bevacqua to obtaining psychiatric evaluation from a certain place.

Ms. Rolfes stated that she named the Center for Human Sexuality because that is where Dr. Bevacqua went for his original evaluation.

Dr. Stephens asked where Dr. Bevacqua is working. Dr. Gretter stated that Dr. Bevacqua is currently working in a V.A. hospital, and doesn't even need an Ohio license.

Ms. Rolfes stated that Dr. Bevacqua has indicated that he wants an Ohio license in order to feel that he has been accepted into the community.

Dr. Heidt stated that Dr. Bevacqua's psychiatrist has testified that Dr. Bevacqua is not a pedophile, and has no problem with children. Dr. Heidt noted that this involves a one-time incident with a felony charge. Dr. Bevacqua received a suspended sentence from the courts.



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF JUNE 13, 1991
IN THE MATTER OF BRIAN K. BEVACQUA, M.D.

Page 4

Mr. Bumgarner stated that Dr. Kaplansky's point has validity. He suggested that the Board may wish to add the words, "or such other entity as approved by the Board" to paragraph D.

Ms. Rolfes stated that she understands that Dr. Bevacqua did claim that this was the only time he had engaged in the purchase of child pornography, a felonious act. She noted that the Board's disciplinary guidelines, although not written in stone, list revocation as both the minimum and maximum penalty for a felony conviction. Ms. Rolfes stated that she doesn't think that her proposed order is punitive, but it works to protect the public. Ms. Rolfes stated that she realizes that the psychiatrists have said that Dr. Bevacqua is not a danger, but added that psychiatry is not an exact science. The psychiatrist may have felt that Dr. Bevacqua was incapable of anything further, but she personally has a very uneasy feeling about this case. She again stated that she couldn't perceive the father of a toddler viewing a video of child pornography.

Dr. Gretter noted that the proposed amendment would grant Dr. Bevacqua a license, reprimand him, and then place him on probation. He asked whether a reprimand isn't less than a probation.

Dr. Kaplansky stated that probation is part of the sanction. He stated that he believes the Board can revoke, suspend, or reprimand. Probation can be part of any of those sanctions.

Ms. Rolfes stated that she wants a way for the Board to keep track of Dr. Bevacqua. She stated that the Board is liable for Dr. Bevacqua's actions, and referred to a recent suit filed against the Board for granting Michael Baum a license. She noted that the Board was subsequently exonerated.

Dr. Gretter stated that he doesn't have a problem with the concept of following individuals to assure that they continue to do right. Nor does he have a problem with placing a physician on probation and requiring quarterly declarations. Dr. Gretter wondered whether specific reference towards the facility doing the evaluation every six months is what the Board needs in this case. He also wondered if the Board really needed for Dr. Bevacqua to make appearances before it. Dr. Gretter suggested that declarations and psychiatric follow-up be required annually. Dr. Gretter stated that the Board already has a declaration that Dr. Bevacqua is doing okay now. He stated that he doesn't think the Board wants to be in a position where it becomes punitive in its efforts to follow Dr. Bevacqua. Dr. Gretter stated that, rather than appear before the Board every six months, Dr. Bevacqua should submit declarations of compliance with regard to the psychiatric side of things, at least annually. He should also appear before the Secretary annually.

Mr. Bumgarner stated that the way the amendment is written, Dr. Bevacqua's



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF JUNE 13, 1991
IN THE MATTER OF BRIAN K. BEVACQUA, M.D.

Page 5

appearances could be before the Secretary, the Supervising Member, or other Board designee.

Ms. Rolfes stated that this was a difficult case. She didn't mean to be punitive in her Order, but she does want to protect the public. Ms. Rolfes stated that the Board's ability to keep track of Dr. Bevacqua would do that.

Mr. Bumgarner stated that Dr. Gretter raised a question concerning the proposed reprimand and probation. He noted that there is a felony conviction on the record, which has social impact issues which may warrant a reprimand. Does the record warrant ongoing probationary monitoring? Does the record show the need for it? If so, what should the nature of the monitoring be?

Dr. Heidt stated that this involves a somewhat isolated situation of one purchase, which was sufficient for the charge to be filed. He agreed with Ms. Rolfes that there should be some monitoring, but felt that six months is a little too much. He stated that he would go along with annual appearances.

Ms. Rolfes stated that she just wants the Board to keep an eye on Dr. Bevacqua for a period of time.

DR. GRETTOR MOVED TO AMEND THE PROPOSED AMENDMENT TO DELETE PARAGRAPH B, AND RENUMBER THE FOLLOWING PARAGRAPHS; TO AMEND THE NEW PARAGRAPH B TO REQUIRE APPEARANCES BEFORE THE BOARD OR ITS DESIGNEE AT ONE (1) YEAR INTERVALS, OR AS OTHERWISE DIRECTED BY THE BOARD; AND TO AMEND THE NEW PARAGRAPH C OF THE PROPOSED AMENDMENT TO READ AS FOLLOWS:

Dr. Bevacqua shall annually, or as frequently as otherwise directed by the Board, undergo psychiatric evaluation by a psychiatrist approved in advance by the Board for the purpose of assessing whether or not Dr. Bevacqua's behavior presents a risk to patients. Dr. Bevacqua shall ensure that, prior to each personal appearance required under paragraph B, above, a report of the most recent evaluation has been forwarded to the Board for its prior review.

DR. AGRESTA SECONDED THE MOTION.

Dr. Agresta stated that he agreed that this case does warrant follow-up.

Dr. Kaplansky asked whether the Board should put a specific time frame concerning what "annually" means.

Ms. Rolfes suggested USING the date of the Order.



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF JUNE 13, 1991
IN THE MATTER OF BRIAN K. BEVACQUA, M.D.

Page 6

Mr. Bumgarner stated that fixing a date could cause confusion should appeals be filed.

A roll call vote was taken on Dr. Gretter's motion to amend the amendment:

ROLL CALL VOTE:	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- abstain
	Dr. Kaplansky	- aye
	Dr. Heidt	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

The motion carried.

A roll call vote was taken on Ms. Rolfes' motion, as amended:

ROLL CALL VOTE:	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- abstain
	Dr. Kaplansky	- aye
	Dr. Heidt	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

The motion carried.

DR. GRETTER MOVED TO APPROVE AND CONFIRM MS. FISHEL'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF BRIAN K. BEVACQUA, M.D. DR. HOM SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- abstain
	Dr. Kaplansky	- aye
	Dr. Heidt	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

The motion carried.



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

February 13, 1991

Brian K. Bevacqua, M.D.
3699 Traver Road
Shaker Heights, OH 44122

Dear Doctor Bevacqua:

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 July 12, 1988, you pleaded guilty to one (1) count of Receiving Child Pornography in violation of 18 U.S.C. Section 2252(a)(2), a felony, in the United States District Court for the Middle District of Pennsylvania (a copy of the Indictment and Judgment are attached hereto and fully incorporated herein).

Such acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "a plea of guilty to, or a judicial finding of guilt of, a 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.

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.

Mailed 2/14/91

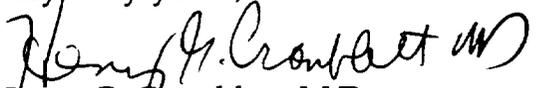
February 13, 1991

Brian K. Bevaequa, M.D.
Page 2

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,


Henry G. Cramblett, M.D.
Secretary

HGC:jmb
Enclosures:

CERTIFIED MAIL #P 569 363 916
RETURN RECEIPT REQUESTED

Wyns Crnal.

JJW:MCS:cfs

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

BRIAN K. BEVACQUA

CR 87-00191
CRIMINAL NO.

I N D I C T M E N T

THE GRAND JURY CHARGES THAT:

COUNT I

That on or about September 14, 1987 at Hershey, in the Middle District of Pennsylvania, the defendant

BRIAN K. BEVACQUA

did knowingly and willfully receive and caused to be received in the United States Mails child pornography, i.e., the visual depiction of a minor engaged in sexually explicit conduct as that term is defined in Title 18, United States Code, Section 2256.

In violation of Title 18, United States Code, Section 2252(a)(2).

A TRUE BILL

John L. Holmes *Oct. 6, 1987*

FOREMAN
Grand Jury

James J. West
JAMES J. WEST
United States Attorney

STATE MEDICAL BOARD
OF OHIO
91 JAN -9 AM 10:25

Certified from the records
Date *October 7, 1987*
Per *Donald R. Berry, Clerk*
Cheryl M. Hill
Clerk

Exhibit A

JUL 14 1988

United States District Court

Middle DISTRICT OF Pennsylvania

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

Brian K. Bevacqua
972 Greenlea Road
Hershey, Pa. 17033

Case Number: CR 87-00191

STATE MEDICAL BOARD
91 JAN - 9 AM 10:25

(Name and Address of Defendant)

James D. Crawford, Esquire
Attorney for Defendant

THE DEFENDANT ENTERED A PLEA OF:

guilty nolo contendere] as to count(s) 1, and
 not guilty as to count(s) _____

FILED
HARRISBURG, PA.

HERE WAS A:

finding verdict] of guilty as to count(s) _____

JUL 12 1988
JNALD R. BERRY, CLERK
DEPUTY CLERK

HERE WAS A:

finding verdict] of not guilty as to count(s) _____
 judgment of acquittal as to count(s) _____

The defendant is acquitted and discharged as to this/these count(s).

THE DEFENDANT IS CONVICTED OF THE OFFENSE(S) OF:

3:2252(a)(2) Receiving Child Pornography Count 1

IT IS THE JUDGMENT OF THIS COURT THAT: the sentence be suspended and we place
Bevacqua on a period of probation for 2 years and fine him the sum of
\$500. During the period of probation the defendant shall conduct himself as
a law-abiding, industrious citizen and shall comply with the general and
special conditions of probation as prescribed by the Court. If he is requested
to do so by his probation officer, Dr. Bevacqua shall provide up to 300 hours
of community service. As a special condition of probation we direct that
Bevacqua successfully complete a program of mental health counselling
as directed by his probation officer. Further, that he pay the fine with
interest as provided by law within the first 6 months of probation. We further
direct that the defendant notify the U.S. Attorney of any change of address
that occurs before his probation has been fulfilled.

In addition to any conditions of probation imposed above, IT IS ORDERED that the conditions of proba-
tion set out on the reverse of this judgment are imposed.