



STATE MEDICAL BOARD OF OHIO

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

March 11, 1994

Paul E. Morentz, M.D.
41 S. 20th Street
Richmond, Indiana 47374

Dear Doctor Morentz:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on March 9, 1994, including a Motion 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 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

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

CS0:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 741 123 982
RETURN RECEIPT REQUESTED

cc: Kevin P. Byers, Esq.

CERTIFIED MAIL NO. P 741 123 983
RETURN RECEIPT REQUESTED

Mailed 3-16-94



STATE MEDICAL BOARD OF OHIO

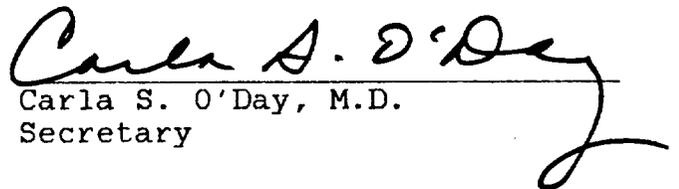
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CERTIFICATION

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 Wanita J. Sage, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on March 9, 1994, including a Motion approving and confirming the Report and Recommendation 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 Paul E. Morentz, 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)


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

3-10-94
Date



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

*

*

PAUL E. MORENTZ, M.D.

*

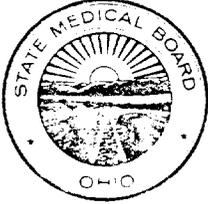
ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 9th day of March, 1994.

Upon the Report and Recommendation of Wanita J. Sage, 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 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:

1. The application of Paul E. Morentz, M.D., to practice medicine and surgery in the State of Ohio shall be GRANTED, subject to his submission of all appropriate documentation.
2. Dr. Morentz' certificate to practice medicine and surgery in Ohio shall be permanently LIMITED and RESTRICTED as follows: Dr. Morentz shall not prescribe, order, dispense, or administer controlled substances and/or dangerous drugs (as defined by Section 4729.02(D), Ohio Revised Code) for any individual who is not a patient of his and for whom he has not provided a good-faith prior examination and established medical indication for the medication.
3. Within one (1) year of the effective date of this Order, Dr. Morentz shall provide acceptable documentation of his successful completion of a course or courses dealing with the prescribing of controlled substances and issues of drug abuse, addiction, and diversion. Such course or courses are to be approved in advance by the Board or its designee. It shall be Dr. Morentz' responsibility to select and submit appropriate courses for Board approval. Such courses shall be in addition to the continuing medical education requirements for relicensure.



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Paul E. Morentz, M.D.

4. In the event that Dr. Morentz fails to comply with the requirements set forth in paragraphs 2 and/or 3, above, the Board, after giving Dr. Morentz notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate to practice.

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

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

(SEAL)

3-10-94
Date

STATE MEDICAL BOARD
OF OHIO

REPORT AND RECOMMENDATION
IN THE MATTER OF PAUL E. MORENTZ, M.D. 93 DEC 29 AM 11:52

The Matter of Paul E. Morentz, M.D., came on for hearing before me, Wanita J. Sage, Esq., Hearing Examiner for the State Medical Board of Ohio, on November 22, 1993.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter of August 11, 1993 (State's Exhibit #1), the State Medical Board notified Paul E. Morentz, M.D., that it proposed to take disciplinary action against or to refuse to register or reinstate his certificate to practice medicine and surgery in Ohio. On or about October 19, 1992, the State Medical Board received Dr. Morentz' application for a certificate to practice medicine and surgery. The Board alleged that, on or about May 16, 1989, Dr. Morentz pled guilty in the United States District Court of Northern California to one count of dispensing controlled substances without a written or oral prescription, a misdemeanor in violation of Section 842(a)(1), Title 21, United States Code. Such guilty plea was alleged to constitute "a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code; "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/or "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(E), Ohio Administrative Code. Dr. Morentz was advised of his right to request a hearing in this Matter.
- B. By letter received by the State Medical Board on August 30, 1993 (State's Exhibit #2), Kevin P. Byers, Esq., requested a hearing on behalf of Dr. Morentz.

II. Appearances

- A. On behalf of the State of Ohio: Lee I. Fisher, Attorney General, by Lili C. Kaczmarek, Assistant Attorney General
- b. On behalf of the Respondent: Kevin P. Byers, Esq.

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III. Testimony Heard

A. Presented by the State

No witnesses were presented.

B. Presented by the Respondent

Paul E. Morentz, M.D.

IV. Exhibits Examined

In addition to State's Exhibits #1 and #2, noted above, the following exhibits were identified and admitted into evidence in this Matter:

A. Presented by the State

1. State's Exhibit #3: September 10, 1993, letter to Kevin P. Byers, Esq., from the State Medical Board, advising that a hearing initially set for September 13, 1993, was postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit #4: September 14, 1993, letter to Attorney Byers from the State Medical Board, scheduling the hearing for November 18, 1993.
3. State's Exhibit #5: State's September 30, 1993, motion for continuance.
4. State's Exhibit #6: October 12, 1993, Entry granting the State's motion for continuance and rescheduling the hearing for November 22, 1993.
5. State's Exhibit #7: Accusation against Dr. Morentz, filed with the Medical Board of California on or about August 31, 1990.
6. State's Exhibit #8: Stipulation for settlement signed by Dr. Morentz in or around March, 1991; and June 6, 1991, Decision of the Medical Board of California, adopting the stipulation for settlement as its decision to become effective on July 6, 1991.
7. State's Exhibit #9: Bill of Information filed in the United States District Court, Northern District of California, on March 17, 1989, charging Dr. Morentz with violation of Section 842(a)(1), Title 21, United States Code, Dispensing Controlled Substances Without Written or Oral Prescription, a misdemeanor.

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8. State's Exhibit #10: Judgment Entry filed in the United States District Court, Northern District of California, on May 16, 1989, convicting Dr. Morentz, pursuant to his plea of guilty, of dispensing controlled substances without written or oral prescription, a misdemeanor violation of Section 842(a)(1), Title 21, United States Code, and imposing a sentence of probation for two years.
9. State's Exhibit #11: Dr. Morentz' completed Request for Application Forms, received by the State Medical Board on August 13, 1992.
10. State's Exhibit #12: Dr. Morentz' licensure application and related documents, received by the State Medical Board on October 19, 1992.

B. Presented by the Respondent

1. Respondent's Exhibit A: Curriculum vitae of Paul E. Morentz, M.D.
2. Respondent's Exhibit B: November 9, 1993, letter from Mary DeNardo, M.D., in support of Dr. Morentz' application for Ohio licensure.
3. Respondent's Exhibit C: November 10, 1993, letter from Edgar Brichta, M.D., in support of Dr. Morentz' application for Ohio licensure.
4. Respondent's Exhibit D: September 21, 1990, letter to Dr. Morentz from Sheralynn A. Irving, U.S. Probation Officer, indicating that she would advocate for him with the Medical Board of California.
5. Respondent's Exhibit E: November 26, 1990, letter to the Medical Board of California from Velma Alcorn, Hospital Administrator at California Medical Facility, Vacaville, on behalf of Dr. Morentz.
6. Respondent's Exhibit F: September 3, 1992, letter to the Governor of Indiana from Wayne D. Brazil, United States Magistrate, United States District Court, Northern District of California, on behalf of Dr. Morentz.
7. Respondent's Exhibit G: August 27, 1992, memorandum to Wayne D. Brazil, United States Magistrate, from Sheralynn A. Irving, U.S. Probation Officer, recommending that Judge Brazil write to the Governor of Indiana endorsing Dr. Morentz' appointment to the position of staff psychiatrist at Richmond State Hospital.

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8. Respondent's Exhibit H: December 4, 1990, Order of the United States District Court, Northern District of California, terminating Dr. Morentz' probation.
9. Respondent's Exhibit I: October 5, 1992, Order of the Controlled Substance Advisory Committee, granting Dr. Morentz' application for an Indiana controlled substance registration.
10. Respondent's Exhibit J: November 17, 1993, letter from Kenneth S. Shepard, M.D., in support of Dr. Morentz' application for Ohio licensure.

V. Other Matters

Upon the Respondent's request, the record in this Matter was held open until November 29, 1993, for the receipt of Respondent's Exhibit J. That Exhibit was admitted upon receipt, pursuant to an at-hearing ruling.

FINDINGS OF FACT

1. By Bill of Information filed in the United States District Court, Northern District of California, on March 17, 1989, Paul E. Morentz, M.D., was charged with one misdemeanor count of knowingly dispensing Schedule III and IV controlled substances without written or oral prescription, in violation of Section 842(a)(1), Title 21, United States Code. This conduct was alleged to have occurred on August 7, 1987.

On or about May 16, 1989, pursuant to his plea of guilty, Dr. Morentz was convicted of that offense as charged. He was placed on probation for a period of two years.

On December 4, 1990, the United States District Court, Northern District of California, ordered that Dr. Morentz' probation be terminated, discharging him from probation five months early.

These facts are established by State's Exhibits #9 and #10 and Respondent's Exhibit H.

2. In August, 1990, an Accusation was filed against Dr. Morentz with the Medical Board of California, proposing disciplinary action based upon his misdemeanor conviction and the acts underlying it. In or around March, 1991, Dr. Morentz entered into a Stipulation for Settlement, which was adopted by the Medical Board of California in June, 1991.

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Among other things, Dr. Morentz stipulated that he was subject to disciplinary action in California for unprofessional conduct, in that he pled guilty to and was convicted of the federal misdemeanor charge of dispensing controlled substances without written or oral prescriptions. Dr. Morentz admitted that he had dispensed controlled substances to 12 individuals who were not patients of his. Via paragraph 9 of the Stipulation for Settlement, Dr. Morentz stated in mitigation that: his misdemeanor conviction was for allowing his co-workers to order Schedule III and IV controlled substances at wholesale prices through him; in many cases, the medications had previously been prescribed by a doctor, but Dr. Morentz did not require a current prescription; Dr. Morentz' motive was not to make a profit for himself, but to pass along discount prices to his co-workers; and there were no instances of drug abuse or physical harm to any individual as a result of his conduct.

The California Board agreed that its disciplinary action against Dr. Morentz would be limited to a public reprimand. Its Decision became effective on July 6, 1991.

These facts are established by State's Exhibits #7 and #8.

3. On or about October 19, 1992, Dr. Morentz applied for a certificate to practice medicine and surgery in Ohio. In his application, he fully disclosed both his federal misdemeanor conviction and the California Board's action.

This fact is established by State's Exhibit #12.

4. According to Dr. Morentz, the conduct that led to his federal misdemeanor conviction started when he worked at the Veteran's Administration Hospital in Martinez, California, where he served as chief psychiatrist from 1966 to 1974, and carried over into his employment at the Veteran's Administration Outpatient Clinic in Oakland, California, where he served as a staff physician from 1974 until his retirement from the Veteran's Administration in 1988. Dr. Morentz stated that his post-menopausal secretary at the VA Hospital in Martinez was purchasing estrogen, which was expensive. It was available to him for a tiny fraction of what it cost her, so he started buying it for her. Other hospital employees heard about this arrangement, and Dr. Morentz started buying medications for them. Dr. Morentz testified that these individuals would bring in their prescriptions, and he would order the medications. Although he further testified that he looked at the prescriptions to satisfy

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himself that they were for legitimate, long-term medications prescribed by a physician, Dr. Morentz' California stipulations (State's Exhibit #8) indicated that he did not require his co-workers to present current prescriptions. Dr. Morentz testified that he ordered non-controlled medications, such as blood pressure medications and over-the-counter medications, as well as Schedule III and Schedule IV controlled substances, for his co-workers. Although Dr. Morentz claimed that he turned away people who wanted diet pills, because he didn't think such drugs worked, his California stipulations indicated that he furnished phentermine, a Schedule IV anorexiant or diet medication, for at least one individual (see State's Exhibit #7, paragraph 10, stipulated as true and accurate in State's Exhibit #8).

Dr. Morentz stated that he had not realized that his furnishing medications for his co-workers was against the law until he was confronted by FBI agents. He had believed that it was legal because he was not making a profit or trying to give anyone something that wasn't needed.

These facts are established by the testimony of Dr. Morentz (Tr. at 12-29, 41-44), State's Exhibits #7 and #8, and Respondent's Exhibit A.

5. By the time he was convicted in 1989, Dr. Morentz was employed at the California Medical Facility in Vacaville, California. He told the hospital administration about his conviction, and remained there as chief psychiatrist until January, 1992, when he collapsed at his desk. After undergoing heart surgery in February, 1992, he decided that he did not want to return to his position at the California Medical Facility because of the high stress involved in meeting court-imposed mandates for inmate care without being provided adequate resources.

In June, 1992, Dr. Morentz moved to Richmond, Indiana. Despite his federal misdemeanor conviction, he obtained an Indiana medical license and controlled substance registration. However, he encountered a delay with the Governor's approving his appointment at Richmond State Hospital. Before that approval was obtained, Dr. Morentz accepted a position in Ohio at the Marysville Reformatory for Women. The position is being held open for him pending a decision on his Ohio licensure application.

Dr. Morentz currently resides in Richmond, Indiana, and performs mental status evaluations on a contract basis for the Social Security Administration and Medicaid. He has maintained his continuing medical education requirements.

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These facts are established by the testimony of Dr. Morentz (Tr. at 12-24, 35-40), State's Exhibit #12, and Respondent's Exhibits E, F, G and I.

- 6. Various letters submitted on behalf of Dr. Morentz indicated that he was held in high regard by his former colleagues at the California Medical Facility in Vacaville.

These facts are established by Respondent's Exhibits B, C, E, and J.

CONCLUSIONS

As set forth in the above Findings of Fact, Paul E. Morentz, M.D., pled guilty to a federal misdemeanor charge of dispensing controlled substances without a written or oral prescription. Such plea of guilty constitutes:

- A. "(A) plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code;
- B. "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/or
- C. "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(E), Ohio Administrative Code, which states, "A physician shall obey all applicable provisions of sections 3719.06, 3719.07, 3719.08 and 3719.13 of the Revised Code, and all applicable provisions of federal law governing the possession, distribution, or use of controlled substances."

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Dr. Morentz ordered and dispensed controlled substances for co-workers, who were not his patients, to give them the benefit of discount prices. Though he appeared to minimize this fact when he testified before the Ohio Board, Dr. Morentz admitted to the California Board that he did not require his co-workers to bring him current prescriptions before he

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obtained controlled substances for them. By such practice, which began prior to 1974 and continued to at least 1987, Dr. Morentz obviously created a situation potentially conducive to drug abuse and diversion. His unprofessional conduct cannot be condoned. At best, it suggests ignorance, not only of the law, but also of the potential dangers of providing individuals with abusable drugs upon request. Nevertheless, this Board may wish to consider in mitigation that Dr. Morentz' conduct apparently arose from his desire to help his co-workers, rather than from any selfish or dishonest motive. As a result of his illegal acts, Dr. Morentz has already served 19 months of probation with a federal court in California, and has been reprimanded by the Medical Board of California. He was forthright in disclosing his conviction and the California Board's action in his licensure application. While it is likely that Dr. Morentz has learned his lesson, non-punitive, remedial measures may be in order as a precaution against similar lapses of judgment following his licensure to practice medicine in Ohio.

PROPOSED ORDER

It is hereby ORDERED that:

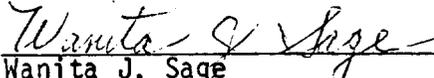
1. The application of Paul E. Morentz, M.D., to practice medicine and surgery in the State of Ohio shall be GRANTED, subject to his submission of all appropriate documentation.
2. Dr. Morentz' certificate to practice medicine and surgery in Ohio shall be permanently LIMITED and RESTRICTED as follows: Dr. Morentz shall not prescribe, order, dispense, or administer controlled substances and/or dangerous drugs (as defined by Section 4729.02(D), Ohio Revised Code) for any individual who is not a patient of his and for whom he has not provided a good-faith prior examination and established medical indication for the medication.
3. Within one (1) year of the effective date of this Order, Dr. Morentz shall provide acceptable documentation of his successful completion of a course or courses dealing with the prescribing of controlled substances and issues of drug abuse, addiction, and diversion. Such course or courses are to be approved in advance by the Board or its designee. It shall be Dr. Morentz' responsibility to select and submit appropriate courses for Board approval. Such courses shall be in addition to the continuing medical education requirements for relicensure.

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4. In the event that Dr. Morentz fails to comply with the requirements set forth in paragraphs 3 and/or 4, above, the Board, after giving Dr. Morentz notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate to practice.

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



Wanita J. Sage
Attorney Hearing Examiner



STATE MEDICAL BOARD OF OHIO

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EXCERPT FROM THE MINUTES OF MARCH 9, 1994

REPORTS AND RECOMMENDATIONS

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Dr. Heidt 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: Mireya A. Francis-Carvajal, M.D.; Melvin W. Cohen, M.D.; Kemmes Keys, M.D.; Thomas M. Lehman, M.D.; Paul E. Morentz, M.D.; John T. Namey, Jr., D.O.; and Hyman David Sacks, D.O. A roll call was taken:

ROLL CALL:	Dr. O'Day	- aye
	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Agresta	- aye
	Dr. Stephens	- aye
	Dr. Buchan	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Heidt	- aye

Dr. Heidt 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:	Dr. O'Day	- aye
	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Agresta	- aye
	Dr. Stephens	- aye
	Dr. Buchan	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Heidt	- aye

.....



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EXCERPT FROM THE MINUTES OF MARCH 9, 1994
IN THE MATTER OF PAUL E. MORENTZ, M.D.

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Dr. Heidt asked Ms. Noble whether she had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Mireya A. Francis-Carvajal, M.D.; Melvin W. Cohen, M.D.; Kemmes Keys, M.D.; Thomas M. Lehman, M.D.; Paul E. Morentz, M.D.; John T. Namey, Jr., D.O.; and Hyman David Sacks, D.O. Ms. Noble indicated that she had.

Dr. Heidt asked Ms. Noble 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. Ms. Noble indicated that she does understand.

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REPORT AND RECOMMENDATION IN THE MATTER OF PAUL E. MORENTZ, M.D.

.....

DR. GARG MOVED TO APPROVE AND CONFIRM MS. SAGE'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF PAUL E. MORENTZ, M.D. DR. STEINBERGH SECONDED THE MOTION.

.....

A roll call vote was taken on Dr. Garg's motion to approve and confirm:

ROLL CALL VOTE:	Dr. O'Day	- abstain
	Mr. Albert	- abstain
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Agresta	- aye
	Dr. Stephens	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Mr. Sinnott	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried..

CROSS REFERENCES

RC 4731.05, Administrative procedure act applies; executive director; training of investigators

RC 4731.22, Grounds for refusal to grant and revocation of certificate; hearing and investigation; report; medical examinations; summary or automatic suspension

4731-11-02 General provisions

(A) A physician shall not utilize a controlled substance other than in accordance with all of the provisions of this chapter of the Administrative Code.

(B) Any other provisions of this chapter of the Administrative Code notwithstanding, a physician may utilize the schedule II controlled substance cocaine hydrochloride only as a topical anesthetic for mucous membranes in surgical situations in which it is properly indicated.

(C) A physician shall not utilize a controlled substance without taking into account the drug's potential for abuse, the possibility the drug may lead to dependence, the possibility the patient will obtain the drug for a nontherapeutic use or to distribute to others, and the possibility of an illicit market for the drug.

(D) A physician shall complete and maintain accurate medical records reflecting his examination, evaluation, and treatment of all his patients. Patient medical records shall accurately reflect the utilization of any controlled substances in the treatment of a patient and shall indicate the diagnosis and purpose for which the controlled substance is utilized, and any additional information upon which the diagnosis is based.

(E) A physician shall obey all applicable provisions of sections 3719.06, 3719.07, 3719.08 and 3719.13 of the Revised Code, and all applicable provisions of federal law governing the possession, distribution, or use of controlled substances.

(F) A violation of any provision of this rule, as determined by the board, shall constitute "failure to use reasonable care discrimination in the administration of drugs," as that clause is used in division (B)(2) of section 4731.22 of the Revised Code; and "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 division (B)(6) of section 4731.22 of the Revised Code. A violation of paragraph (B) of this rule shall further constitute [sic] "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section 4731.22 of the Revised Code. A violation of paragraph (C) of this rule, if committed purposely, knowingly, or recklessly, as those words are defined in section 2901.22 of the Revised Code, shall further constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section 4731.22 of the Revised Code.

HISTORY: Eff. 11-17-86 (1986-87 OMR 649)

CROSS REFERENCES

RC 4731.05, Administrative procedure act applies; executive director; training of investigators

RC 4731.22, Grounds for refusal to grant and revocation of certificate; hearing and investigation; report; medical examinations; summary or automatic suspension

4731-11-03 Schedule II controlled stimulants

(A) A physician shall not utilize a schedule II controlled stimulant for any purpose except:

- (1) The treatment of narcolepsy;
- (2) The treatment or abnormal behavioral syndrome (attention deficit disorder, hyperkinetic syndrome), and/or related disorders of childhood;
- (3) The treatment of drug-induced brain dysfunction;
- (4) The differential diagnostic psychiatric evaluation of depression;
- (5) The treatment of depression shown to be refractory to other therapeutic modalities, including pharmacologic approaches, such as tricyclic antidepressants and MAO inhibitors;

(6) As adjunctive therapy in the treatment of chronic severe pain or chronic severe pain accompanied by depression, in the terminal stages of diseases which are accompanied by severe pain;

(7) The clinical investigation of the effects of such drugs, in which case the physician shall submit to the board a written investigative protocol for its review and approval before the investigation has begun. The investigation shall be conducted in strict compliance with the investigative protocol, and the physician shall, within sixty days following the conclusion of the investigation, submit to the board a written report detailing the findings and conclusions of the investigation.

(B) A physician shall not utilize a schedule II controlled stimulant for purposes of weight reduction or control.

(C) A physician may utilize a schedule II controlled stimulant when properly indicated for any purpose listed in paragraph (A) of this rule, provided that all of the following conditions are met:

(1) Before initiating treatment utilizing a schedule II controlled stimulant, the physician obtains a thorough history, performs a thorough physical examination of the patient, and rules out the existence of any recognized contraindications to the use of the controlled stimulant to be utilized.

(2) The physician shall not utilize any schedule II controlled stimulant when he knows or has reason to believe that a recognized contraindication to its use exists.

(3) The physician shall not utilize any schedule II controlled stimulant in the treatment of a patient who he knows or should know is pregnant.

(4) The physician shall not initiate or shall discontinue utilizing all controlled stimulants immediately upon ascertaining or having reason to believe that the patient has a history of or shows a propensity for alcohol or drug abuse, or that the patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions.



STATE MEDICAL BOARD OF OHIO

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

August 11, 1993

Paul E. Morentz, M.D.
41 S. 20th Street
Richmond, IN 47374

Dear Doctor Morentz:

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 October 19, 1992, the State Medical Board received your application for a certificate to practice medicine and surgery.
- (2) On or about May 16, 1989, you pleaded guilty in the United States District Court of Northern California to one (1) count of dispensing controlled substances without a written or oral prescription, a misdemeanor, in violation of Title 21 U.S.C. Section 842(a)(1).

Your plea of guilty as alleged in paragraph (2) above constitutes "a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

Further, your plea of guilty as alleged in paragraph (2) above constitutes "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, your plea of guilty as alleged in paragraph (2) above constitutes "(v)iolating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(E), Ohio Administrative 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.

Mailed 8/12/93

August 11, 1993

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,

A handwritten signature in black ink that reads "Carla S. O'Day M.D." with a stylized flourish at the end.

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

CSO:jmb

Enclosures:

CERTIFIED MAIL #P 348 885 266
RETURN RECEIPT REQUESTED

CROSS REFERENCES

RC 4731.05, Administrative procedure act applies; executive director; training of investigators

RC 4731.22, Grounds for refusal to grant and revocation of certificate; hearing and investigation; report; medical examinations; summary or automatic suspension

4731-11-02 General provisions

(A) A physician shall not utilize a controlled substance other than in accordance with all of the provisions of this chapter of the Administrative Code.

(B) Any other provisions of this chapter of the Administrative Code notwithstanding, a physician may utilize the schedule II controlled substance cocaine hydrochloride only as a topical anesthetic for mucous membranes in surgical situations in which it is properly indicated.

(C) A physician shall not utilize a controlled substance without taking into account the drug's potential for abuse, the possibility the drug may lead to dependence, the possibility the patient will obtain the drug for a nontherapeutic use or to distribute to others, and the possibility of an illicit market for the drug.

(D) A physician shall complete and maintain accurate medical records reflecting his examination, evaluation, and treatment of all his patients. Patient medical records shall accurately reflect the utilization of any controlled substances in the treatment of a patient and shall indicate the diagnosis and purpose for which the controlled substance is utilized, and any additional information upon which the diagnosis is based.

(E) A physician shall obey all applicable provisions of sections 3719.06, 3719.07, 3719.08 and 3719.13 of the Revised Code, and all applicable provisions of federal law governing the possession, distribution, or use of controlled substances.

(F) A violation of any provision of this rule, as determined by the board, shall constitute "failure to use reasonable care discrimination in the administration of drugs," as that clause is used in division (B)(2) of section 4731.22 of the Revised Code; and "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 division (B)(6) of section 4731.22 of the Revised Code. A violation of paragraph (B) of this rule shall further constitute *[sic]* "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section 4731.22 of the Revised Code. A violation of paragraph (C) of this rule, if committed purposely, knowingly, or recklessly, as those words are defined in section 2901.22 of the Revised Code, shall further constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section 4731.22 of the Revised Code.

HISTORY: Eff. 11-17-86 (1986-87 OMR 649)

CROSS REFERENCES

RC 4731.05, Administrative procedure act applies; executive director; training of investigators

RC 4731.22, Grounds for refusal to grant and revocation of certificate; hearing and investigation; report; medical examinations; summary or automatic suspension

4731-11-03 Schedule II controlled stimulants

(A) A physician shall not utilize a schedule II controlled stimulant for any purpose except:

- (1) The treatment of narcolepsy;
 - (2) The treatment or abnormal behavioral syndrome (attention deficit disorder, hyperkinetic syndrome), and/or related disorders of childhood;
 - (3) The treatment of drug-induced brain dysfunction;
 - (4) The differential diagnostic psychiatric evaluation of depression;
 - (5) The treatment of depression shown to be refractory to other therapeutic modalities, including pharmacologic approaches, such as tricyclic antidepressants and MAO inhibitors;
 - (6) As adjunctive therapy in the treatment of chronic severe pain or chronic severe pain accompanied by depression, in the terminal stages of diseases which are accompanied by severe pain;
 - (7) The clinical investigation of the effects of such drugs, in which case the physician shall submit to the board a written investigative protocol for its review and approval before the investigation has begun. The investigation shall be conducted in strict compliance with the investigative protocol, and the physician shall, within sixty days following the conclusion of the investigation, submit to the board a written report detailing the findings and conclusions of the investigation.
- (B) A physician shall not utilize a schedule II controlled stimulant for purposes of weight reduction or control.

(C) A physician may utilize a schedule II controlled stimulant when properly indicated for any purpose listed in paragraph (A) of this rule, provided that all of the following conditions are met:

(1) Before initiating treatment utilizing a schedule II controlled stimulant, the physician obtains a thorough history, performs a thorough physical examination of the patient, and rules out the existence of any recognized contraindications to the use of the controlled stimulant to be utilized.

(2) The physician shall not utilize any schedule II controlled stimulant when he knows or has reason to believe that a recognized contraindication to its use exists.

(3) The physician shall not utilize any schedule II controlled stimulant in the treatment of a patient who he knows or should know is pregnant.

(4) The physician shall not initiate or shall discontinue utilizing all controlled stimulants immediately upon ascertaining or having reason to believe that the patient has a history of or shows a propensity for alcohol or drug abuse, or that the patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions.