



State Medical Board of Ohio

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December 14, 2005

Richard Daniel Price, M.D., M.P.H.
5312 Meadow Garden Lane
Birmingham, AL 35242

Dear Doctor Price:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 14, 2005, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7002 2410 0002 3141 5028
RETURN RECEIPT REQUESTED

Cc: James M. McGovern, Esq.
CERTIFIED MAIL NO. 7002 2410 0002 3141 5004
RETURN RECEIPT REQUESTED

Mailed 12-16-05

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 14, 2005, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Richard Daniel Price, M.D., M.P.H., 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)



Lance A. Talmage, M.D.
Secretary

December 14, 2005

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

RICHARD DANIEL PRICE, M.D., M.P.H. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on December 14, 2005.

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

It is hereby ORDERED that:

The application of Richard Daniel Price, M.D., M.P.H., for a certificate to practice medicine and surgery in Ohio is PERMANENTLY DENIED.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

December 14, 2005

Date

2005 SEP 16 A 10:49

**REPORT AND RECOMMENDATION
IN THE MATTER OF RICHARD DANIEL PRICE, M.D., M.P.H.**

The Matter of Richard Daniel Price, M.D., M.P.H., was heard by R. Gregory Porter, Esq., Hearing Examiner for the State Medical Board of Ohio, on January 24 and 25, and February 3, 2005.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated June 9, 2004, the State Medical Board of Ohio [Board] notified Richard Daniel Price, M.D., M.P.H., that it had proposed to refuse to register or reinstate, and/or take disciplinary action against, his certificate to practice medicine and surgery in Ohio. The Board based its proposed action upon allegations that Dr. Price had applied for restoration of his Ohio certificate; had been convicted in federal court of Carrying a Weapon on an Aircraft, a felony offense; had been disciplined in the states of Georgia and Alabama; and had been ordered by the Board into a psychiatric evaluation and have been found unable to practice medicine in accordance with acceptable and prevailing standards of care due to mental illness.

The Board further alleged the following:

- Dr. Price's plea of guilty or the judicial finding of guilt of a felony offense constitutes "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,' as that clause is used in Section 4731.22(B)(9), Ohio Revised Code."
- Dr. Price's conduct constitutes "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills,' as that clause is used in Section 4731.22(B)(19), Ohio Revised Code[; and/or] '[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,' as that clause is used in Section 4731.22(B)(22), Ohio Revised Code."

Finally, the Board advised Dr. Price of his right to request a hearing in this matter. (State's Exhibit 18)

- B. On July 8, 2004, the Board received a written hearing request from Dr. Price. (State's Exhibit 19)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Jonathan R. Fulkerson, Assistant Attorney General.
- B. On behalf of the Respondent: James M. McGovern, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State
 - 1. Richard Daniel Price, M.D., M.P.H., as upon cross-examination
 - 2. Stephen G. Noffsinger, M.D.
- B. Presented by the Respondent
 - 1. Babu Gupta, M.D.
 - 2. Richard Daniel Price, M.D., M.P.H.
 - 3. M. Douglas Reed, Ph.D.
 - 4. Paul G. LaRussa, Ph.D.
 - 5. Lt. Col. Brent B. Goodwin, Ph.D., U.S. Army Reserves
 - 6. John B. Gould
 - 7. Terry Williams Banks, M.D.
 - 8. Jimmy S. Hankins, M.D.

II. Exhibits Examined

- A. Presented by the State
 - * 1. State's Exhibit 1: Copy of a May 25, 2004, Psychiatric Evaluation report concerning Dr. Price by Stephen G. Noffsinger, M.D., Assistant Professor of Psychiatry at University Hospitals Department of Psychiatry in Cleveland, Ohio.
 - 2. State's Exhibit 2: Copy of a January 13, 2004, letter to Dr. Noffsinger from Board staff concerning Dr. Noffsinger's then-upcoming evaluation of Dr. Price.

3. State's Exhibit 3: Copy of a May 13, 2004, letter to Dr. Noffsinger from Board staff with attached records from the Medical College of Georgia concerning Dr. Price's participation in a training program there.
4. State's Exhibit 4: Copy of an April 19, 2000, letter from Dr. Price to Stephen D. McDonald, M.D., Program Director of the Internal Medicine Residency Program at Kettering Medical Center in Kettering, Ohio.
5. State's Exhibit 5: Copy of a judgment entry filed in the United States District Court, Northern District of Alabama, in *United States v. Richard Daniel Price*, Case Number CR 01-N-0515-S.
6. State's Exhibit 7: Copy of a January 13, 2004, letter to Dr. Price from the Board Secretary ordering Dr. Price to a psychiatric examination.
- * 7. State's Exhibit 8: Copy of a February 5, 2002, Multidisciplinary Assessment Program Summary concerning Dr. Price from Rush Behavioral Health Center in Chicago, Illinois.
- * 8. State's Exhibit 9: Copy of a February 5, 2002, report of a psychiatric evaluation of Dr. Price by Paul G. LaRussa, M.D., at the Renaissance Center in Pelham, Alabama.
- * 9. State's Exhibit 10: Copy of a February 21, 2002, Forensic Evaluation report concerning Dr. Price from the Taylor Hardin Secure Medical Facility in Tuscaloosa, Alabama.
10. State's Exhibit 11: Copy of an April 24, 2002, letter from Dr. Price to Greg Skipper, M.D., Medical Director, Alabama Physicians' Health Association in Montgomery, Alabama.
11. State's Exhibit 12: Copy of an August 9, 2002, letter from Dr. Price to the judge presiding over *U.S. v Price*, concerning sentencing.
- * 12. State's Exhibit 13: Copy of a February 7, 2003, report of evaluation to Dr. Skipper from Peter Graham, Ph.D., Director of Psychological Services for the Professional Renewal Center in Lawrence, Kansas.
13. State's Exhibit 14: Copy of Dr. Price's July 3, 2003, written responses to affirmative answers on the questionnaire section of his application for restoration of his Ohio certificate.
14. State's Exhibit 15: Copy of a March 31, 2003, Order of the Medical Licensure Commission of Alabama concerning Dr. Price, and attached transcript of related proceedings before that commission.

15. State's Exhibit 16: Copy of Dr. Price's July 2003 application for restoration of his Ohio certificate.
16. State's Exhibit 17: Copy of a January 13, 2004, letter to Dr. Price from the Board ordering Dr. Price to a psychiatric evaluation.
17. State's Exhibits 18 through 29: Procedural exhibits.

B. Presented by the Respondent

- * 1. Respondent's Exhibit A: Copy of a Forensic Psychological Evaluation of Dr. Price by M. Douglas Reed, Ph.D., of West Chester, Ohio; and attached Psychiatric Evaluation of Dr. Richard Price by Babu Gupta, M.D.
- * 2. Respondent's Exhibit B: Copy of a May 6, 2004, letter from Dr. LaRussa to the Georgia Composite State Board of Medical Examiners concerning Dr. Price; and attached copy of Dr. LaRussa's February 5, 2002, report of psychiatric evaluation of Dr. Price (duplicate of State's Exhibit 9).
3. Respondent's Exhibit C: Excerpt from the Diagnostic and Statistical Manual, Fourth Edition.
4. Respondent's Exhibit D: Copy of a September 1, 2004, Certificate of Pardon with Restoration of Civil and Political Rights concerning Dr. Price from the State of Alabama Board of Pardons and Paroles, with regard to Case Number CR2001-515 in Jefferson County, Alabama.
5. Respondent's Exhibit E: Copy of an October 15, 2002, letter to Colonel William Shane Lee, Medical Corps, from Eric F. Phillips, Mental Health Specialist and U.S. Probation Officer, stating that the U.S. District Court had granted approval for Dr. Price to be deployed overseas as a member of the U.S. Army Reserves; and attached related documents.
6. Respondent's Exhibit F: Copy of an October 2, 2003, Order of the U.S. District Court ordering that Dr. Price be discharged from probation and that the proceedings in *U.S. v Price* be terminated.
7. Respondent's Exhibit G: Copy of a March 19, 2003, letter of recommendation written on behalf of Dr. Price addressed to an unnamed residency director from Matthew J. Reardon, M.D., M.P.H., of Occupational & Environmental Medicine Consulting Services, LLC, in Birmingham, Alabama.
8. Respondent's Exhibits H and I: Copies of letters of support written on behalf of Dr. Price and addressed, "To Whom it may Concern."

9. Respondent's Exhibit J: Curriculum Vitae of Dr. Price.
 10. Respondent's Exhibit K: Curriculum vitae of M. Douglas Reed, Ph.D.
- * Note that exhibits marked with an asterisk (*) have been sealed to protect patient confidentiality.

SUMMARY OF THE EVIDENCE

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

Background Information

1. Richard Daniel Price, M.D., M.P.H., entered medical school at the University of Kentucky College of Medicine in 1987, and obtained his medical degree from that institution in 1993. Dr. Price testified that he had attended medical school through the U.S. Army Health Profession Scholarship Program. (Hearing Transcript [Tr.] at 17-19)

Dr. Price testified that he had repeated his second and his fourth years of medical school. Dr. Price stated that his repetition of the second year of medical school had been occasioned by the death of his father and the birth of his daughter. (Respondent's Exhibit [Resp. Ex.] J; Tr. at 18, 258-260) Note that, although no evidence was presented addressing why Dr. Price had repeated his fourth year of medical school, it appears that that had occurred due to academic reasons. (See the testimony of Stephen G. Noffsinger, M.D., Tr. at 113)

2. Dr. Price testified that he had obtained his Ohio certificate to practice medicine and surgery in 1995, his Georgia certificate in 1996, and his Alabama certificate in 2000. (Tr. at 28).
3. In July 1993, Dr. Price entered the Internal Medicine Residency Program at Kettering Medical Center in Kettering, Ohio. Dr. Price remained in that program through March 31, 1995, at which time Dr. Price entered the military. (State's Exhibit [St. Ex.] 4 at 2-3)

By letter dated April 28, 2000, Stephen D. McDonald, Program Director of the Internal Medicine Residency Program at Kettering Medical Center, advised the Alabama Board of Medical Examiners [Alabama Board] that Dr. Price had entered the internal medicine residency at Kettering Medical Center in July 1993, had had difficulty completing the requirements necessary to complete the three-year residency, and had left the residency program in March 1995 for active duty in the military. Dr. McDonald further advised that there had been no problems with Dr. Price such as malpractice, substance abuse, "or any other concerns related to impaired physicians." Moreover, Dr. McDonald advised that Dr. Price's "inability to complete the requirements related to academic concerns and not to

his reputation.” Finally, Dr. Price provided the Alabama Board with a completed Certificate of Post Graduate Education Training concerning Dr. Price, indicating that he had completed one year of training. (St. Ex. 4)

4. Dr. Price testified that, while in the military, he had served as a General Medical Officer at Fort Stewart, Georgia from 1995 through 1999, and earned the rank of Major. Dr. Price further testified that, in 1999, his military status was changed to “Inactive Reserve.” (Tr. at 259)
5. In July 1999, Dr. Price entered a family medicine residency program at the Medical College of Georgia in Augusta, Georgia. A memo dated November 3, 1999, written by the Director and the Associate Director of the residency program in concerning a meeting with Dr. Price states, in part,

Both September 1999 and October 1999 Dr. Richard Price had unacceptable performances on the Family Medicine Inpatient Service as well as the Pediatric Emergency Room rotation at University Hospital. Issues included[] tardiness and inability to learn from mistakes. Dr. Price has shown a serious basic knowledge deficit and an inability to synthesize data.

(St. Ex. 3) The memo further states that, because it was early in his internship, the residency program would attempt remediation. Finally, the memo listed specific expectations for Dr. Price as follows:

1. No unexplained absences or tardiness.
2. Needs to demonstrate change in behavior with specific direct feedback being given.
3. Demonstrate ability to follow through on orders given by Attendings and Chief Residents.
4. Clearly attempt to improve knowledge base.

(St. Ex. 3)

By letter dated December 15, 1999, Dr. Price advised the director of the residency program as follows, “Per our discussion, I will resign my position as a Family Practice resident effective June 30, 2000. During the remaining period of my residency I will do rotations in the Family Medicine Center and the Georgia War Veterans Nursing Home.” (St. Ex. 3)

6. In July 2000, Dr. Price entered a residency in Occupational and Environmental Medicine at the University of Alabama at Birmingham [UAB] in Birmingham, Alabama. For reasons more thoroughly discussed below, Dr. Price was terminated from the UAB residency program on October 26, 2001. (St. Ex. 4 at 6; Resp. Ex. J; Tr. at 258-260)

Dr. Price testified that he had decided to enter the field of occupational and environmental medicine because that specialty would “maximize [his] strengths and minimize [his] weaknesses.” (Tr. at 24-25)

7. During the process of applying for the UAB residency program, Dr. Price requested, by letter dated April 19, 2000, that Stephen D. McDonald, Program Director of the Internal Medicine Residency Program at Kettering Medical Center, complete a questionnaire to assist Dr. Price in obtaining an Alabama medical license. In that letter, Dr. Price advised that, in part,

Having completed my active duty obligation to the U.S. Army, I have been working as an intern in the Department of Family Medicine at the Medical College of Georgia. This sucks. What I really want out of life is a 40-hour work week with little or no worries about sleep-deprivation, HIV exposure, or litigation. I think I may get close to this if I stick to Occupational Medicine. I have been accepted into such a program at the University of Alabama at Birmingham (UAB). All I need now is an Alabama medical license. Would you please complete the form enclosed and send it directly to the Alabama State Medical Board? Please feel free to be as complete and honest as you deem appropriate. Thank you for all you have done to help me in my quest to help others. Please give my kindest regards to the good people at KMC and any other alumni.

(St. Ex. 4) Dr. McDonald responded by letter dated April 28, 2000, which was discussed in detail above. (St. Ex. 4)

8. While participating in the UAB residency program, Dr. Price earned a Master of Public Health degree. (Resp. Ex. J).

Dr. Price’s Exposure to and Use of Firearms

9. Dr. Price’s exposure to firearms during his upbringing became an issue at hearing. Dr. Price testified as follows concerning that issue:

Well, I was raised in an environment where guns were to be used safely and legally. But the very second word that follows the word gun is safety, that you follow established protocols, and if they’re to be used at all, they’re to be used responsibly. You shoot only at targets. I’ve never shot anything animate in my life, but they were recognized as a valid means of personal protection.

My dad carried one with him wherever he went. He did not have a permit, but he was widely known in the community as respecting law and order. He was a member of the State Guard himself and all, but he would carry a gun with him when he attended night school at the University of Cincinnati in his briefcase.

When I was attending college, I never carried a weapon before, but when I was taking a night class, there was an attractive co-ed. Actually, she was the winner of some beauty contest. She asked me to regularly escort her to her car. When my dad found out about this, he gave me a knife and told me to carry it when I was escorting her in case there was some form of danger. Like any 20-something year old, I remembered it half the time, but that was really my first, I guess, introduction to the concept that carrying weapons was a valid practice.

(Tr. at 270-271)

Dr. Price testified further that, during the year following his residency at the Medical College of Georgia, he had carried a handgun in the glove compartment of his car. Dr. Price stated, “the whole idea was it was like insurance, you would hope you never needed it, but it was there if you did.” (Tr. at 271-272)

Moreover, Dr. Price testified that he had carried a handgun in his automobile in 1991 while living and working in Washington, DC, at Walter Reed Army Medical Center. Dr. Price stated that he had been aware at the time that carrying a handgun in Washington, DC, was prohibited. Furthermore, Dr. Price testified that there had probably been times when he had carried the gun on his person, including while in the hospital, and that he had been aware that is a crime to carry a firearm onto a military installation. (Tr. at 312-317) Dr. Price testified that he had not been trying to be a criminal or “do anything overt against the law,” and had had no intent of using a gun for evil purposes. (Tr. at 317)

10. When Dr. Price was asked whether he believed that he had a right to violate laws prohibiting carrying concealed firearms, the following exchange took place,
 - A. [By Dr. Price]: * * * Do I see myself as meriting a special privilege? No. I guess dealing with—saying it is a felony you just don’t think about it or I just did not think about it. It was just something that was not considered. I always considered I will always stay within the law. That will never become an issue.
 - Q. [By the Hearing Examiner]: But you were already outside of the law.
 - A. I am now.
 - Q. Well, you were then.
 - A. Yes, sir.
 - Q. I mean, when you were doing this, you were outside of the law. How can you say you’re going to use it within the law if you’re already carrying a loaded gun concealed and that’s against the law?

- A. Well, I suppose it's—Again, the way we saw it or the way I saw it at the time is it was better to have and not need than need and not have. I mean, it's one thing to be within the law, but if you're going to end up being a victim or a murder victim or whatever, what good was that? At least there's a potential of protecting yourself ideally to just simply scare away any threat. I guess it was bad judgment.

(Tr. at 327-328)

Dr. Price's August 2002 Criminal Conviction, and Related Information

11. Dr. Price testified that, at the time of the September 11, 2001, attacks, he had been participating in a month-long rotation at a U.S. Department of Energy facility. Dr. Price stated that this facility was located four miles from a plutonium enrichment plant near Oak Ridge, Tennessee. Dr. Price further testified that, on the morning of the terrorist attacks, he and others at the facility watched them unfold on a large television screen. Dr. Price testified that, “needless to say, it was very devastating.” (Tr. at 32-33)

Dr. Price testified that, following the 9/11 attacks, he had “gone to active status with the Army Reserve,” and believed that he and his unit would be deployed to Afghanistan. Dr. Price added that he “was switching to a wartime mentality.” (Tr. at 34)

12. As discussed in detail below, on October 25, 2001, in reaction to the 9/11 attacks, Dr. Price attempted to take weapons onto an airliner. He did so based upon a fear that there could have been hijackers on his flight. The weapons were discovered as Dr. Price went through airport security, at which time he was arrested. He was subsequently charged with and pled guilty to a felony level offense in federal court. (St. Ex. 5; St. Ex. 8 at 2-4; Resp. Ex. A at 14)
13. A February 5, 2002, report of a psychiatric evaluation of Dr. Price by Rush Behavioral Health Center in Chicago, Illinois, provides a detailed description of the events leading up to Dr. Price's conviction, as related by Dr. Price. The report states, in part,

Dr. Price dated his difficulties to September 11, 2001. Dr. Price said he was outraged and violated by the terrorist attacks on the United States. Since this time, he reported, ‘having fantasies of capturing Bin Laden. It would be like gunfights behind rocks.’ He also reported being increasingly concerned about the possibility of a similar attack on an upcoming transcontinental flight.

In the weeks preceding a scheduled 25 October 2001 trip, Dr. Price reported staying up, ‘every night, often late at night watching CNN and Fox News.’ He said he became increasingly concerned that these attacks would recur. As his departure approached, Dr. Price reported contacting the airlines to see if a sky marshal would be present on his flight. ‘Every time I called, they said they didn't know.’

Dr. Price said he began to think if he were on a plane with terrorists, 'I would be on the front lines. It would be like Davy Crockett at the Alamo. I knew the enemy would be there and he would be merciless. I would be outnumbered and outgunned.' As a result of this increasing concern, approximately 4 weeks prior to his October trip, Dr. Price said he began to contemplate ways of bringing weapons aboard the flight.

Throughout the evaluation, Dr. Price insisted he planned to bring these weapons on board for the sole purpose of, 'protecting myself, the other passengers and crew. I knew the enemy would be merciless. We were warned by the Attorney General of another upcoming attack. I perceived that [there] was a real possibility of a terrorist attack. The terrorists have been very adept at eluding our surveillance. They are a very determined and merciless enemy.'

In the weeks prior to his departure, Dr. Price said he developed, refined and put into place a plan in which he would take weapons aboard the plane. 'I was going to circumvent the law.' In an attempt to implement his plan, Dr. Price placed a 25 caliber derringer, 'in a baggy inside a can of peanuts and then I gift-wrapped it. I thought the tin can was radio opaque.' He also placed a switchblade, 'in aluminum foil' again under the assumption it would not be detected by x-rays. Finally, he decided to take, 'a sword cane and if I held it by my side, I didn't think it would be x-rayed.' When asked to elaborate on this comment, Dr. Price said he was of the opinion that once he was at the metal detector, he would simply pass the cane to the security person on the other side before walking through.

As his trip approached, Dr. Price said he was aware of the possibility his weapons could be detected by airport security personnel. However, he said * * * if he were questioned, he felt he would be able to explain his rationale to another serviceman. As Dr. Price was in the reserves at the time of this incident, he was of the opinion that the National Guardsmen on patrol at the airport would be sympathetic to his plan. 'I figured they'd hold it for me until I got back.'

We then further discussed his thoughts vis-à-vis this plan. Dr. Price said he decided to bring three weapons, 'so I could distribute them to other passengers in the case of an attack. I had several in case I couldn't get to one. I chose the sword cane because it gave me something with some reach.' When asked his belief at the time of the likelihood of an attack, Dr. Price replied, 'it would be about one percent. But if there was an attack, I anticipated being successful.'

Dr. Price [was] asked if, prior to 25 October 2001, he was aware of the criminality of his behavior. In response, he replied, 'I was aware I was

prohibited from bringing these weapons. I was going to circumvent the law, but I figured complying with the laws would be putting my and other lives in danger. And as it's been said, 'it's better to ask for forgiveness than for permission.'

Dr. Price was asked if, prior to 25 October 2001, he considered not going on the trip. Dr. Price said he did not as, 'The president told us to start flying. I wasn't going to be the victim of terror. I figured if there was another attack, I'd be ready. I was very angry after September 11. I wanted revenge.' When again asked why he did not at least delay his trip, Dr. Price said, 'I felt the Medical Review Officer's certification was very important. It was a big convention and the residency would pay for my expenses. I knew the reservations had been made.' When advised the certification was offered at other times of the year and that his cancellation would not have cost him any out-of-pocket expenses, Dr. Price agreed and ultimately said, 'I used bad judgment.'

We then continued to discuss his motivation to, and rationale for, 'circumventing the law.' Dr. Price reiterated a sense of outrage over the attacks as well as acknowledged harboring fantasies of capturing Bin Laden and, 'being a hero. I wanted to be a hero in the war on terrorism.' On direct questioning, Dr. Price also acknowledged that he still has fantasies of being 'a hero in the war on terrorism.' Dr. Price was asked if, prior to 25 October 2001, he had discussed his plans with anyone; he replied that he did not. 'I knew it was illegal. I knew [there] was a possibility I'd get caught.'

(St. Ex. 8 at 2-4; See also St. Ex. 1 at 7-8; St. Ex. 9 at 1; St. Ex. 10 at 1; St. Ex. 12; St. Ex. 13 at 3; Resp. Ex. A at 15-17; Tr. at 39-56, 64-65, 276-277)

14. Dr. Price testified that the handgun that he had attempted to carry with him onto the flight had been loaded with five rounds of ammunition. Dr. Price further testified that he had carried no additional ammunition with him, because he "figured [he] would only need it for however many assailants there would be on the flight." (Tr. at 52)
15. Dr. Price testified that, after airport security personnel detected the handgun in Dr. Price's luggage, they had asked him to wait in a room until the Birmingham Police arrived. Dr. Price was then taken to the police headquarters, where he made a confession. In addition, the Birmingham police called in the FBI who also questioned him. The federal government subsequently indicted Dr. Price. (St. Ex. 10 at 1; Tr. at 56-59)
16. Dr. Price testified that, upon the advice of counsel, he had at first pled not guilty by reason of insanity. Dr. Price testified that his attorneys had been motivated by a desire to do

whatever was necessary to keep Dr. Price out of prison. Dr. Price further testified,

I initially trusted them. I was thinking is there some way that we could thread this needle, that I could plead temporary insanity or some sort of mild form of insanity and still retain my medical license. That's why I went along with the idea. Had I known that I had to be completely loony and permanently, I would not [have agreed].

(Tr. at 59-60)

17. On August 15, 2002, Dr. Price appeared before the United States District Court for the Northern District of Alabama. At that time, the court accepted Dr. Price's plea of guilty to, and found him guilty of, a violation of 49 U.S.C. Section 46505(b)(1), a felony. The court fined Dr. Price one thousand dollars with interest, ordered that he pay a special assessment of one hundred dollars, and placed him on probation for a period of twenty-four months. Further, in addition to the standard conditions of probation, the court ordered the following special conditions of probation: "[Dr. Price] shall participate, if and as directed by the probation officer, in such mental health/vocational rehabilitation programs as the officer may direct. [Dr. Price] shall contribute to the cost of mental health treatment if the probation officer determines that [he] has the ability to do so." (St. Ex. 5; Resp. Ex. A at 14)
18. Dr. Price testified that he had complied with the requirements of his probation, and that his probation had been terminated early after 13 months. (Resp. Ex. F; Tr. at 286)
19. Dr. Price acknowledged at hearing that he had been aware at the time of the offense that the chance of a terrorist attack on his flight had been remote; nevertheless, he elected to try to take the weapons anyway. Dr. Price further testified,

[T]his is not an uncommon practice. For instance, if there's a tornado in the area, as I know you frequently have around here, but we also have in Alabama, I mean, even though this chance is small, you still head to the basement.

If a patient comes in with chest pain—if you came in with chest pain, though the odds are small that it is a heart attack, you've got a heart attack until proven otherwise and you'll be treated as such.

So that was my situation here, I mean, you know, whether it's one in a thousand, one in 10,000 or what, what do you do? Do you just—it's like an even lottery. Do you just hope that it doesn't happen to you? That was what my thoughts were.

(Tr. at 64-65)

Dr. Price testified that, on October 25, 2001, he had not had a license or permit to carry a concealed weapon. Moreover, Dr. Price testified that he had been aware that his military position did not give him any special status or authority to carry a weapon. (Tr. at 65)

October 2001 Termination of Dr. Price from the Occupational Medicine Residency Program at the University of Alabama at Birmingham

20. By letter dated October 26, 2001, Amie B. Jackson, M.D., Chair of the Department of Physical Medicine and Rehabilitation, Division of Occupational Medicine at UAB, informed Dr. Price of the following:

This letter is to inform you that you are hereby terminated from the UAB Occupational Medicine Residency Program. The bases for this termination include:

- Maintenance of a firearm and ammunition in your desk at The WorkPlace, in violation of UAB's Policy Concerning Firearms, Ammunition, and other Dangerous Weapons.
- Reports from law enforcement authorities related to your attempt to carry concealed weapons onto an airplane at Birmingham Regional Airport on October 25, 2001.

You are not to come to the UAB premises, including the WorkPlace, without a scheduled appointment with Chief Marzette, UAB Police. You must turn in to Chief Marzette your keys, pager, ID badge and any other UAB property currently in your possession.

(St. Ex. 4) Finally, Dr. Jackson advised Dr. Price of UAB's policy by which he may request a hearing concerning the matter of his termination. (St. Ex. 4)

21. Dr. Price testified that he had been fired from his residency and banned from the campus at UAB immediately following the incident. Dr. Price further testified, "In fact, to this day, when I attend grand rounds, I call the Chief of Police asking for permission to do so." (Tr. at 67-68)
22. Dr. Price testified that the "firearm and ammunition" referenced in the UAB termination letter had in fact been a spring-loaded dart gun and darts. Dr. Price further testified that a dartboard had been set up in a secluded area, and that he and various other hospital employees had used it for recreational purposes. Moreover, Dr. Price testified that it had been common knowledge that he had had the dart gun. (St. Ex. at 4; Tr. at 74-76)

November 2001 Evaluation of Dr. Price by The Renaissance Center

23. During the month of November 2001, Dr. Price underwent a psychiatric evaluation at The Renaissance Center in Pelham, Alabama. Dr. Price had been referred to that facility by the

Department of Psychiatry at UAB. On February 5, 2002, Paul G. LaRussa, M.D., issued a report concerning that evaluation. (St. Ex. 9)

In his report, Dr. LaRussa made the following assessment concerning Dr. Price's mental health:

Axis I:

1. 309.28 Adjustment Disorder with mixed emotional features
2. 314.01 Attention Deficit Hyperactivity Disorder Combined Type with associated impulsivity (untreated with medications at the time of presentation)
3. 300.4 Dysthymic Disorder by history
4. V61.1 Marital Strain
5. Possible Brief Reactive Psychosis Disorder

Axis II: 301.9 Personality Disorder NOS with mixed features

Axis III: Non-contributory

Axis IV: High with multiple concurrent and contributory stressors

Axis V: Global Assessment of Functioning: 80

(St. Ex. 9)

In his summary, Dr. LaRussa stated, in part, as follows:

In regards to the events leading to his arrest on October 25, it is my conclusion after thorough psychiatric evaluation that Dr. Price had unknowingly placed himself in a position where a combination of psychiatric and psychological factors resulted in his inability to appreciate the nature and quality or the wrongfulness of his acts. He has, at his own initiative, agreed to psychiatric treatment independent of the outcome of his ongoing legal and professional situations.

It is my professional opinion, that though legally wrong, his behaviors on the day of October 25 were resultant of a combination of factors relating to the wake of the 09/11/01 terrorist attack on the United States, and his own psychiatric illness which is unlikely to recur now that he has resumed treatment and is in active therapy. Specifically, he was the victim of the illnesses noted above combined with an isolation of himself from others, an element of Hero Fantasy and his strong sense of patriotic duty. His history and presentation during the course of therapy are supportive of the fact that his actions were the result of a **protective** and not **offensive** intent. He is not,

at this time, felt to be of any threat to society. It is my hope that the [criminal] court will be open to a consideration of leniency in this case.

(St. Ex. 9) (Emphasis in original)

January 2002 Evaluation of Dr. Price by Rush Behavioral Health, and Related Information

24. In January 2002, Dr. Price underwent a psychiatric evaluation at Rush Behavioral Health Center in Chicago, Illinois. Dr. Price had been referred to that facility by Greg Skipper, M.D., Medical Director of the Alabama Physicians Assistance Program. (St. Ex. 8 at 1)

On February 5, 2002, a Multidisciplinary Assessment Program Summary [Rush Report] was issued by Stafford C. Henry, M.D., Medical Director of the Multidisciplinary Assessment Program at Rush Behavioral Health; James Devine, Ph.D., Licensed Clinical Psychologist at North Shore Psychological Services; Carl Malin M.Div., Special Assessment Services, Rush Behavioral Health-DuPage. (St. Ex. 8) The Rush Report listed the following diagnoses:

- Axis I: Adjustment disorder with depressed mood.
Caffeine-related disorder.
- Axis II: Schizotypal Personality disorder.
History of Attention-Deficit disorder.
- Axis III: None noted.
- Axis IV: Occupational problems.
Economic problems.
Problems relating to the social environment.
Economic problems. [sic]
Legal problems.
Other psycho social and environmental problems.
- Axis V: Current G.A.F.: 65
Highest in last year: Deferred.

(St. Ex. 8 at 7) Moreover, in a section entitled “Opinion,” the Rush Report states, in part, as follows:

We are of the opinion, to a reasonable degree of medical and psychiatric certainty, Dr. Price’s decision to carry concealed weapons onboard his October 2001 flight, was reflective of a *profound sense of impaired judgment*. We do not believe this decision is a direct result of functional psychiatric illness. We do, however, find evidence that Dr. Price has a long history of being unable to appropriately read social cues and behave in an

appropriate fashion. His inability to modulate his behavior in accordance with prevailing societal standards and expectations is believed to have contributed to his decision to carry weapons aboard his 25 October 2001 flight. We are also of the opinion, to a reasonable degree of medical and psychiatric certainty, his decision to carry concealed weapons was also related to an underlying personality disorder.

Dr. Price is believed to suffer from Schizotypal personality disorder[,] a condition characterized by eccentricities, peculiar thought processes, preoccupation with perceptual distortions, paranoid ideation and idiosyncratic behavior. Dr. Price is also believed to be somewhat socially inept and unable to consistently employ healthy coping mechanisms under stress. It is believed he became unrealistically preoccupied and fixated in the weeks following the September 11, 2001, attacks. His decisions and behavior, regarding safeguards he felt he needed when flying, were not at all reasonable, legal or practical. In fact, although he was fantasizing about becoming a war hero in the event of an attack, his plan indicates a striking lack of sophistication and savvy.

The development of sound judgment is dependent upon among other factors, appropriate modeling, intact reality checking, healthy coping mechanisms, ability to accurately perceive and process information and a capacity to learn from past experiences. In physicians, questions about judgment can cause considerable concern largely because it is sound judgment which often drives clinical, patient-related impressions and treatment decisions.

Dr. Price's behavior vis-à-vis the 25 October 2001, incident demonstrates a profound lack of judgment. There is evidence, however, this trait is not isolated and, in fact, believed part of a long-standing pattern of exercising poor judgment. For example, * * * [Dr. Price] acknowledged having prematurely left two prior residences for matters unrelated to cognitive ability.

(St. Ex. 8 at 7-10) (Emphasis in original)

25. In a letter to Dr. Skipper dated April 24, 2002, Dr. Price expressed his opinion concerning the Rush Report. Dr. Price was extremely critical of that report and the conclusions noted therein. Dr. Price expressed his belief that the report contained factual errors, misinterpretations of statements he had made, and cultural bias related to Dr. Price's use of a firearm. With regard to the latter, Dr. Price noted, "The AMA is based in Chicago and has long been at odds with the NRA, openly opposing weapons for personal use." (St. Ex. 11)

February 2002 Evaluation of Dr. Price by the Taylor Hardin Secure Medical Facility

26. On February 12, 2002, Dr. Price was evaluated at the Taylor Hardin Secure Medical Facility in Tuscaloosa, Alabama, pursuant to an order by the federal court. On February 21, 2002, Brent R. Willis, Psy.D., Certified Forensic Examiner; and Kathy A. Ronan, Ph.D., Director

of Psychology/Evaluation Services, dictated a Forensic Evaluation report. The purpose of this report was to evaluate Dr. Price's competency to stand trial, his competency to waive his Miranda rights, and his mental state at the time of the offense. (St. Ex. 10)

The evaluators at the Taylor Hardin facility arrived at the diagnostic impressions that Dr. Price suffers from Narcissistic Personality Disorder and Adjustment Disorder, exacerbated by acute mixed anxiety and depressed mood secondary to his then-ongoing criminal charges and dismissal from the UAB residency program. (St. Ex. 10 at 7)

February 2003 Evaluation of Dr. Price by the Professional Renewal Center

27. From February 3 through 7, 2003, Dr. Price was evaluated at the Professional Renewal Center in Lawrence, Kansas, upon the referral of Dr. Skipper. The purpose of the evaluation "was to thoroughly evaluate the nature and, with a reasonable degree of psychological certainty, genesis of his criminal behavior." (St. Ex. 13 at 1)

The report of the evaluation, which was authored by Peter Graham, Ph.D., Director of Psychological Services, indicates that the following diagnoses were made:

- | | | |
|-----------|--------|---|
| Axis I: | 314.9 | Attention-Deficit/Hyperactivity Disorder, Not Otherwise Specified, with features of impulsivity, disinhibition, distractibility and problems following through on tasks |
| | 299.80 | Asperger's Disorder, Mild, with failure to develop peer relationships appropriate to developmental level, a relative lack of social or emotional reciprocity, an encompassing preoccupation with restricted patterns of interest that are abnormal in intensity, causing significant impairment in social and occupational functioning ¹ |
| | 292.9 | Caffeine-Related Disorder, Not Otherwise Specified, chronic over-consumption |
| Axis II: | | Dependent, Schizotypal and Negativistic features |
| Axis III: | | Degenerative Joint Disease, Borderline hypertension, Plantar fasciitis, Hypercholesterolemia, S/P right inguinal hernia repair, February 2000 |
| Axis IV: | | Conviction on felony and misdemeanor charges, unemployment with resultant economic hardship, potential loss of medical license, marital tension, possible unwanted discharge from military |
| Axis V: | | Current GAF 65; Highest GAF past year estimated at 65 |

¹ With regard to this diagnosis, Dr. Graham wrote, "It should be noted that Dr. Price *does not meet* the more autistic and concretely behavioral criteria also included in the criteria for Asperger's Disorder and it will be important to keep this fact in mind. What is being identified in this evaluation has more to do with the [sic] Dr. Price's longstanding difficulties with appropriately perceiving the more subtle social cues upon which social interaction is based and the way in which he has relied on concrete identification with institutionally defined roles as a way of fitting himself into social involvement. (St. Ex. 13 at 11-12) (Emphasis in original)

(St. Ex. 13 at 12) Further, Dr. Graham wrote that, although Dr. Price is a very social person, he exhibits a lack of social common sense. Additionally, Dr. Price “manifests a pattern of emotional immaturity, child-likeness, and dependency in the way that he can be simplistic in his conception of emotional issues and financial/practical matters. He shows an occasional obliviousness to the effect that he is having on others.” For example,

In describing the precipitating event, Dr. Price insisted that he did what was morally right even if it was illegal. It was consistent with his subjective perception of the situation and with the role of hero. He had a great deal of difficulty imagining the emotional response of other people to his plan. He could not conceive that others would be frightened by his actions and when he did realize that this was the case during the week of evaluation, it appeared to be a novel realization to him. He manifested extreme naiveté with regard to his actions and the reality of the situation along with an intense earnestness to be ‘good’ and to do the ‘right thing.’ Importantly his logic around the incident was permeable and open to revision. After considerable discussion of the issue, Dr. Price finally seemed to begin to realize that his actions might have made others feel bad and he earnestly regretted this realization. As he put it, ‘I was hoping that people would understand, but I never anticipated this’; i.e. that his behavior would be emotionally upsetting and unnerving to others. Instead, he was conceiving the situation strictly from the perspective of his own identification with his role of ‘hero.’ About his own thought process, Dr. Price stated, ‘I might build rational fortresses but they have doors and can be disassembled.’

(St. Ex. 13 at 9-10) Finally, relating to the last sentence of the above quote, Dr. Graham indicated that Dr. Price’s reasoning is dominated by his own perspective and that he is unempathetic to the emotional responses of others. Nevertheless, Dr. Graham stated that his ideas are “open to revision” and that it “illustrates that his thinking in the area of his carrying weapons onto an airplane in *not* part of a fixed, delusional pattern that is impenetrable to persuasion.” (St. Ex. 13 at 10)

28. Dr. Price testified that the February 2003 evaluation from the Professional Renewal Center arose because he had been “seeking a second opinion to try to get the record straight after the Rush Behavioral Health [evaluation].” However, Dr. Price further testified that a physician at the Professional Renewal Center “later admitted that he was trying to harmonize the findings with those of Rush.” (Tr. at 71-72)

March 2003 Action by the Medical Licensure Commission of Alabama concerning Dr. Price

29. By order dated March 31, 2003, following a hearing on March 26, 2003, the Medical Licensure Commission of Alabama [Alabama Board] revoked Dr. Price’s license to practice medicine in that state. The Alabama Board based its action upon Dr. Price’s criminal conviction. (St. Ex. 15)

30. Dr. Price testified that his certificate to practice medicine in Alabama “has been revoked pending reevaluation this coming April.” (Tr. at 28)

Action by the Georgia Composite State Board of Medical Examiners

31. Dr. Price testified that his Georgia certificate “has been revoked secondarily because of the revocation of my Alabama license. I was informed at the time that once I get my Alabama license straightened out, they will restore my Georgia license.” (Tr. at 29-30)

Dr. Price’s July 2003 Application for Restoration of his Ohio License

32. On or about July 7, 2003, Dr. Price submitted to the Board an Application for License Restoration, Medicine or Osteopathic Medicine. In the questionnaire section of the application, Dr. Price gave affirmative responses to several of the questions. Dr. Price provided detailed written explanations for each of those responses. Among other things, Dr. Price advised that he had been diagnosed as having an “Adjustment Disorder to the events of 9-11 and impulsiveness due to an underlying untreated Attention Deficit Disorder.” (St. Ex. 14)
33. Dr. Price testified that he had applied for the restoration of his Ohio certificate in order to participate in an Occupational and Environmental Residency at the University of Cincinnati College of Medicine. Dr. Price further testified that he intends to practice in Ohio, if he can get into a supervised program here. He expressed doubt that the University of Cincinnati position is still available to him. (Tr. at 15-16, 269)

February 2004 Board-Ordered Evaluation of Dr. Price by Stephen G. Noffsinger, M.D., and Related Information

34. Stephen G. Noffsinger, M.D., testified on behalf of the State. Dr. Noffsinger testified that he had obtained his medical degree in 1987 from the Northeastern Ohio Universities College of Medicine. In 1991, Dr. Noffsinger completed a four-year residency in psychiatry at Metro Health Medical Center in Cleveland, Ohio. Dr. Noffsinger testified that he had practiced psychiatry for four years, then entered a one-year fellowship in forensic psychiatry at Case Western Reserve University, which he completed in 1996. (Tr. at 82-83)

Dr. Noffsinger testified that he holds two board certifications; one in psychiatry that he obtained in 1995, and one in forensic psychiatry that he obtained in 1996. Dr. Noffsinger further testified that he belongs to a number of professional associations, including the American Psychiatric Association and the Ohio Psychiatric Association. Moreover, Dr. Noffsinger testified that he has authored a number of articles, two book chapters and a couple abstracts. Finally, Dr. Noffsinger testified that he is licensed to practice medicine in Ohio. (Tr. at 83-85)

Dr. Noffsinger testified that he is currently employed at Northcoast Behavioral Health Care [Northcoast], which he described as a large, State-run hospital in the Cleveland area, where

he serves as the Chief of Forensic Services. Dr. Noffsinger noted that he has been employed by Northcoast since June 1996 and that he works there about 35 hours per week. Moreover, Dr. Noffsinger stated that he works for the Cuyahoga County Court of Common Pleas performing court ordered evaluations of criminal defendants. Finally, Dr. Noffsinger testified that he also has a private practice in forensic psychiatry. (Tr. at 83)

35. Dr. Noffsinger testified that he has performed approximately thirty evaluations for the Board. Dr. Noffsinger further testified that he has found the licensee unable to practice medicine “a vast minority” of the time. (Tr. at 126)
36. By certified letter dated January 13, 2004, the Board ordered Dr. Price to a psychiatric evaluation to be conducted by Dr. Noffsinger on February 5, 2004. (St. Ex. 7)

By letter dated January 13, 2004, to Dr. Noffsinger, Board staff discussed, among other things, the issues that Dr. Noffsinger should address in his evaluation report. Specifically, Dr. Noffsinger was asked to address:

- (1) Whether there is any evidence that Dr. Price suffers from any mental disorder or other psychopathology;
- (2) If the answer to (1) is affirmative, whether Dr. Price is presently incapable or capable of practicing medicine according to acceptable and prevailing standards of care, as well as specifying what conditions and/or restrictions, if any, should be placed upon his practice; and
- (3) If the answer to (1) is affirmative, whether the disorder is or is not amenable to treatment; and if amenable to treatment, the plan of treatment [Dr. Noffsinger] would recommend.

(St. Ex. 2)

37. Dr. Noffsinger testified that his evaluation of Dr. Price had included several hours reviewing the written material that had been sent to him by the Board, and about two hours interviewing Dr. Price. (Tr. at 124-126)

Dr. Noffsinger testified concerning his review of earlier evaluations that he had relied upon each of the evaluations equally, and that he had not placed more weight on any single report. Moreover, Dr. Noffsinger stated that he had relied only upon the observations and the reported data contained in those evaluations and not upon the conclusions that were reached. (Tr. at 159)

38. On May 25, 2004, Dr. Noffsinger issued in a written report of his psychiatric evaluation of Dr. Price. (St. Ex. 1) In the sections of the report entitled, “Diagnosis” and “Opinion,”

Dr. Noffsinger noted the following,

Diagnosis:

- Axis I History of Major Depressive Disorder, Single Episode, in full remission 296.26
- Attention-Deficit Hyperactivity Disorder, Predominantly Inattentive Type 314.00
- Axis II Personality Disorder Not Otherwise Specified with Narcissistic and Schizotypal traits 301.9

The diagnosis of History of Major Depressive Disorder is based on Dr. Price's account that he experienced a number of depressive symptoms around the time of his mother's death. When his mother died in 1982 Dr. Price was depressed for one year, for the majority of the time on most days. He also experienced fatigue, decreased self-esteem, poor appetite and a decreased interest in pleasurable activities. His depression resolved gradually and has been in remission since 1983.

The diagnosis of Attention-Deficit/Hyperactivity Disorder, Predominantly Inattentive Type is based on Dr. Price's account of his symptoms, which included difficulty with multitasking and other symptoms of inattention, coupled with his good response to stimulant medications.

The diagnosis of Personality Disorder Not Otherwise Specified with Narcissistic and Schizotypal traits is based on the following evidence of personality dysfunction:

1. Dr. Price experienced magical thinking and excessive fantasies that were so powerful as to cause him to act on his fantasies. For example, regarding the events of 10/25/01, Dr. Price fantasized about being a hero so intensely as to cause him to attempt to smuggle illegal weapons on board a commercial airline flight, despite knowing the illegal nature of this act.
2. Dr. Price experienced paranoid and other magical thinking in the past that influenced his behavior. For example, he carried a weapon in his car due to the possibility that while on campus if he heard that someone was being assaulted or raped that he could be the hero and rescue them.
3. Dr. Price exhibited odd thinking and speech—he spoke in an overly vague and circumstantial manner.
4. Dr. Price, in both my evaluation as well as other examinations, appeared somewhat odd, self-centered and unempathic.

5. Dr. Price exhibited an impaired sense of judgment.

Opinion:

It is my opinion with reasonable medical certainty that [Dr. Price] currently has the mental disorders of Personality Disorder Not Otherwise Specified with Schizotypal and Narcissistic Traits, and Attention-Deficit/Hyperactivity Disorder, Predominantly Inattentive Type.

It is my opinion with reasonable medical certainty that Dr. Price is presently unable to practice medicine according to acceptable and prevailing standards of care. While his History of Major Depressive Disorder does not preclude Dr. Price from practicing medicine, Dr. Price's Attention-Deficit/Hyperactivity Disorder and Personality Disorder Not Otherwise Specified with Schizotypal and Narcissistic Traits substantially impairs Dr. Price's ability to practice medicine according to acceptable and prevailing standards of care. This is based on the following:

1. Dr. Price's magical thinking, excessive fantasies and paranoia (which he at times acts on) markedly impact his ability to relate to others and behave in a socially acceptable manner. This would limit his ability to reliably and consistently relate to patients and colleagues. This is mainly caused by his Personality Disorder Not Otherwise Specified.
2. Dr. Price's judgment has been markedly impaired at times by his mental disorders. His medical decision making is likely to be impaired due to his poor judgment. This is due to a combination of his Personality Disorder Not Otherwise Specified and his Attention-Deficit/Hyperactivity Disorder.

It is my opinion with reasonable medical certainty that Dr. Price's Attention-Deficit/Hyperactivity Disorder is amenable to treatment, and presently is well controlled. I recommend that Dr. Price remain on stimulant medication in order to address his Attention-Deficit/Hyperactivity Disorder.

However, it is my opinion with reasonable medical certainty that Dr. Price's Personality Disorder Not Otherwise Specified with Schizotypal and Narcissistic Traits is not amenable to treatment. Personality disorders are lifelong patterns of thinking and behavior that generally do not respond to treatment. In addition, personality disorders are generally not viewed as a problem by the person with the personality disorder, and therefore the motivation to change is minimal. While medication and psychotherapy may alleviate some of the effects of the personality disorder, their effect is usually minimal. Therefore, since Dr. Price's inability to practice medicine according to acceptable and prevailing standards of care is mainly caused by his personality disorder, it is unlikely that,

given treatment, he will be able to practice medicine according to acceptable and prevailing standards of care in the future.

(St. Ex. 1 at 10-12)

39. Dr. Noffsinger testified that the diagnosis of Personality Disorder, Not Otherwise Specified, indicates long-standing problems with thinking and behavior. Dr. Noffsinger further testified that Dr. Price “didn’t fit the criteria for a specific personality disorder,” but had characteristics of both narcissistic and schizotypal disorders. Dr. Noffsinger testified that Dr. Price had shown “evidence of magical thinking and excessive fantasies that were so powerful as to cause him to actually act on his fantasies” which is a common symptom of schizotypal personality disorder. In addition, Dr. Noffsinger testified that Dr. Price had exhibited “odd thinking and speech in that he was overly vague and overly circumstantial that, to phrase it a different way, he had difficulty answering questions directly, and that can be a symptom of a personality disorder.” Moreover, Dr. Noffsinger testified that Dr. Price had appeared “unempathic and self-centered,” which can also be narcissistic and schizotypal traits. Finally, Dr. Noffsinger testified that Dr. Price had exhibited an “impaired sense of judgment” exemplified by the events of October 25, 2001, when Dr. Price attempted to carry weapons on board an airliner. (Tr. at 90-92)

In addition, Dr. Noffsinger testified that, in his opinion, “the Schizotypal Personality Disorder personality traits combined with his [ADHD] make [Dr. Price] unable to practice medicine.” (Tr. at 92) Moreover, Dr. Noffsinger testified that Dr. Price’s personality disorder makes him unsuitable to practice medicine because personality disorders tend to be chronic and pervasive; they do not simply impact one area of an individual’s life, but impair the individual “across all areas of functioning.” (Tr. at 115) Finally, Dr. Noffsinger testified,

[T] he practice of medicine requires good judgment, sound judgment, and it’s obvious that [Dr. Price’s] judgment has been impaired by his paranoia and his fantasy life. And it stands to reason that if he’s so impaired by his paranoia and distorted fantasy life as to do these events which we know he did, that he would then exert poor judgment and impaired behavior in the practice of medicine.

(Tr. at 116)

40. Dr. Noffsinger testified that, in order to diagnose a patient with Personality Disorder, Not Otherwise Specified, the patient must meet the general diagnostic criteria for a personality disorder, and exhibit traits of different personality disorders, but not meet the specific criteria for any particular personality disorder. In the case of Dr. Price, Dr. Noffsinger found that he met some of the criteria for both Narcissistic Personality Disorder and Schizotypal Personality Disorder. Further, with regard to the specific schizotypal traits that Dr. Price exhibited, Dr. Noffsinger testified that Dr. Price met the following criteria as

described in the DSM-IV-TR in section 301.22:

- A. A pervasive pattern of social and interpersonal deficits marked by acute discomfort with, and reduced capacity for, close relationships as well as by cognitive or perceptual distortions and eccentricities of behavior, beginning by early adulthood and present in a variety of contexts, is indicated by five (or more) of the following:

* * *

- (2) odd beliefs or magical thinking that influences behavior and is inconsistent with subcultural norms (e.g., superstitiousness, belief in clairvoyance, telepathy, or “sixth sense”; in children and adolescents, bizarre fantasies or preoccupations)

* * *

- (4) odd thinking and speech (e.g., vague, circumstantial, metaphorical, overelaborate, or stereotyped)
- (5) suspiciousness or paranoid ideation

(Resp. Ex. B at 689, 701; Tr. at 183-188)

With regard to the specific narcissistic traits that Dr. Price exhibited, Dr. Noffsinger testified that Dr. Price met the following criteria “in a somewhat modified fashion.” (Tr. at 191-192) These are:

- A. A pervasive pattern of grandiosity (in fantasy or behavior), need for admiration, and lack of empathy, beginning by early adulthood and present a variety of contexts, as indicated by five (or more) of the following:

* * *

- (5) has a sense of entitlement, i.e., unreasonable expectations of especially favorable treatment or automatic compliance with his or her expectations

* * *

- (7) lacks empathy: is unwilling to recognize or identify with the feelings and needs of others

(Resp. Ex. B at 717; Tr. at 191-192) With regard to Dr. Noffsinger's statement that Dr. Price met those criteria in modified form, Dr. Noffsinger testified that Dr. Price is "certainly preoccupied with fantasies, but not the specific ones they talk about here about success, power, brilliance, beauty, or ideal love[.]" (Tr. at 192) Rather, Dr. Noffsinger testified that Dr. Price harbored fantasies about being a hero, which Dr. Noffsinger believes is on the same spectrum of the fantasies specified in the DSM-IV-TR. (Tr. at 192)

41. With regard to the term "magical thinking" as used in his report, Dr. Noffsinger testified that that term is not much different from a layperson's use of the word. It consists of a belief in things that a normal person would know not to be true. (Tr. at 137-138) Dr. Noffsinger cited several examples of what he believes to be magical thinking by Dr. Price:

- Dr. Price attempting to hide weapons from the airport x-ray by wrapping them in foil and placing them in cans. (Tr. at 138)
- Dr. Price carrying a concealed weapon with the intent of rescuing someone from an attack, thus becoming a hero. Dr. Noffsinger stated that, although there may be "a one-in-a-million chance that might happen, it's very, very unlikely and I think it fits the definition of magical thinking." (138-139)
- Dr. Price telephoning the FBI after the 9/11 attacks to tell them about Iranian taxi drivers in San Antonio who Dr. Price believed might be terrorists. (Tr. at 139-141)
- Dr. Price telephoning the White House to advise the President of the United States to consider a nuclear strike. Dr. Noffsinger testified that Dr. Price's apparent belief that such a call would be taken seriously is magical thinking. (Tr. at 139-141)
- Dr. Price's belief that he had been responsible for the security of his October 25, 2001, airline flight, and his belief that he could "actually carry out security for that aircraft." Dr. Noffsinger further testified that Dr. Price had believed that, if there were no sky marshal on the airliner, the job of protecting the cockpit fell to him because he was in the military. Dr. Noffsinger testified,

Just because you're a military doctor doesn't make you more qualified than anyone else to do those things. Just because you're a chief resident doesn't make you more qualified to defend the cockpit than anyone else on the plane. But he felt it was his responsibility to do those things, and that's magical thinking.

(Tr. at 142-145)

- Dr. Price reporting to Rush Behavioral Health that he had fantasies about capturing Osama bin Laden and that his fantasies involved "gunfights behind rocks." (Tr. at 143)

42. Dr. Noffsinger described the term “circumstantial thinking” as that term is used in the DSM-IV-TR. Dr. Noffsinger testified that normal thinking relates thought A to thought B to thought C in a logical fashion that others can relate to. Dr. Noffsinger testified that the other extreme, psychotic thinking, is disorganized and that any association among thoughts A, B, and C is missing. However, Dr. Noffsinger testified that, in the middle, there are two grades of abnormal thinking, and one of these is termed “circumstantial thinking.” Dr. Noffsinger testified that circumstantial thinking is characterized by responding to questions by talking about other topics but eventually coming back to answer the question. (Tr. at 131-132)
43. In further support of his diagnoses and opinion, Dr. Noffsinger’s testimony included the following:
- Dr. Noffsinger testified that Dr. Price “tends to minimize his past difficulties. He tends to try to explain them away and externalize them, make them be someone else’s fault.” (Tr. at 112) For example, Dr. Noffsinger testified that Dr. Price had tried to portray the failure of his second year of medical school as a failure on the part of the medical school faculty and not as his own failure. Dr. Noffsinger believes that this is an indication that Dr. Price possesses a low level of insight, which is symptomatic of a personality disorder. (Tr. at 113)
 - Dr. Noffsinger testified that records of Dr. Price’s residency training from the Medical College of Georgia indicate that Dr. Price had problems with “tardiness, difficulty learning from his mistakes, basic knowledge deficit, difficulty integrating data, and that he ultimately left this program before finishing the program.” Finally, Dr. Noffsinger testified that these records are consistent with diagnoses of both ADHD and the Personality Disorder Not Otherwise Specified. (St. Ex. 3; Tr. at 93)
 - Dr. Noffsinger testified that the data and conclusions from the Rush Report support his diagnoses. (St. Ex. 8; Tr. at 95-96)
 - With regard to Dr. Price’s letter to Dr. Skipper concerning the Rush Report, Dr. Noffsinger testified that “he’s trying to explain away some of the findings that were in the Rush report. And I think it shows he doesn’t quite get the nature or severity of his problems.” (Tr. at 100) Dr. Noffsinger further testified that people who have a personality disorder “have the same pattern of thinking and behavior and have no insight into it. Instead, they put some blame on other people and don’t see themselves as the problem. For that reason, there’s little motivation to get treatment and little hope for improvement.” (Tr. at 100-101)
 - Dr. Noffsinger testified that the data contained in the report from the Taylor Hardin Secure Medical Facility had revealed,

that [Dr. Price] was somewhat paranoid, that he was feeling vulnerable to either real or imagined threats, [and] that he tended to portray

himself in the testing in a positive light. They also conducted an interview with his wife who described him as having not much empathy, that he was grandiose, [that he] cannot accept criticism, [and] that he had an abnormal desire to earn respect, desires of personal success. And their diagnosis was also of a personality disorder, which, again, is consistent with the diagnoses that I made.

(Tr. at 97-99)

- Dr. Noffsinger testified that Dr. Price had illegally carried a concealed handgun prior to October 25, 2001. Further, Dr. Noffsinger believes that illegally carrying a concealed weapon can be evidence of a personality dysfunction in that the person knows that it is illegal but does it anyway, showing disregard for the law. Furthermore, Dr. Noffsinger testified that two factors had influenced Dr. Price's decision to carry concealed weapons: "He had some paranoid thinking, but also had this hero fantasy that if he found someone who was in trouble, being accosted, he could then spring in with his concealed weapon and save them, be the hero." Accordingly, Dr. Noffsinger testified that Dr. Price's use of a concealed weapon "didn't just spring up with the events of September 11, 2001"; rather, it represented "a long-standing pattern of thinking and behavior[.]" Finally, Dr. Noffsinger testified that Dr. Price's "long-standing paranoid thinking [and] his hero fantasies definitely were major motivators in what happened in October 2001." (Tr. at 113-115)

In addition, Dr. Noffsinger testified that Dr. Price had inappropriately felt justified in attempting to take weapons on to the airliner because he had been in the military. Dr. Noffsinger believes that Dr. Price had been aware intellectually that his military status did not entitle him to take weapons onto the airplane; however, "emotionally, based on his distorted thinking, he still felt justified in doing what he did." (Tr. at 119-120)

44. In his report, Dr. Noffsinger stated his opinion that Dr. Price's condition is not amenable to treatment. (St. Ex. 1 at 11-12) When asked why Dr. Price's condition is not amenable to treatment, Dr. Noffsinger replied,

Well, first of all, it's the nature of personality disorders because they're formed in childhood and adolescence. They are deep seated and it is very hard to change those patterns of thinking and behavior.

A personality disorder is different [from] something like depression or even psychosis, which is much more severe but is biochemical and can be treated. A personality disorder flows from one's distorted view of the world and [is] formed early in life. Because it is so deep-seated, it's very difficult to treat.

And the other reason is * * * that people with personality disorders don't have insight. They think that something is wrong with the world, not with them or

their view of the world, and so they fail to recognize that there's even a problem.

(Tr. at 162) Moreover, when asked if he has seen any studies suggesting that personality disorders are or may be amenable to treatment, Dr. Noffsinger testified that certain behavioral symptoms may respond to medication, especially the most severe symptoms, but that that is "just really dealing with the tip of the iceberg." (Tr. at 163-164) Finally, Dr. Noffsinger testified that personality disorders respond poorly, or do not respond at all, to psychotherapy. (Tr. at 167)

November 2004 Evaluation of Dr. Price by M. Douglas Reed, Ph.D.

45. Marvin D. Reed, Ph.D., testified on behalf of Dr. Price. Dr. Reed described his educational background as follows,

I attended the University of Cincinnati [majoring] in architecture; transferred to Wheaton College in Illinois, got a Bachelor's in philosophy; stayed there and completed a Master's in theology; went to Harvard Divinity School in special studies, history of religion; then I went to [the University of] Maryland, got another Master's in education, counseling and personal services; and [in 1970] I completed a Ph.D. in Maryland in counseling education.

(Tr. at 333-334; Resp. Ex. K)

Dr. Reed also testified that he has had postdoctoral training in forensic psychology. His curriculum vitae indicates that he has taken 90 hours of training in forensic sciences from the International College of Prescribing Psychologists and Prescribing Psychologists Register, and 56 hours of training from the American College Forensic Examiners. (Resp. Ex. K at 4; Tr. at 334-335) Moreover, Dr. Reed stated that he has testified before various courts, and has also appeared before several Ohio professional licensure boards. (Tr. at 341-342)

Dr. Reed testified that he is a professor at the University of Cincinnati in the Department of Addictions, and that he teaches courses in neurobiology/neuroendocrinology of addictions, and psychopharmacology of addictions. (Resp. Ex. K at 1; Tr. at 338)

46. Dr. Reed testified that he has been a licensed clinical psychologist in Ohio since 1977. Dr. Reed practices in West Chester, Ohio. (Resp. Ex. K; Tr. at 334)
47. In the introduction section of his written report concerning his evaluation of Dr. Price, Dr. Reed stated as follows,

Purpose of Evaluation: Dr. Richard Price came to the offices of Dr. Douglas Reed & Associates for a psychological evaluation. The purpose of the evaluation was to determine:

- (1) the personality characteristics (cf. to other evaluations) of Mr. Price
- (2) any mental impairment which would prevent him from the practice of medicine.
- (3) his level of “dangerousness” related to the community;
- and (4) the likelihood that he might re-offend.

(Resp. Ex. K at 3)

48. Dr. Reed indicated that his interview of Dr. Price had been conducted over “several 1 to 2 hour sessions” during the period of November 4 through 13, 2004. Dr. Reed testified that his total face-to-face time with Dr. Price had been approximately ten hours. (Resp. Ex. A; Tr. at 386)

During his evaluation of Dr. Price, Dr. Reed administered a large number of psychological tests, including the 16 Personality Factor (16PF), the Minnesota Multiphasic Personality Inventory (MMPI-2), the Millon Clinical Multi-Axial Inventory (MCMI-III), the HARE PCL-R Collateral Information, and the Rorschach test. In addition, Dr. Reed reviewed documents such as reports of previous evaluations, including Dr. Noffsinger’s evaluation. (Resp. Ex. A)

49. Dr. Reed testified that the protocol for a forensic examination is to start with the least structured testing, such as the Rorschach, and move toward the most structured testing, such as the MMPI. If there is a positive finding on a test, the evaluator should follow up with additional, more focused testing to confirm or refute the finding. (Tr. at 348-349)
50. Based upon the Millon Clinical Multiaxial Inventory-III (MCMI-III), Dr. Reed reported the following possible DSM-IV-TR multiaxial diagnoses for Dr. Price:

Axis I: Clinical Syndromes

There are none. There is no evidence of psychological pathology. Because of his history [of alcohol use] we further explored his current use to determine whether it is a problem now. See the sections on the MAST, SASSI and CAGE * * *. It is not now a problem.

Axis II: Personality Configuration or Patterns

Dr. Price portrays a personality configuration that is composed of the following traits, or features:

- Histrionic Personality Traits
- Antisocial Personality Features

Course: The major personality features described previously reflect long-term or chronic traits that are likely to have persisted for several years prior to the present assessment.

Axis III: Medical Concerns

Mild Obesity
Mild Hypertension

Axis IV: Psychosocial and Environmental Problems

Job Problems
Economic Problems

(Resp. Ex. A at 30-31) Dr. Reed also noted that most of the other clinical data that he had collected supported the results of the MCMI-III. He recommended focused short-term therapy to address acute difficulties, followed by time-limited therapeutic procedures directed towards preventing recurrence of problems. (Resp. Ex. A at 31-33)

51. With regard to the results of the Minnesota Multiphasic Personality Inventory-2 (MMPI-2), Dr. Reed concluded in his written report that Dr. Price's profile was within normal limits. He concluded that there is no evidence of schizotypal or narcissistic personality disorders, major depressive disorder, or adjustment disorder. Dr. Reed further concluded, "[Dr. Price] has experienced fear that clouded his judgment and altered his behavior. That was a rare—perhaps once-in-a-lifetime—event, however." (Resp. Ex. A at 26-29)

Dr. Reed testified at hearing that Dr. Price's MMPI "clinical profile is within normal limits * * *. So based on that test, there's no evidence of psychological pathology. There was no Axis I and no Axis II." (Tr. at 371)

52. Dr. Reed testified that Dr. Price's results on the Rorschach test indicate that Dr. Price is intuitive, and that when he is highly emotionally aroused his thinking will be affected. However, Dr. Reed further testified that the Rorschach indicated that Dr. Price has a good "control resource." Dr. Reed also stated that Dr. Price has a tendency towards unconventional and individualistic responses to stimuli, which raises a question whether Dr. Price has a persistent tendency to disregard social convention. Moreover, Dr. Reed testified that Dr. Price merges feeling with thinking while problem-solving or making decisions. However, Dr. Reed testified that Dr. Price is not illogical, and that he is not impaired. (Tr. at 396-401)

In addition, Dr. Reed testified that, according to the Rorschach test, the conclusions of earlier evaluations that Dr. Price is unable to relate to others were unfounded. Furthermore, Dr. Reed testified that the Rorschach test revealed that Dr. Price did *not* suffer from unconventional thinking or narcissism. Finally, Dr. Reed stated that Dr. Price's "reality testing is negatively affected by his persistent tendency to disregard social convention.

That's the worst we can say. It is not a break with reality, but a less conventional way of dealing with it." (Tr. at 404-405)

53. In a section of his report entitled, "Antisocial Behavior," Dr. Reed noted, among other things, that "[o]ther than the October 2001 felony offense, Dr. Price has never committed or been convicted of a crime." Dr. Reed further noted, "Dr. Price has had an environment rich in military history and weaponry. * * * However, it was inculcated by his father that firearms were to be enjoyed only in strict observation of safety and legality." Moreover, Dr. Price "came to believe that firearms are like insurance: 'you hope you never need it, but it's good to have if you do.'" However, Dr. Reed then states, "Dr. Price carried a concealed pistol in his car during the years prior to 2001. He stated in previous interviews that he thought that he may possibly need the pistol to intervene should one of his coed classmates fall into danger." (Resp. Ex. A at 14-15) Any issue regarding the legality of such behavior was not mentioned in Dr. Reed's report. (Resp. Ex. A)
54. With regard to the HARE PCL-R Collateral Information test, Dr. Reed acknowledged that Dr. Price had chosen the individuals contacted. However, Dr. Reed testified that the fact that Dr. Price was able to pick 10 people with whom he had relationships contradicts the conclusion of previous evaluations that Dr. Price exhibits schizotypal symptoms. Dr. Reed testified that someone who is schizotypal or narcissistic would be unable to do that, "because they don't establish relations very well." (Tr. at 405-408)
55. In his written report, Dr. Reed's final comments and opinions included the following,

Simply stated, the objective evidence (tests, inventories, and checklists) the structured clinical interviews, and the collateral information examined do not support a diagnosis of Personality Disorder of any kind. The diagnostic criteria are clear, and are not met. "Features" or "traits" do not constitute a personality disorder—even an NOS diagnosis.

(Resp. Ex. A at 60). Moreover, even if Dr. Price had a personality disorder, in Dr. Reed's opinion, personality disorders can be amenable to treatment. Finally, Dr. Reed stated,

In my professional opinion, within a reasonable degree of psychological certainty, Dr. Richard Price is able to practice medicine within the scope of his knowledge, skills, and training.

He would benefit from some specific counseling or psychotherapy in the areas of concern pointed out in my report and in those of others. He is capable of making further changes (such as in listening, not joking, and being more prompt) as he has in the previous two years.

He would benefit from careful monitoring of his ADHD symptomology and medication, as well as his intake of caffeine. Reducing his obesity would also be helpful.

In my professional opinion, to a reasonable degree of psychological certainty, Dr. Price will not re-offend in any illegal manner, although he may receive another speeding ticket someday, or may offend a coworker with his exuberance.

(Resp. Ex. A at 62)

56. Dr. Reed testified that Dr. Price did not exhibit “magical thinking.” Dr. Reed further testified that Dr. Price did not believe that he was special, had special powers, or that he was the hero of the day. Dr. Reed further testified that Dr. Price did not say that he knew the airport personnel would think it would be okay for him to have a gun; instead, he had hoped that he could talk his way out of the situation if he got caught. Dr. Reed stated that that is not “magical thinking.” (Tr. at 426-427)
57. In his written report, Dr. Reed stated that Dr. Price had admitted to having passing fantasies about capturing Osama bin Laden, but that these fantasies did not dominate his thoughts and that Dr. Price did not act on them. Further, Dr. Reed stated that Dr. Price “also admits to having passing fantasies of rescuing coeds in distress. However, he realizes that his fantasies were not based on reality, they did not dominate his thoughts and he did not act on them.” (Resp. Ex. A at 18) However, note that Dr. Reed’s report makes it clear that Dr. Price *did* act on his fantasy of rescuing coeds in distress—Dr. Reed’s report states that Dr. Price had carried a concealed pistol in his car for just such a purpose. (Resp. Ex. A at 15)
58. Dr. Reed testified that the DSM-IV-TR states that a patient must meet all of several characteristics before a diagnosis of personality disorder can be made. Dr. Reed further testified that his testing indicated that Dr. Price may perhaps meet two of the criteria, but that that is not enough to support such a diagnosis. (Resp. Ex. C at 689; Tr. at 410-411)
59. Dr. Reed testified,

I did notice [Dr. Price] has lots of pride in his past achievements. I think it would be rare for people who have done all that he has done not only in medical school, but in other areas not to be proud. He’s worked hard. So he was proud of that, which I thought was appropriate. He’s not puffed. He could have gone way out of his way to talk about his triumphant achievements, but he didn’t.

(Tr. at 354-355)

December 2004 Report of Evaluation of Dr. Price by Babu Gupta, M.D.

60. Babu Gupta, M.D., testified on behalf of Dr. Price. Dr. Gupta testified that he had obtained his medical degree in 1990 from Washington University in St. Louis, Missouri, and completed a residency in general psychiatry in 1994 at the University of Pittsburgh.

Dr. Gupta then spent one year as an adjunct assistant professor of clinical psychiatry at the University of Cincinnati, then moved on to private practice in different settings until starting his own private practice in Cincinnati in 2000. Dr. Gupta testified that his practice consists of a mixture of outpatient and inpatient practice, and that he has been doing some independent medical examination work sporadically. Dr. Gupta testified that he is licensed to practice medicine in Ohio. Moreover, Dr. Gupta testified that he is board certified by the American Board of Psychiatry and Neurology, and is a member of the American Psychiatric Association. Finally, Dr. Gupta testified that he has been doing forensic examinations for the past five years. (Tr. at 204-206)

Dr. Gupta testified that he had evaluated Dr. Price at the request of Dr. Reed. Dr. Gupta further testified that, prior to seeing Dr. Price, he had reviewed a large amount of material, which mostly consisted of reports of earlier evaluations. He then met with Dr. Price face-to-face for two hours. Following his evaluation, Dr. Gupta produced a written report. (Resp. Ex. A; Tr. at 206)

61. In his December 9, 2004, report, Dr. Gupta gave the following diagnostic impressions:

- Axis I: History of Adjustment Disorder with Mixed Disturbance, Devotion and Conduct, Resolved
Attention Deficit Hyperactivity Disorder, NOS
- Axis II: Narcissistic Personality Traits
Rule Out Narcissistic Personality Disorder
- Axis III: Degenerative Joint Disease, History of Hypercholesterolemia,
Plantar Fasciitis
- Axis IV: Legal, Occupational and Financial Problems, History of Problems
with Primary Support Group
- Axis V: Current GAF = 75 – 80 Highest in Past Year – Same

(Resp. Ex. A: Gupta report at 6) Further, in his recommendations, Dr. Gupta stated, in part,

If the events of September 11th never occurred, Dr. Price would likely not be having any difficulties in obtaining a medical license. His actions on October 25th, which directly stem from the September 11th terrorist attacks, caused him to be placed under an intense magnifying glass. However, I find no objective evidence of significant psychiatric impairment that would preclude Dr. Price from obtaining a state medical license, so that he can resume his residency training in occupational medicine. He does not have a significant anxiety, mood or psychotic disorder that causes functional impairment. He has not exhibited any pattern of neglect, carelessness,

intimidation, manipulation, hostility or outright abuse towards patients, colleagues or supervisors. He does not have a history of substance abuse.

While he has had difficulties as a medical student and resident, it should be noted that he was never determined by his medical school and training programs to be psychiatrically impaired.

Previous reports have made recommendations for Dr. Price to be in supervised, structured environments. If Dr. Price were to have his medical license reinstated, this is exactly the type of environment he would enter. He would still be in a training program with regular supervision and assessment, and his professional life would be highly structured. Therefore, I see no reason for his medical licensure to be denied.

(Resp. Ex. A, Dr. Gupta's report at 7)

62. Dr. Gupta testified concerning his Axis I diagnostic impression of History of Adjustment Disorder with Mixed Disturbance, Emotion and Conduct, Resolved. Dr. Gupta testified that Dr. Price had been sufficiently impacted by the 9/11 attacks that his judgment became impaired. Dr. Gupta further testified that he believes the impaired judgment was of only short-term duration. Moreover, Dr. Gupta testified, "in retrospect, [Dr. Price] can see that error in judgment, and I believe he had developed proper insight into his errors. So I believe that, in terms of his judgment, that has been resolved." Finally, Dr. Gupta testified that he does not believe that Dr. Price's history of adjustment disorder will have any impact on his fitness to practice medicine. (Tr. at 213-216)
63. Dr. Gupta testified that he does not believe that Dr. Price's conduct on October 25, 2001, constituted magical thinking. Dr. Price's concern that there could have been hijackers on his plane, in Dr. Gupta's opinion, was not unreasonable considering the context of the terrorist attacks six weeks earlier. Dr. Gupta further testified that, if Dr. Price had thought that aliens were going to hijack his flight, that would have been magical thinking. (Tr. at 240)
64. With regard to his Axis II diagnostic impression, Dr. Gupta testified that he believes Dr. Price has some narcissistic personality traits. Dr. Gupta further testified that he had indicated rule out narcissistic personality disorder because personality disorders are difficult to diagnose with one visit. Dr. Gupta stated that he cannot say with a high degree of medical certainty that Dr. Price does not have narcissistic personality disorder. (Tr. at 221)

Testimony of Paul G. LaRussa, M.D.

65. Paul G. LaRussa, M.D., testified on behalf of Dr. Price. Dr. LaRussa testified that he is a psychiatrist licensed to practice medicine in the State of Alabama. Dr. LaRussa further testified that he had obtained his medical degree from UAB in 1987. In 1991, he completed a residency in psychiatry at that same institution. Dr. LaRussa testified that he

is board certified in psychiatry and in geriatric psychiatry. Moreover, Dr. LaRussa testified that he had worked in academia and in private practice in Birmingham, Alabama, until 2000, when he opened The Renaissance Center, which is “a general adult outpatient clinic[.]” that consists of Dr. LaRussa, a psychologist, and a part-time psychiatrist. (Tr. at 463-464)

Dr. LaRussa testified that he had first met Dr. Price in 2001, shortly after Dr. Price’s arrest. Dr. LaRussa further testified that Dr. Price had been referred to him by the Chairman of the Department of Psychiatry at UAB. (Tr. at 467)

Dr. LaRussa testified that he has treated Dr. Price since 2001. Dr. LaRussa further testified that he has tried to help Dr. Price “understand both the events that had gotten him into hot water and also to assist him with the repercussions that he was facing in regards to his profession as well as with his residency program.” Moreover, Dr. LaRussa testified,

His attorney * * * had asked me to evaluate Dr. Price and submit a report to the court to assist him with the criminal charges against him. And over the course of visits since that time, I tried to assist Dr. Price in looking at his professional options and ways that he could learn from this so as not to repeat his mistakes.

(Tr. at 468-469)

66. Dr. LaRussa testified that, in his opinion, Dr. Price is fit to practice medicine. Dr. LaRussa testified with regard to the bases for his opinion,

[Dr. Price] has been extremely compliant with treatment and has taken medications. He’s grown quite a bit in his therapy. There have been no further altercations of any significance, and I think he has returned to his baseline.

* * *

[Dr. Price’s] baseline is without any significant pathology that would prevent him from practicing medicine.

(Tr. at 470)

Dr. LaRussa acknowledged that his 2002 report had stated that Dr. Price suffered from five Axis I diagnoses and one Axis II diagnosis. However, Dr. LaRussa testified, “It’s my opinion now that these disorders have either resolved or are managed to the point that they would not affect his ability to practice medicine[.]” (St. Ex. 9 at 5-6; Tr. at 474-475)

When asked whether Dr. Price’s symptoms are likely to recur, Dr. LaRussa noted that the first Axis I diagnosis in his 2002 report had been Adjustment Disorder with mixed

emotional features. Dr. LaRussa testified, “That is a situational disorder that we believe is a result of stress and, hopefully, although we can’t be sure, but hopefully none of us will be exposed to the stress of a 9/11 attack again.” (St. Ex. 9 at 5-6; Tr. at 477)

Finally, with regard to a statement in his 2002 report that Dr. Price suffered from an “inability to appreciate the nature and quality or the wrongfulness of his acts,” Dr. LaRussa testified,

In regards to the inability to appreciate the quality or nature or wrongfulness of his acts, what I meant there was by isolating himself, he had convinced himself that, although wrong, these acts were for a higher good, which I think he now realizes was a mistake.

* * *

He could appreciate the wrongfulness of the acts; however, at the time, he felt like the potential merits of the acts outweighed that wrongfulness. In other words, in his view, it was the lesser of the two evils.

(Tr. at 477-478)

Additional Information

67. Dr. Price testified as follows concerning Dr. Noffsinger’s statement that he had exhibited circumstantiality during his interview,

I guess, from what I’ve spoken with through regular counseling with Dr. LaRussa and other people, there’s a spectrum. When I have my sanity and my competence on the line, I try to qualify what I’m saying very clearly so as to avoid any misunderstandings. It appears as though my qualifications were taken as circumstantiality.

(Tr. at 279) Dr. Price further testified that, when being interviewed, he tries to present himself in the best light possible, does not like to dwell on past failures and mistakes, and tries to establish credibility. Dr. Price indicated that Dr. Noffsinger may have interpreted that as vagueness. (Tr. at 279-280)

68. Dr. Price testified that, by the term “hero,” as he had used it during psychiatric evaluations, he had meant someone who is a benefit to others and who stands up for the country at a time when he or she is needed. Dr. Price testified that he did not use that term in the sense of a superhero who wears a cape and has special powers. (Tr. at 277-279)

Dr. Price testified that the definition of “hero” never came up during his interview with Dr. Noffsinger. (Tr. at 278-279)

69. Lt. Colonel Brent B. Goodwin, Ph.D., United States Army Reserves, testified on behalf of Dr. Price. Lt. Col. Goodwin further testified that he holds a Ph.D. in Hospital Administration that he had earned in 1987 from the University of Alabama at Tuscaloosa. Lt. Col. Goodwin stated that he has a total of 37 years of both active and reserve military service. (Tr. at 486-488)

Lt. Col. Goodwin testified that he had first met Dr. Price around March or April 2001. Lt. Col. Goodwin further testified that he had had a number of opportunities to observe Dr. Price's performance. He had very high praise for Dr. Price's work, and testified that Dr. Price was a "model officer." (Tr. at 492-498)

70. Lt. Col. Goodwin testified that Southern culture is such that the possession and use of firearms for legal endeavors such as hunting and target shooting is common. Moreover, Lt. Col. Goodwin testified that, in Alabama, an individual may legally carry a firearm in his or her automobile without the requirement of a permit. Nevertheless, Lt. Col. Goodwin testified that Southern gun culture does not encourage or permit using a firearm illegally. (Tr. at 508-512, 518-519)

Lt. Col. Goodwin further testified that he had known that Dr. Price carried concealed weapons before October 2001. However, Lt. Col. Goodwin testified that he had not been aware that Dr. Price had illegally carried a concealed firearm onto a military facility. (Tr. at 511-514)

71. John H. Gould testified on behalf of Dr. Price. Mr. Gould testified that he holds a Master's degree in Counseling Psychology from the University of Kentucky. Mr. Gould further testified that he is a Licensed Psychological Associate in Kentucky. (Tr. at 522)

Mr. Gould testified that he and Dr. Price have been best friends for 30 years. Mr. Gould further testified that he had met Dr. Price during the summer of their senior year of high school while volunteering at an inner-city school. Mr. Gould testified that he has remained friends with Dr. Price and his family since that time. (Tr. at 523-526). Moreover, Mr. Gould testified that he has always been impressed with the quality and depth of Dr. Price's relationships with those who were close to him, such as with Dr. Price's wife. Mr. Gould testified that Dr. Price and his wife,

have a very lovely relationship. They are very direct, very candid, very affectionate with each other and, simply, it's a great joy to me both in the past and also in the present when I make visits to their home, participate in the family dinners, and just see the devotion that his two girls have for them and the lovely teasing that goes on between them that I'm included in.

(Tr. at 526). However, Mr. Gould later testified that he had been aware that Dr. Price and his wife have had a strained relationship, and that they have been through marital counseling. (Tr. at 533-534)

Mr. Gould testified that he does not believe that Dr. Price has any trouble making friends or developing lasting relationships with people. Mr. Gould further testified that it's "the opposite." Mr. Gould testified that Dr. Price is a very warm, outgoing person, and he continues to maintain friendships with people that he knew in high school. Moreover, Mr. Gould testified that Dr. Price easily makes friends with those in his community. (Tr. at 527-528)

72. Terry W. Banks, M.D., testified on behalf of Dr. Price. Dr. Banks testified that he had first met Dr. Price while Dr. Banks was a PGY-III resident in the occupational medicine residency program at UAB, and that Dr. Banks had been one year ahead of Dr. Price in that program. (Tr. at 536-538)

Dr. Banks testified that he and Dr. Price had become friends. Dr. Banks further testified that Dr. Price had been well-liked by his patients. Moreover, Dr. Banks testified that he had never observed Dr. Price having difficulty in a social setting, or with making friends. Furthermore, Dr. Banks believes that Dr. Price had been very knowledgeable about medicine and had been well-rounded as a physician. Finally, Dr. Banks testified that he would recommend Dr. Price as a physician without hesitation. (Tr. at 538-540)

73. Jimmy S. Hankins, M.D., testified on behalf of Dr. Price. Dr. Hankins testified that he first met Dr. Price in 2000 when Dr. Hankins began work at UAB as an interim residency coordinator of the occupational medicine residency program. (Tr. at 545-548)

Dr. Hankins testified that he had observed that Dr. Price had had a good rapport with patients, other residents, and employees. Dr. Hankins further testified he believes that Dr. Price had a good medical knowledge base. Moreover, Dr. Hankins testified, "He probably was not our brightest resident, but he still performed well." (Tr. at 549) Dr. Hankins indicated that he felt very comfortable with Dr. Price as a physician, and believes that Dr. Price had sound medical judgment. (Tr. at 549-550)

Dr. Hankins testified that he is aware of the incident in October 2001, during which Dr. Price had attempted to bring weapons onto a commercial airliner. Dr. Hankins further testified that Dr. Price had been discharged from the residency program following that incident. However, Dr. Hankins stated that, until that time, Dr. Price had been on track to complete the residency, and that Dr. Price had been at "about the 75 percent mark." Dr. Hankins stated that he "absolutely" believes that Dr. Price would have completed the program. (Tr. at 550-552)

74. When asked what effect the criminal conviction and license revocations have had on him, Dr. Price testified,

I guess devastating, in a word. The one thing that I'm thriving on is hope, hope for restoring my medical career, hope for restoring my license in some way. This has been a very trying time to not be able to do what you want to

do, and what I want to do is be a physician and make people better. That's what I've been in all this for this long for. This is what I'm all about.

(Tr. at 78)

75. Dr. Price testified that, since the October 2001 incident, he has worked at Pizza Hut, a supermarket, as a car salesman, and currently works as an assistant manager at a shoe store. Dr. Price testified that he currently works 45 hours per week. (Tr. at 264-266)
76. Dr. Price testified that, should the Board grant his application, his immediate plan would be to reestablish his credibility as a physician. Dr. Price further testified that he would seek a residency program. Finally, Dr. Price testified that he wishes to work in the field of occupational medicine in either an industrial setting or in an occupational health clinic. (Tr. at 260-262, 305)

FINDINGS OF FACT

1. On or about July 7, 2003, Richard Daniel Price, M.D., M.P.H., submitted to the Board an "Application for License Restoration Medicine or Osteopathic Medicine" [License Restoration Application], which remains pending. In his License Restoration Application, Dr. Price indicated that he had been convicted in federal court of a felony arising from his act of attempting to carry a concealed firearm, a switchblade, and a sword cane aboard a commercial airplane; that he had been terminated from his residency training program at the University of Alabama related to such behavior; that his license to practice medicine in the State of Alabama had been revoked as result of such conviction; and that he had been diagnosed as having an "Adjustment Disorder to the events of 9-11 and impulsiveness due to an underlying untreated Attention Deficit Disorder."
2. On August 15, 2002, Dr. Price appeared before the United States District Court for the Northern District of Alabama. At that time, the court accepted Dr. Price's plea of guilty to, and found him guilty of, a violation of 49 U.S.C. Section 46505(b)(1), a felony, related to the aforementioned conduct. The court fined Dr. Price one thousand dollars with interest, ordered that he pay a special assessment of one hundred dollars, and placed him on probation for a period of twenty-four months. Dr. Price fulfilled the terms of his probation, and was granted an early discharge after thirteen months.
3. By order dated March 31, 2003, the Medical Licensure Commission of Alabama revoked Dr. Price's license to practice medicine and surgery in the State of Alabama.
4. By certified letter dated January 13, 2004, the Board ordered Dr. Price to submit to a psychiatric evaluation by Stephen Noffsinger, M.D., on February 5, 2004. Subsequently, as a result of that evaluation, Dr. Noffsinger opined with a reasonable degree of medical certainty that Dr. Price currently suffers from Personality Disorder Not Otherwise Specified with Schizotypal and Narcissistic Traits, and Attention-Deficit/Hyperactivity Disorder,

Predominantly Inattentive Type. Dr. Noffsinger further opined with a reasonable degree of medical certainty that Dr. Price is presently unable to practice medicine according to acceptable and prevailing standards of care due to the aforementioned conditions. Dr. Noffsinger based his opinion, in part, upon the following:

- Dr. Price's magical thinking, excessive fantasies, and paranoia, (which he at times acts upon) markedly impacts his ability to relate to others and to behave in a socially acceptable manner. This limits his ability to reliably and consistently relate to patients and colleagues.
- Dr. Price's judgment has been markedly impaired at times by his mental disorders. His medical decision-making is likely to be impaired due to his poor judgment.

Further, although Dr. Noffsinger opined with a reasonable degree of medical certainty that Dr. Price also has the diagnosis of History of Major Depressive Disorder, he also opined that this condition does not presently require treatment and does not preclude Dr. Price from practicing medicine. Moreover, Dr. Noffsinger opined with a reasonable degree of medical certainty that Dr. Price's Attention-Deficit/Hyperactivity Disorder is amenable to treatment and is presently well controlled. However, Dr. Noffsinger further opined with a reasonable degree of medical certainty that Dr. Price's Personality Disorder Not Otherwise Specified with Schizotypal and Narcissistic Traits is not amenable to treatment. Finally, Dr. Noffsinger opined with a reasonable degree of medical certainty that because Dr. Price's inability to practice according to acceptable and prevailing standards of care is primarily caused by his personality disorder, it is unlikely that, given treatment, he would be able to practice according to acceptable and prevailing standards of care in the future.

5. At some time prior to the hearing, the Georgia Composite State Board of Medical Examiners revoked Dr. Price's license to practice in that State based upon the revocation of his Alabama license.
6. The conflict in the opinions of Stephen G. Noffsinger, M.D., and M. Douglas Reed, Ph.D., necessitate a credibility determination.

With regard to Dr. Noffsinger, there is no evidence that Dr. Noffsinger had anything to gain by finding that Dr. Price is not fit to practice medicine by reason of a mental disorder. Dr. Noffsinger testified that he has done approximately thirty evaluations for the Board and that he has found the licensees unable to practice medicine a "vast minority" of the time. Further, there is no evidence that Dr. Noffsinger was in any way biased against Dr. Price. Furthermore, Dr. Noffsinger's opinion that Dr. Price suffers from a personality disorder is consistent with most of the previous evaluations performed.

On the other hand, with regard to Dr. Reed's opinion, it must be noted that Dr. Reed is the only evaluator in the record who opines that Dr. Price does not suffer from any psychopathology. All of the other evaluators, including Dr. Gupta whom Dr. Reed had chosen to evaluate Dr. Price, stated that Dr. Price suffers from some form of mental illness.

Furthermore, some of the statements made by Dr. Reed in his written report are confusing. For example, Dr. Reed wrote that, prior to Dr. Price's October 2001 felony offense, Dr. Price had never committed a crime, and had been taught to use firearms safely and legally. However, it is clear that Dr. Price carried a concealed firearm on numerous occasions in contravention of the law. Nevertheless, the issue of Dr. Price carrying a concealed firearm illegally was never mentioned in Dr. Reed's report. For another example, Dr. Reed stated in his written report that Dr. Price had had passing fantasies of rescuing coeds in distress, but that these fantasies did not dominate Dr. Price's thoughts and he did not act upon them. However, Dr. Reed had earlier noted in his report that Dr. Price had carried a concealed pistol in his car so that he could intervene should a coed classmate fall into danger.

For the above reasons, the opinion of Dr. Noffsinger is found to be more persuasive than the opinion of Dr. Reed

CONCLUSIONS OF LAW

1. The plea of guilty or the judicial finding of guilt of Richard Daniel Price, M.D., M.P.H., as set forth in Findings of Fact 1 and 2, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.
2. The conduct of Dr. Price as set forth in Findings of Fact 1, 3, and 5, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.
3. The conduct of Dr. Price as set forth in Findings of Fact 1 and 4 constitutes "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills," as that clause is used in Section 4731.22(B)(19), Ohio Revised Code.

* * * * *

The evidence in this matter indicates that Dr. Price had been convicted of attempting to take weapons onto an airliner. The conduct underlying that offense occurred just a few weeks after the terrorist attacks of September 11, 2001. Based upon Dr. Price's criminal conviction, the medical boards of Alabama and Georgia revoked Dr. Price's licenses to practice medicine in those states. Subsequently, when Dr. Price applied to the Board for restoration of his Ohio

certificate, the Board ordered Dr. Price to a psychiatric evaluation. The evaluation resulted in diagnoses that included Personality Disorder Not Otherwise Specified with Schizotypal and Narcissistic Trait. Further, it included a determination that Dr. Price's personality disorder is not amenable to treatment, and that it renders him unable to practice medicine according to acceptable and prevailing standards of care. Finally, it included a determination that, because Dr. Price's disorder is not amenable to treatment, it is unlikely that Dr. Price will be able to safely practice medicine in the future. Based upon the foregoing, in the interest of protecting the public, the Board would be justified in permanently denying Dr. Price's application.

PROPOSED ORDER

It is hereby ORDERED that:

The application of Richard Daniel Price, M.D., M.P.H., for a certificate to practice medicine and surgery in Ohio is PERMANENTLY DENIED.

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



R. Gregory Porter, Esq.
Hearing Examiner



State Medical Board of Ohio

77 S. High Street, Columbus, OH 43215-9127 • Tel: 614-464-5934 • Website: www.smb.state.oh.us

EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 14, 2005

REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Binh Quoc Doan, M.D.; Adam P. Hall, D.O.; James L. Kegler, M.D.; John Michael Lonergan, M.D.; Richard Daniel Price, M.D.; Craig L. Rich, M.D.; Charles Christian Rickey, P.A.; Steven John Shor, M.D.; and Robert Martin Stang, D.O. A roll call was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

Dr. Davidson asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

Dr. Davidson noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

Dr. Davidson stated that, if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

.....

Dr. Talmage left the room at this time.

.....

RICHARD DANIEL PRICE, M.D., M.P.H.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF RICHARD DANIEL PRICE, M.D., M.P.H. DR. SAXENA SECONDED THE MOTION.

.....

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.



State Medical Board of Ohio

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

June 9, 2004

Richard Daniel Price, M.D., M.P.H.
5312 Meadow Garden Lane
Birmingham, Alabama 35242

Dear Doctor Price:

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

- (1) On or about July 7, 2003, you submitted to the Board an "Application for License Restoration Medicine or Osteopathic Medicine" [License Restoration Application], which remains pending to date. In such License Restoration Application, you indicated that you had been convicted in federal court of a felony arising from your act of attempting to carry a concealed firearm, a switchblade, and a sword cane aboard a commercial airplane; that you had been terminated from your residency training program at the University of Alabama related to such behavior; that your license to practice medicine in the State of Alabama had been revoked as result of such conviction; and that you had been diagnosed as having an "Adjustment Disorder to the events of 9-11 and impulsiveness due to an underlying untreated Attention Deficit Disorder."
- (2) On or about April 24, 2002, in the United States District Court, Northern District of Alabama, you entered a plea of guilty to the felony charge of Carrying a Weapon on an Aircraft, in violation of 49 U.S.C. Section 46505(b)(1), related to the aforementioned acts. Further, on or about August 15, 2002, the Court accepted your plea of guilty and entered a Judgment In a Criminal Case, fining you in excess of one thousand dollars and sentencing you to 24 months of probation. A copy of the Judgment is attached hereto and fully incorporated herein.
- (3) On or about March 31, 2003, the Medical Licensure Commission of Alabama revoked your license to practice medicine and surgery in the State of Alabama. A copy of the Administrative Complaint and Order of the Medical Licensure Commission is attached hereto and fully incorporated herein.

Mailed 6/10/04

- (4) By certified letter dated January 23, 2004, the Board ordered you to submit to a psychiatric evaluation by Stephen Noffsinger, M.D., commencing on February 5, 2004. As a result of such evaluation, Dr. Noffsinger opined with a reasonable degree of medical certainty that you currently have the mental disorders of Personality Disorder Not Otherwise Specified with Schizotypal and Narcissistic Traits, and Attention-Deficit/Hyperactivity Disorder, Predominantly Inattentive Type. Dr. Noffsinger further opined with a reasonable degree of medical certainty that you are presently unable to practice medicine according to acceptable and prevailing standards of care due to the aforementioned conditions based upon the following:
- (a) Your magical thinking, excessive fantasies and paranoia, which at times you act upon, markedly impacts your ability to relate to others and to behave in a socially acceptable manner, which limits your ability to reliably and consistently relate to patients and colleagues.
 - (b) Your judgment has been markedly impaired at times by your mental disorders. Your medical decision-making is likely to be impaired due to your poor judgment.

Further, although Dr. Noffsinger opined with a reasonable degree of medical certainty that you also have the diagnosis of History of Major Depressive Disorder, he also opined that this condition does not presently require treatment and does not preclude you from practicing medicine. Dr. Noffsinger additionally opined with a reasonable degree of medical certainty that your Attention-Deficit/Hyperactivity Disorder is amenable to treatment and presently is well controlled. However, Dr. Noffsinger further opined with a reasonable degree of medical certainty that your Personality Disorder Not Otherwise Specified with Schizotypal and Narcissistic Traits is not amenable to treatment, and that since your inability to practice according to acceptable and prevailing standards of care is mainly caused by your personality disorder, it is unlikely that, given treatment, you would be able to practice according to acceptable and prevailing standards of care in the future.

- (5) On or about March 17, 2004, the Georgia Composite State Board of Medical Examiners issued an Initial Decision that revoked your license to practice medicine in the State of Georgia. Following a subsequent hearing, the Georgia Composite State Board of Medical Examiners issued a Final Decision on or about May 24, 2004, that adopted the Findings of Fact and Conclusions of Law set forth in the Initial Decision and ordered the revocation of your license to practice medicine in the State of Georgia. A copy of the aforementioned Initial Decision and Final Decision is attached hereto and fully incorporated herein.

Your plea of guilty or the judicial finding of guilt as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,” as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1), (3), and (5) above, individually and/or collectively, constitute “[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,” as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) and (4) above, individually and/or collectively, constitute “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills,” as that clause is used in Section 4731.22(B)(19), 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 days of the time of mailing of this notice.

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

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

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter

Richard Daniel Price, M.D., M.P.H.

Page 4

ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lance A. Talmage, M.D.", written in a cursive style.

Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 1613
RETURN RECEIPT REQUESTED

FILED

UNITED STATES DISTRICT COURT
Northern District of Alabama

2002 AUG 15 P 12:08

02 AUG 15 AM 11:44

UNITED STATES OF AMERICA

U.S. DISTRICT COURT
N.D. OF ALABAMA

v.

Case Number CR 01-N-0515-S

RICHARD DANIEL PRICE
Defendant.

ENTERED *dm.*
AUG 15 2002

JUDGMENT IN A CRIMINAL CASE
(For Offense(s) Committed On or After November 1, 1987)

The defendant, RICHARD DANIEL PRICE, was represented by Richard S. Jaffe and J. Derek Drennan.

On motion of the United States, the court has dismissed count 1 with prejudice.

The defendant pleaded guilty to count 2. Accordingly, the defendant is adjudged guilty of the following count, involving the indicated offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Count Number</u>
49 USC § 46505(b)(1)	Carrying a Weapon on an Aircraft	2

As pronounced on August 15, 2002, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, for count 2, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 15th day of August, 2002

[Signature]
United States District Judge

Defendant's SSAN: [REDACTED]
Defendant's Date of Birth: [REDACTED]
Defendant's address: 5312 Meadow Garden Lane; Birmingham, AL 35242



TRUE COPY:
By: *[Signature]*

34

Defendant: RICHARD DANIEL PRICE
Case Number: CR 01-N-0515-S

STATE JUDICIAL DISTRICT
PROBATION

The defendant is hereby placed on probation for a term of 24 months as to Count 2. The Probation Office shall provide the defendant with a copy of the standard conditions and any special conditions of probation.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this Judgment:

- 1) The defendant shall not commit another federal, state, or local crime; specifically, the defendant shall not illegally possess a controlled substance and shall not own or possess a firearm or destructive device.
- 2) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 3) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five (5) days of each month.
- 4) The defendant shall answer truthfully all inquiries by the probation officer, shall provide the probation officer access to requested financial information, and shall follow the instructions of the probation officer.
- 5) The defendant shall support his or her dependents and meet other family responsibilities
- 6) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 7) The defendant shall notify the probation officer ten (10) days prior to any change in residence or employment. (On change of residence to a new jurisdiction of a person convicted either of a crime of violence or of a drug trafficking offense, the Probation Office is responsible for complying with the notice provisions of 18 U.S.C. § 4042(b).)
- 8) The defendant shall refrain from excessive use of alcohol, except that a defendant while in the Drug and Alcohol Intensive Counseling and Aftercare Service Program (DAICASP) (or comparable program in another district) shall consume no alcohol. The defendant shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances.
- 9) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 10) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 11) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 12) The defendant shall notify the probation officer within seventy-two (72) hours of being arrested or questioned by a law enforcement officer.
- 13) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 14) The defendant shall comply with any directions from the probation officer to serve notice of third party risks the defendant may pose, and shall cooperate with the officer's efforts to confirm compliance.
- 15) The defendant shall comply with the probation office's Policies and Procedures Concerning Court Ordered Financial Obligations to satisfy the balance of any monetary obligation resulting from the sentence imposed in the case. Further, the defendant shall notify the probation office of any change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine, restitution, or assessment fee. If the defendant becomes more than 60 days delinquent in payments of financial obligations, the defendant may be (a) required to attend a financial education or employment preparation program if and as directed by the probation officer, (b) placed on home confinement subject to electronic monitoring for a maximum period of 90 days at the direction of the probation officer (with the defendant to pay the cost of monitoring if the probation officer determines that the defendant has the ability to do so), and/or (c) placed in a residential treatment program or community corrections center for up to 180 days at the direction of the probation officer (with the defendant to pay the cost of subsistence if the probation officer determines that the defendant has the ability to do so).
- 16) Unless excused by a special condition of probation or supervised release in the Judgment or by a subsequent court order, the defendant shall comply with 18 U.S.C. § 3563 (a) (probation) or § 3583 (d) (supervised release) regarding mandatory drug testing (with the defendant to contribute to the cost of drug testing if the probation officer determines that the defendant has the ability to do so). A positive urinalysis may result in the defendant's placement in the probation office's Drug and Alcohol Intensive Counseling and Aftercare Service Program (DAICASP) (or comparable program in another district) at the direction of the probation officer.
- 17) The defendant may be placed in the probation office's Drug and Alcohol Intensive Counseling and Aftercare Service Program (DAICASP) (or comparable program in another district) by virtue of a special condition of probation or supervised release contained in the Judgment, at the direction of the probation officer after a positive urinalysis, or a court order entered during the period of probation or supervision for other good cause shown. This program may include (a) testing by the probation officer or an approved vendor to detect drug or alcohol abuse (with the defendant to contribute to the cost of drug testing if the probation officer determines that the defendant has the ability to do so), (b) a mandatory drug education program (which may include individual or group counseling provided by the probation office or an approved vendor with the defendant to contribute to the cost of drug/alcohol treatment if the probation officer determines that the defendant has the ability to do so), (c) placement in a residential treatment program or community corrections center for up to 180 days at the direction of the probation officer (with the defendant to pay the cost of subsistence if the probation officer determines that the defendant has the ability to do so), and (d) home confinement subject to electronic monitoring for a maximum period of ninety (90) days at the direction of the probation officer (with the defendant to pay the cost of monitoring if the probation officer determines that the defendant has the ability to do so).
- 18) The defendant shall cooperate in the collection of DNA if and as directed by the probation officer.
- 19) If ordered to a period of supervised release after incarceration, the defendant shall report in person, within 72 hours of release from the custody of the Bureau of Prisons, to the probation office in the district where the defendant is released.

Defendant: RICHARD DANIEL PRICE
Case Number: CR 01-N-0515-S

RECEIVED P 12:08
SPECIAL CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this Judgment:

- 1) The defendant shall participate, if and as directed by the probation officer, in such mental health/vocational rehabilitation programs as the officer may direct. The defendant shall contribute to the cost of mental health treatment if the probation officer determines that the defendant has the ability to do so.

Defendant: RICHARD DANIEL PRICE
Case Number: CR 01-N-0515-S

07/01/01 11:00 AM

7/1/01 11:00 AM
FINE

The defendant shall pay a fine of \$1,000.00 with interest.

This fine is due and payable immediately.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

DFT RICHARD DANIEL PRICE 08/12/08

CR 01-N-515-S

STATEMENT OF REASONS

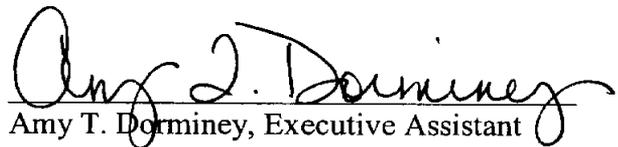
NOT FOR PUBLIC DISCLOSURE

YOU WILL RECEIVE A COPY BY MAIL

STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

CERTIFICATION

I, Amy T. Dorminey, Executive Assistant and Custodian of Records for the Medical Licensure Commission of Alabama, 848 Washington Avenue, P.O. Box 887, Montgomery, Alabama 36101-0887, hereby certify that the attached Administrative Complaint and Order of the Medical Licensure Commission is a true and correct copy of those records which are on file with the Medical Licensure Commission of Alabama in the matter of Richard Daniel Price.


Amy T. Dorminey, Executive Assistant

SWORN TO AND SUBSCRIBED before me this 7th day of August, 2003


Notary Public
My Commission Expires: 10-1-05

hundred (100)dollars, and was fined one thousand (1,000) dollars.

Based upon the foregoing findings of fact the Medical Licensure Commission concludes as a matter of law that the Respondent, Richard Daniel Price, M.D., has been convicted of a felony, a violation of Ala. Code § 34-24-360 (4) (1997).

Based upon the foregoing findings of fact and conclusions of law it is the Order of the Medical Licensure Commission that the license to practice medicine of the Respondent, Richard Daniel Price, M.D. be and the same is hereby REVOKED.

ENTERED THIS 31st day of March, 2003.



JERRY N. GURLEY, M.D.
Chairman, Medical Licensure Commission
Of Alabama

ALABAMA STATE BOARD OF)
MEDICAL EXAMINERS,)
)
Complainant,)
)
v.)
)
RICHARD DANIEL PRICE, M.D.)
)
Respondent.)

BEFORE THE MEDICAL LICENSURE
COMMISSION OF ALABAMA

CASE NO. 02-023

ORDER SETTING HEARING

The Medical Licensure Commission has received the verified Administrative Complaint of the State Board of Medical Examiners filed in this cause. The Commission has determined that this matter is due to be set down for hearing under the provisions of §34-24-361, Code of Alabama 1975.

Accordingly, it is the Order of the Commission that this matter be set for hearing before the Commission on the 22nd day of January, 2003 at 1:00 o'clock in the p.m. at the offices of the Medical Licensure Commission, 848 Washington Avenue, Montgomery, Alabama. The Respondent, Richard Daniel Price, M.D., is directed to respond to the allegations of the verified Complaint in the manner prescribed in Rule 545-X-3-.03 of the Rules and Regulations of the Medical Licensure Commission.

This hearing shall be conducted in accordance with §34-24-361(e), Code of Alabama 1975 and Chapter 3 of the Rules and Regulations of the Medical Licensure Commission concerning hearings in contested cases. The Respondent is entitled to be present at the hearing and to be represented by counsel, is entitled to cross examine witnesses presented by the

Complainant, and is entitled to present testimony and other evidence touching on the allegations contained in the Complaint.

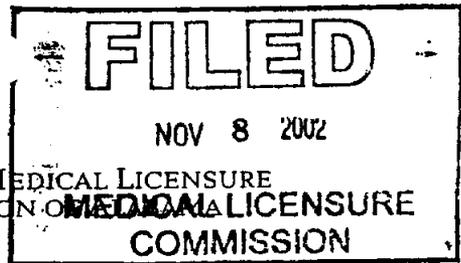
The Honorable Wayne Turner, attorney at law, is hereby appointed to act as Hearing Officer under the authority of Rule 545-X-3-.08 of the Rules and Regulations of the Medical Licensure Commission.

It is the further order of the Commission that a copy of the verified Complaint of the Alabama State Board of Medical Examiners and a copy of this Order is forthwith served upon the said Richard Daniel Price, M.D., by personally delivering the same to him if he can be found within the State of Alabama or by certified mail, return receipt requested, to his last known address if he cannot be found within the State of Alabama. The Commission further directs that personal service of process shall be made by Jeff Stimsley, who is designated as the duly authorized agent of the Medical Licensure Commission.

It is further ordered that the parties and their attorneys immediately check their calendars for scheduling conflicts. No requests for continuance based upon schedule conflicts of attorneys or parties will be considered unless such request is made prior to December 17, 2002.

ORDERED at Montgomery, Alabama, this 20th day of November, 2002.


Jerry N. Gurley, M.D., Chairman
Medical Licensure Commission of Alabama



ALABAMA STATE BOARD OF
MEDICAL EXAMINERS,

Complainant,

-vs-

RICHARD DANIEL PRICE, M.D.,

Respondent.

BEFORE THE MEDICAL LICENSURE
COMMISSION OF ALABAMA

CASE NO. 02- 023

ADMINISTRATIVE COMPLAINT

COMES NOW the Alabama State Board of Medical Examiners and submits herein its sworn petition pursuant to the authority of *Ala. Code* §34-24-361(e)(1997) and respectfully represents to the Medical Licensure Commission the following:

1. The Respondent, Richard Daniel Price, M.D., was duly licensed to practice medicine in the State of Alabama, having been issued license number MD. 00023525, on July 27, 2000.

2. The Board of Medical Examiners has caused an investigation to be made into the medical practice of Dr. Price and, based upon information developed during the course of its investigation, has determined that there exists probable cause to believe that the Respondent, Richard Daniel Price, M.D., has committed the following violations of *Ala. Code* §34-24-360 (1997), and Rules and Regulations of the Medical Licensure Commission of Alabama:

- a. Immoral, unprofessional or dishonorable conduct as defined in *Ala. Code* § 34-24-360(2) (1997) and in the Medical Licensure Commission of Alabama Administrative Rules, Chapter 545-X-4-.06(1); and
- b. Conviction of a felony, a violation of *Ala. Code* § 24-36-360(8) (1997).
- c. Conviction of any crime or offense which reflects the inability of the practitioner to practice medicine or osteopathy with due regard for the health or safety of his patients, a violation of *Ala. Code* § 24-36-360(5) (1997).

3. In support of the allegations of the violations of *Ala. Code* §§ 34-24-360(2), (4) and (5) (1997) and Medical Licensure Commission Rule 545-X-4-.06(1), the Board of Medical Examiners specifically alleges that, on August 15, 2002, Richard Daniel Price, M.D. pled guilty to carrying a weapon on an aircraft, in violation of 49 U.S.C. § 46505(b)(1) and was sentenced

as follows: twenty-four (24) months probation; to pay special assessment of One Hundred Dollars and No/100 (\$100.00) to the United States; and was fined One Thousand Dollars and No/100 (\$1,000.00), plus interest.

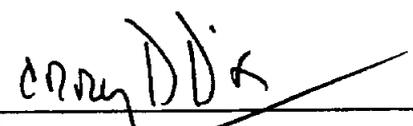
Additionally, in further support of the allegations of the violations of *Ala. Code* § 34-24-360(2), (4) and (5), 1997, and the Medical Licensure Commission 545-x-4.06(1), the Board of Medical Examiners specifically alleges that in connection with the federal charges against him, Dr. Price sought the assistance of the Alabama Physicians Health Program and was referred by Dr. Greg Skipper to the Rush Behavioral Health Center for an evaluation. The medical and clinical psychologist professionals evaluating Dr. Price at Rush Behavioral Health concluded to a reasonable degree of medical and psychiatric certainty that Dr. Price should only be allowed to practice medicine in circumstances where he has access to intense monitoring and supervision and under no circumstances should he be allowed in a solo practice or other setting where his work and clinical decisions are not reviewed and approved.

WHEREFORE, the foregoing premises considered, the Alabama State Board of Medical Examiners respectfully requests that the Medical Licensure Commission of Alabama take jurisdiction of this *Administrative Complaint*, set a hearing thereon, and cause notice of such hearing and a copy of this *Administrative Complaint* to be served upon the Respondent, Richard Daniel Price, M.D., requiring that he appear and answer the allegations contained in this *Administrative Complaint* in accordance with the Rules and Regulations of the Medical Licensure Commission. Further, the Board requests that, at the conclusion of the hearing, the Medical Licensure Commission revoke, suspend, or place on probation the license to practice medicine in Alabama of Dr. Price and/or take other action which the Commission deems appropriate based upon the evidence presented for consideration.

This *Administrative Complaint* is executed for and on behalf of the Alabama State Board of Medical Examiners by its Executive Director pursuant to the instructions of the Board con-

tained in its Resolution adopted on October 16, 2002, a copy of which is attached hereto and incorporated herein.

EXECUTED THIS the 8th day of November, 2002.



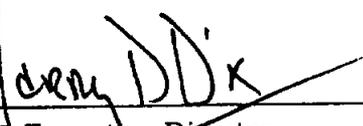
LARRY D. DIXON, Executive Director
Alabama Board of Medical Examiners



JAMES R. SEALE
Attorney for the
Alabama Board of Medical Examiners
Post Office Box 116
Montgomery, AL 36101-0116
(334) 834-7600
(334) 263-5969 - fax

STATE OF ALABAMA)
 :
MONTGOMERY COUNTY)

BEFORE ME, the undersigned, personally appeared Larry D. Dixon, who, being by me first duly sworn, deposes and says that he, in his capacity as Executive Director of the Alabama Board of Medical Examiners, has examined the contents of the foregoing complaint and petition and affirms that the contents thereof are true and correct to the best of his knowledge, information and belief.



LARRY D. DIXON, Executive Director
Alabama Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this the 8th day of November, 2002.



Notary Public

My commission expires:

10/1/03

(seal)

STATE OF ALABAMA)
 :
MONTGOMERY COUNTY)

AFFIDAVIT

BEFORE ME, the undersigned, personally appeared Larry D. Dixon, Executive Director of the Alabama State Board of Medical Examiners, who, being by me first duly sworn, deposes and says as follows:

The Alabama State Board of Medical Examiners session on October 16, 2002, a quorum of the members of the Board being present, conducted an investigation in to the medical practice of Richard Daniel Price, M. D. At the conclusion of the discussion, the Board adopted the following resolution:

Richard Price, M.D., Birmingham. The Credentials Committee recommended filing an Administrative Complaint with the Medical Licensure Commission based on the ground of a felony conviction. The motion was adopted.

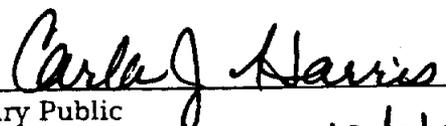
I further certify that the foregoing resolution was adopted by the Alabama State Board of Medical Examiners on the 16th day of October, 2002.



Larry D. Dixon, Executive Director
Alabama Board of Medical Examiners

SWORN TO AND SUBSCRIBED before me this the 8th day of November, 2002.

(seal)



Notary Public
My commission expires: 10/1/03

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

MAR 16 2004

DOCKET NUMBER
20040090

COMPOSITE STATE BOARD OF
MEDICAL EXAMINERS,
Petitioner,

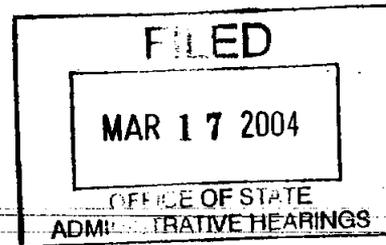
:
:
: Docket No.: OSAH-CSBME-PHY-0410192-
: 60-Hackney

v.

: Agency Reference No.: 41351

RICHARD DANIEL PRICE M D,
Respondent.

INITIAL DECISION



I. Introduction

This matter was before the Administrative Law Judge (ALJ) on February 16, 2004 to determine whether to impose disciplinary sanctions upon Respondent's license. The Notice of Hearing was filed with the Office of Administrative Hearings on January 12, 2004. At the hearing, the Petitioner, the Composite State Board of Medical Examiners ("the Board"), was represented by Robert A. Renjel, Assistant Attorney General of the State Attorney General's Office, and the Respondent appeared *Pro Se*.

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II. Findings of Fact

1.

On February 8, 1996, the Board issued Respondent a license to practice medicine in the State of Georgia. His license will expire on December 31, 2005. (Exhibit P-1)

2.

On or about August 15, 2002, Respondent pled guilty to the crime of Carrying a Weapon on an Aircraft. Respondent was sentenced to two years probation, ordered to pay a one thousand dollar fine and ordered to pay a one hundred dollar special assessment. (Exhibit P-2)

3.

As a consequence of this felony conviction, the Medical Licensure Commission of Alabama revoked the Respondent's license to practice medicine in the State of Alabama. (Exhibit R-1)

III. Conclusions of Law

1.

This case involves an action by the Board to sanction the license of the Respondent. Therefore, the burden of proof in this matter is on the Board as the referring agency. OSAH Rule 616-1-2-.07. The standard of proof is by a preponderance of the evidence. OSAH Rule 616-1-2-.21(4).

2.

The Board is authorized to and has a duty to control and regulate the practice of medicine and this power and duty includes the suspension, revocation, and restriction of licenses to engage in the practice of medicine. See generally O.C.G.A. Title 43, Chapter. 34.

3.

49 U.S.C. § 46505 states:

(b) General criminal penalty. An individual shall be fined under title 18, imprisoned for not more than 10 years, or both, if the individual—

(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight.

4.

Under O.C.G.A. §§ 43-1-19 and 43-34-37, the Petitioner is granted the authority to sanction the license of a person licensed by the board upon a finding that the person has had a license to practice a profession sanctioned in another State sanctioned by the governing regulatory body.

O.C.G.A. § 43-1-19(a) provides that:

A professional licensing board shall have the authority to refuse to grant a license to an applicant therefor or to revoke the license of a person licensed by that board or to discipline a person licensed by that board, upon a finding by a majority of the entire board that the licensee or applicant has:

(3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this paragraph and paragraph (4) of this subsection, the term "felony" shall include any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and, as used in this paragraph, the term "conviction" shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the

conviction has been sought;

(6) Engaged in unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal reasonable standards of acceptable and prevailing practice of the business or profession licensed under this title.

5.

Likewise, O.C.G.A. § 43-34-37(a) provides:

The board shall have authority to refuse to grant a license to an applicant or to discipline a physician licensed under this chapter or any antecedent law upon a finding by the board that the licensee or applicant has:

(3) Been convicted of a felony in the courts of this state or any other state, territory, country or of the United States. As used in this paragraph, the term "conviction of a felony" shall include a conviction of an offense which if committed in this state would be deemed a felony under either state or federal law, without regard to its designation elsewhere. As used in this paragraph, the term "conviction" shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication or guilt or sentence is withheld or not entered thereon;

(4) Committed a crime involving moral turpitude, without regard to conviction; the conviction of a crime involving moral turpitude shall be evidence of the commission of such crime. As used in this paragraph, the term "conviction" shall have the meaning prescribed in paragraph (3) of this subsection. For the purpose of this chapter, a conviction or plea of guilty or of nolo contendere to a charge or indictment by either federal or state government for income tax evasion shall not be considered a crime involving moral turpitude;

(5) Had his license to practice medicine revoked, suspended, or annulled by any lawful licensing authority; or had other disciplinary action taken against him by any lawful licensing authority; or been denied a license by any lawful licensing authority.

(11) Committed any act or omission which is indicative of bad moral character or untrustworthiness;

6.

O.C.G.A. § 43-34-37(b)(1) provides:

When the Board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this code section, the board may take any one or more of the following actions:

(E) Revoke any license.

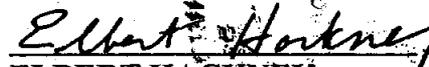
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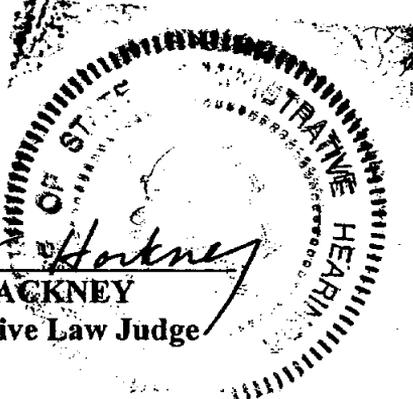
In this case, the Respondent has a license to practice medicine in the State of Georgia and was licensed to practice medicine in the State of Alabama. He pled guilty to Carrying a Weapon on an Aircraft, a violation of 49 U.S.C. § 46505(b)(1). Thereafter, and as a result of this felony conviction, the State of Alabama revoked his Alabama medical license. These findings constitute grounds for discipline pursuant to O.C.G.A. §§ 43-1-19(a) and 43-34-37(a). Considering the nature of Petitioner's conduct, an appropriate penalty is considered to be license revocation.

IV. Decision and Recommendation

Based on the findings of fact and conclusions of law, the Respondent's license to practice medicine in the State of Georgia should be REVOKED.

SO ORDERED, this 17th day of March 2004.


ELBERT HACKNEY
Administrative Law Judge

The seal is circular with a double-line border. The outer ring contains the text "OFFICE OF THE ADMINISTRATIVE LAW JUDGE" at the top and "STATE OF GEORGIA" at the bottom. The inner ring contains the text "HEARING ROOM" at the top and "NO. 100" at the bottom. The center of the seal is blank.

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS
STATE OF GEORGIA

Composite State Board
of Medical Examiners

MAY 24 2004

IN THE MATTER OF :

RICHARD DANIEL PRICE, M.D.
License No. 041351

Respondent.

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DOCKET NUMBER
DOCKET NO. 2004-0090

FINAL DECISION

An INITIAL DECISION(decision)of Special Assistant Administrative Law Judge Elbert Hackney was filed in the above matter on March 17, 2004. The Respondent filed for Review on April 5, 2004. Pursuant to this motion, a hearing was scheduled before the Composite State Board of Medical Examiners at 10:45 a.m., on May 7, 2004.

The parties hereto were given notice of the hearing and the hearing was conducted. As a consequence of the hearing, the Board finds as follows:

FINDINGS OF FACT

The Findings of Fact found by the Special Assistant Administrative Law Judge in the Initial Decision are hereby adopted and incorporated by reference.

CONCLUSIONS OF LAW

The Conclusions of Law reached by the Special Assistant Administrative Law Judge in the Initial Decision are hereby adopted and incorporated by reference herein.

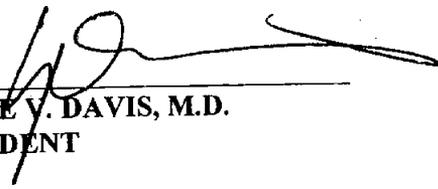
ORDER

The Sanctions ordered by the Special Assistant Administrative Law Judge in the

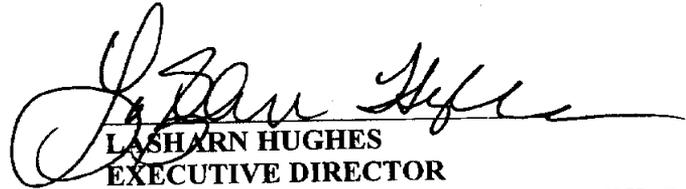
Initial Decision are hereby adopted and incorporated by reference herein.

IT IS SO ORDERED this 27 day of May, 2004.

**COMPOSITE BOARD OF MEDICAL EXAMINERS
STATE OF GEORGIA**

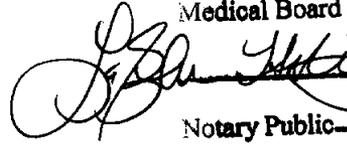


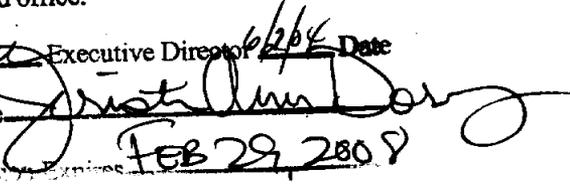
**GRACE V. DAVIS, M.D.
PRESIDENT**



**LASHARN HUGHES
EXECUTIVE DIRECTOR
COMPOSITE BOARD OF MEDICAL EXAMINERS**

This is to certify that this is a true and correct copy of the original documents on file in the Medical Board office.

 Executive Director 6/26/04 Date

Notary Public 

My Commission Expires FEB 29, 2008