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

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :

:

DAVID B. BAIRD, JR., M.D. :

ENTRY OF ORDER

On November 11, 1992, David B. Baird, Jr., M.D., executed a Voluntary Surrender of his Certificate to practice Medicine and Surgery with a consent to revocation, which document is attached hereto and fully incorporated herein.

In consideration of the foregoing and of Doctor Baird's express waiver of the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board Members vote to revoke said certificate, it is hereby ORDERED that Certificate No. 63410 authorizing David B. Baird, Jr., M.D., to practice medicine and surgery be permanently REVOKED, effective November 21, 1992.

This Order is hereby entered upon the Journal of the State Medical Board for the 2nd Day of December, 1992, and the original thereof shall be kept with said Journal.

Carla S. O'Day MD
Carla S. O'Day, M.D.
Secretary

(SEAL)

12/2/92
Date

verified/es

STATE OF OHIO
THE STATE MEDICAL BOARD

SURRENDER OF CERTIFICATE
TO PRACTICE MEDICINE AND SURGERY

I, DAVID BIRCH BAIRD, JR., 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, DAVID BIRCH BAIRD, JR., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice medicine and surgery, No. 63410, to the State Medical Board of Ohio, thereby relinquishing all rights to practice medicine and surgery in Ohio.

I understand that as a result of the surrender herein that 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 of certificate to practice medicine and surgery No. 63410 or issuance of any other certificate pursuant to Chapters 4730. or 4731., Ohio Revised Code, on or after the date of signing this 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 admit to the factual allegations contained in numbered paragraphs 1, 2, 3, 4, 5, 6 and 7 of the Notice of Opportunity for Hearing dated September 9, 1992, a copy of which is attached and incorporated herein. I further acknowledge that I am aware that I did not request a hearing within the thirty (30) days provided in said Notice.

I hereby authorize the State Medical Board of Ohio to enter upon its Journal an Order revoking my certificate to practice medicine and surgery, No. 63410, 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, DAVID BIRCH BAIRD, JR., hereby release the State Medical Board of Ohio, its members, employees, agents and officers, jointly and severally, from any and all liability arising from the within matter.

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 stipulate and agree that I am taking the action described herein in lieu of further formal disciplinary proceedings pursuant to Sections 4731.22(A), (B)(5), (6), (8) and (18), Ohio Revised Code.

Signed this 11th day of November, 1992.

David B. Baird MD
Signature of Physician

Witness

Witness

Sworn to and subscribed before me this 11th day of November 1992.

Notarial Seal
Betty Lou Godshall, Notary Public
Towanda Boro, Bradford County
My Commission Expires Jan. 10, 1994
Member, Pennsylvania Association of Notaries

Notary Public

SEAL

(This form must be either witnessed OR notarized)

Accepted by the State Medical Board of Ohio:

Carla S. O'Day, M.D.
Secretary
11/21/92
Date

Ronald J. Kaplansky, D.P.M.,
Supervising Member
11/18/92
Date

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

September 9, 1992

David B. Baird, Jr., M.D.
RR #1, Box 155A
Towanda, PA 18848

Dear Doctor Baird:

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 July 9, 1992, the New Jersey State Board of Medical Examiners issued its Final Order (a copy of which is attached hereto and incorporated fully herein) revoking your New Jersey license to practice medicine and surgery effective July 9, 1992.

The New Jersey State Board of Medical Examiners found that your actions clearly constituted adequate basis for disciplinary action pursuant to N.J.S.A. 45:1-21(e) (professional misconduct); N.J.S.A. 45:1-21(i) (incapability of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare); and N.J.S.A. 45:1-21(b) (use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretence) during the period 1982 to 1989.

The Final Order as alleged in paragraph (1) above, individually and/or collectively, constitutes "the limitation, revocation or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that would also have been a violation of this chapter, except for nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Sections 4731.22(B)(5), (6), (8) and (18), Ohio Revised Code.

Mailed 9/11/92

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(2) In your certified submission of February 21, 1992 "Request for Application Forms (Medical or Osteopathic Licensure)" to the State Medical Board of Ohio, you were required to list all states/provinces in the United States and Canada in which you were or had been licensed. You listed licenses in Pennsylvania and New York but failed to list your New Jersey license, which was issued in 1971, and was current at the time of the Ohio application, although formal disciplinary action had been initiated by New Jersey.

(3) You were further instructed to complete a "Medicine or Osteopathic Medicine-Form 4 Verification of License" providing authorization to each state or province of Canada in which you hold or have held licenses, current or not, to verify your licensure status and to forward it to each such state/province for completion and return to the State Medical Board of Ohio as part of the licensure process. You completed Verification of License forms for Pennsylvania and New York on March 4, 1992. You failed to complete a Verification Form for New Jersey, where at that time you held a current license but where formal disciplinary action had been initiated against you by the New Jersey State Board of Medical Examiners.

(4) In the "Resume" section of your sworn, notarized submission of March 10, 1992 "Application for Certification-Medicine or Osteopathic Medicine" to the State Medical Board of Ohio, you were instructed to list <u>all</u> professional activities by month and year and <u>all</u> hospitals where you held or had held privileges. You stated that from July, 1971 to August, 1991, you were at March Air Force Base, Moreno Valley, California. In fact, from at least 1982 until at least November, 1989, you held privileges and were practicing at Shore Memorial Hospital, Somers Point, New Jersey; you held privileges and were in practice at the 22d Medical Group Hospital, March AFB, Moreno Valley, California only during the period September 1990 to August 1991.

(5) In your application to the State Medical Board of Ohio sworn and subscribed to on April 28, 1992, you stated that you had answered all questions in compliance with the instructions. In the "Additional Information" checklist you responded "NO" to question two which asked if you had ever been warned, censured, disciplined or had privileges limited at any hospital. In fact,

according to the Final Order of the New Jersey State Board of Medical Examiners, you were warned by Shore Memorial Hospital, Somers Point, New Jersey on July 5, 1989 that further reports of sexual harassment would result in formal investigation, disciplinary action and a report to the New Jersey Board of Medical Examiners. Further, on August 10, 1989 you signed a statement at Shore Memorial Hospital agreeing to imposition of certain conditions on your practice (including chaperon presence for all hospital visits, notifying the Director of Nursing upon arrival and departure) and that you undergo psychiatric evaluation. Subsequently, your hospital privileges at Shore Memorial Hospital were summarily suspended on September 12, 1989; following restoration of conditional privileges on September 18, 1989 you were re-suspended by Shore Memorial Hospital on November 2, 1989 as a result of your terroristic threat to another physician.

(6) In response to question twelve of the above application of April 28, 1992, which asked, "Have you ever been notified of any investigation concerning you by, or have you ever been notified of, any charges, allegations, or complaints filed against you with, any board...with respect to a professional license?" you responded "NO."

In fact, you were aware of the Complaint by the New Jersey Attorney General and the combined Notice of Hearing and Notice to File Answer, both filed January 29, 1990, which led to the New Jersey State Board of Medical Examiners Final Order of July 9, 1992.

Your acts, conduct, and/or omissions as alleged in paragraphs (2) through (6) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (2) through (6) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

(7) In your 1992 applications for privileges at Bethesda Hospital and Good Samaritan Medical Center, both of Zanesville, Ohio, you were asked to list all states in which you were licensed and all hospitals with which you have been associated. You responded in both applications by listing New York and Pennsylvania but failing to list your New Jersey license which was issued in 1971 and was current at the time of the applications although formal disciplinary action had been initiated.

Further, you failed, on both applications, to list Shore Memorial Hospital, Somers Point, New Jersey where you held privileges at least from 1982 through November 1989.

Your acts, conduct, and/or omissions as alleged in paragraph (7) above, individually and/or collectively, constitutes "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (7) above, individually and/or collectively, constitutes "obtaining of, or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), 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.

September 9, 1992

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Carla S. O'Day, M.D.
Secretary

CSO:jmb

Enclosures:

CERTIFIED MAIL #P 055 328 540
RETURN RECEIPT REQUESTED

FILED

July 16, 1992

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

EFFECTIVE

July 9, 1992
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

In the Matter of the Suspension or Revocation of the License of DAVID B. BAIRD, M.D. To Practice Medicine and Surgery In the State of New Jersey	Administrative Action FINAL ORDER

This matter was opened before the New Jersey State Board of Medical Examiners (the "Board") upon the filing of a complaint on January 29, 1990 by Robert J. Del Tufo, Attorney General of New Jersey, seeking the suspension or revocation of the license of respondent David B. Baird, M.D. to practice medicine and surgery in New Jersey. The complaint generally charged Dr. Baird with having committed numerous inappropriate sexual actions, including engaging in sexual harassment and inappropriately touching co-workers at Shore Memorial Hospital ("SMH"), and with having entered into a sexual relationship with a patient (J.B.), within a week after having performed surgery to remove J.B.'s breast tissue and lymph nodes (and with having made sexual advances while J.B. was still hospitalized). The complainant alleged that psychiatric and psychological examinations performed upon Dr. Baird had suggested that Dr. Baird should not be allowed to have any unchaperoned contact with patients and that he was in need of a lengthy period of therapy. In addition to sexual misconduct, the complaint included allegations that Dr. Baird had submitted fraudulent bills to

"CERTIFIED TRUE COPY"

insurance carriers, made terroristic threats against another physician, and improperly requested patient J.B. to write exculpatory letters for him (to SMH and to this Board) after she had terminated their relationship.

This matter was initially referred to the Office of Administrative Law and a hearing was scheduled to commence in March, 1991. The initial hearing, however, was adjourned without date because Dr. Baird was in the Persian Gulf treating U.S. military personnel. Thereafter, the matter was rescheduled for hearing before the Office of Administrative Law in March, 1992, however prior thereto Dr. Baird decided that he would not appear and that he would not contest the charges in the complaint. Accordingly, the matter was returned to the Board and scheduled for a hearing limited to the issue of penalty to be imposed and possible mitigation thereof.

On June 10, 1992, neither respondent nor counsel for respondent appeared for the scheduled hearing in this matter. Brenda Talbot Lewis, Deputy Attorney General, appeared for complainant Attorney General. The only evidence entered into the record was a letter dated January 17, 1992 from Dr. Baird to counsel Stephen C. Rubino, Esq. (S-1); therein, Dr. Baird stated that he had decided "not to pursue the license issue through the court", listed several factors that had entered into his decision and described some of the hardships that had befallen him as a result of the incidents enumerated in the complaint.

Findings of Fact and Conclusions of Law

Given that Dr. Baird has not contested the allegations in the Attorney General's complaint, we accept as true all allegations set forth therein. It is thus uncontradicted that, on January 11, 1989, Dr. Baird operated on patient J.B., who had breast cancer, to remove lymph nodes and breast tissue. During her one week stay in the hospital following that operation, Dr. Baird began making sexual advances to J.B. (including kissing her, rubbing her leg, and telling her that he would like to make love to her). On January 17, 1989 (the day J.B. was to leave the hospital), Dr. Baird kissed J.B.'s breast and asked her to touch his penis.

On January 23, 1989, Dr. Baird began having sexual intercourse with J.B., and continued having sexual relations with J.B. for approximately four months until J.B. ended the relationship. On four occasions, Dr. Baird had intercourse with J.B. in his office, and proceeded to bill J.B.'s insurance companies for those visits. After J.B. ended the relationship, Dr. Baird continued to call J.B. at home and at her job. On at least one occasion, he offered to pay for breast reconstruction surgery after J.B. completed chemotherapy; on several occasions, Dr. Baird telephoned J.B. and asked her to write exculpatory letters (to both SMH and this Board) stating either that he had given her emotional support or that their relationship had been strictly professional. Months after the relationship had ended, Dr. Baird maintained a belief that both he and J.B. "were guilty

parties, not just me".

In addition to the allegations concerning Dr. Baird's sexual relationship with patient J.B., the complaint details at length Dr. Baird's difficulties at SMH, tracing back to 1982. Beginning in 1982 and continuing through December, 1988, Dr. Baird repeatedly made sexual advances and sexual comments to, and otherwise sexually harassed, female employees at SMH. That conduct eventually precipitated a meeting between Dr. Baird and staff members on July 5, 1989; at that time, Dr. Baird was warned that further reports of similar behavior would result in formal investigation, disciplinary action and a report to this Board. Notwithstanding knowledge of the serious potential ramifications of his actions, Dr. Baird continued to engage in sexually inappropriate behavior. Within a month, another hospital employee complained that Dr. Baird was inappropriately touching her, making inappropriate comments of a sexual nature and repeated advances.

On August 10, 1989, Dr. Baird signed a statement wherein he agreed to the imposition of certain conditions on his practice (including chaperon presence for all patient visits and requirements that he notify the Director of Nursing upon his arrival at and departure from the hospital) and to undergo psychiatric evaluation. Notwithstanding his signed agreement, on numerous occasions between September 8 and September 14, 1989, Dr. Baird failed to be accompanied by a chaperon and failed to give notice of his arrival at the hospital. Dr. Baird's

privileges at SMH were summarily suspended on September 12, 1989; on September 18, 1989, however, Dr. Baird appeared before a Medical Staff Executive Committee and claimed that he was willing to abide with all previously imposed conditions. He was then again allowed to resume practice at SMH (with the previously imposed conditions), however within five weeks he failed to comply with the conditions yet another time. On November 2, 1989, Dr. Baird made terroristic threats to another physician with whom he had an argument, and his privileges were re-suspended.[1]

Upon review of the uncontradicted allegations of the complaint, we find that Dr. Baird's actions clearly constitute adequate bases for disciplinary action pursuant to N.J.S.A. 45:1-21 (e) (professional misconduct), N.J.S.A. 45:1-21 (i) (incapability of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare) and N.J.S.A. 45:1-21 (b) (use or employment of dishonesty, fraud,

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[1] The complaint also recounts several occasions on which Dr. Baird admitted that he had sexual relations with J.B., admitted that the allegations of co-workers and patients were essentially true and admitted that his behavior was inappropriate. Additionally, the complaint details the results of certain psychiatric and psychological evaluations that were performed upon Dr. Baird. We note that Dr. James M. Pedigo, the psychiatrist who evaluated Dr. Baird, commented on October 23, 1989 that Dr. Baird "has almost no idea of what he's doing that gets him into trouble" and then recommended further treatment. Similarly, within a report of psychological evaluation dated January 9, 1990, Lawrence Byrne, M.Ed. stated that Dr. Baird had "some problems of narcissism and egocentrism, in which he often lacks insight concerning the impact of his interpersonal behavior". Mr. Byrne too concluded that Dr. Baird would require a lengthy period of therapy.

deception, misrepresentation, false promise or false pretense). Specifically, we find that Dr. Baird has, since at least 1982, repeatedly engaged in inappropriate sexual misconduct, both in his relationship with patient J.B. and in his long history of demonstrated harassing behavior at SMH. With regard to the relationship with patient J.B., we find that Dr. Baird inexcusably abused and misused the trust placed in him as a physician, taking advantage of patient J.B.'s vulnerability while she was recovering from an operation that he performed to remove breast tissue and lymph nodes. We additionally find that, by continuing to beseech J.B. to write exculpatory letters on his behalf denying that sexual relations occurred, Dr. Baird only further harassed J.B. and augmented the impropriety of his misconduct.

In addition to our findings that Dr. Baird engaged in inexcusable sexual misconduct, we find additional grounds for disciplinary action exist based upon Dr. Baird's clearly fraudulent submission of insurance claims for office visits to J.B.'s insurance carrier, when the purpose of those visits was only to have sexual intercourse with J.B.

Based upon the above findings, we have concluded that Dr. Baird's license to practice medicine and surgery must be revoked. We find that Dr. Baird has irreparably abused the trust placed upon him as a physician. Further, we are convinced that nothing short of absolute revocation could adequately protect the public health, safety and welfare, given Dr. Baird's long-

standing history of repeated failures to comply with conditions placed upon his practice and given the extant recommendations concerning Dr. Baird's need for lengthy psychotherapy.

WHEREFORE, it is on this 9 day of July, 1992

ORDERED:

The license of respondent David B. Baird to practice medicine and surgery in the State of New Jersey is hereby revoked.

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By: [signature]
Sanford M. Lewis, M.D.
Board President