



# State Medical Board of Ohio

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December 12, 2001

Charles H. Pierce, M.D.  
5563 Regimental Place  
Cincinnati, OH 45239

Dear Doctor Pierce:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on December 12, 2001, 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 a Notice of Appeal with the State Medical Board of Ohio and 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

Anand G. Garg, M.D.  
Secretary

AGG:jam  
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5147 1968  
RETURN RECEIPT REQUESTED

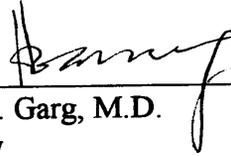
Cc: Kevin P. Byers, Esq.  
CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5147 1951  
RETURN RECEIPT REQUESTED

*Mailed 12-13-01*

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 12, 2001, 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 Charles H. Pierce, M.D., as it appears in the Journal of the State Medical Board of Ohio.

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



\_\_\_\_\_  
Anand G. Garg, M.D.  
Secretary

(SEAL)

December 12, 2001  
\_\_\_\_\_  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

\*

\*

CHARLES H. PIERCE, M.D.

\*

**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio on December 12, 2001.

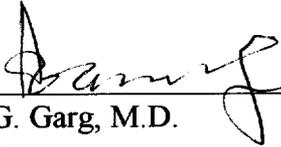
Upon the Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the 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 Charles H. Pierce, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he successfully completes the SPEX examination, and that he otherwise meets all statutory and regulatory requirements.

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

(SEAL)

  
\_\_\_\_\_  
Anand G. Garg, M.D.  
Secretary

December 12, 2001  
\_\_\_\_\_  
Date

2001 NOV -9 P 1: 28

**REPORT AND RECOMMENDATION  
IN THE MATTER OF CHARLES H. PIERCE, M.D.**

The Matter of Charles H. Pierce, M.D., was heard by R. Gregory Porter, Attorney Hearing Examiner for the State Medical Board of Ohio, on October 4, 2001.

**INTRODUCTION**

I. Basis for Hearing

A. On July 11, 2001, the State Medical Board of Ohio [Board] notified Charles H. Pierce, M.D., that it had proposed to take disciplinary action against, or to refuse to register or reinstate, his certificate to practice medicine and surgery in Ohio, based on the following allegations:

“(1) On or about February 16, 2001, [Dr. Pierce] submitted an application for a license to practice medicine and surgery to the State Medical Board of Ohio. That application is currently pending.

“(2) On or about December 18, 1989, the Vermont Board of Medical Practice (Vermont Board) entered an Order, suspending [Dr. Pierce’s] license to practice medicine in Vermont, effective January 1, 1990, pending [his] successful application for reinstatement. [Dr. Pierce’s] license to practice medicine in Vermont remains suspended to date. This Order was based on the Stipulation adopted and implemented by the Vermont Board, wherein [Dr. Pierce] admitted to engaging in sexual relations with two women who were [his] patients, action that constituted unprofessional conduct pursuant to 26 V.S.A. Section 1354(7). \* \* \*

“(3) On or about April 25, 1993, the Minnesota Board of Medical Practice [Minnesota Board] adopted and implemented a Stipulation and Order, conditioning and limiting [Dr. Pierce’s] license, effective July 10, 1993, based upon the action of the Vermont Board as stated above.”

The Board alleged that the Vermont Board Stipulation and Order, and the Minnesota Board Stipulation and Order, 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

2001 NOV -9 P 1: 28

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.”

Accordingly, the Board advised Dr. Pierce of his right to request a hearing in this matter. (State's Exhibit 1A)

- B. By document received by the Board on August 8, 2001, Kevin P. Byers, Esq., requested a hearing on behalf of Dr. Pierce. (State's Exhibit 1B)

## II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Hanz R. Wasserburger, Assistant Attorney General.
- B. On behalf of the Respondent: Kevin P. Byers, Esq.

## EVIDENCE EXAMINED

### I. Testimony Heard

Charles H. Pierce, M.D.

### II. Exhibits Examined

#### A. Presented by the State

1. State's Exhibits 1A through 1K: Procedural exhibits.
2. State's Exhibit 2: Certified copies of documents concerning Dr. Pierce from the Minnesota Board of Medical Practice.
3. State's Exhibits 3A and 3B: Certified copies of documents concerning Dr. Pierce from the State of Vermont Board of Medical Practice.
4. State's Exhibits 4 and 5: Excerpts from the Vermont Statutes Annotated and the Minnesota Statutes.

#### B. Presented by the Respondent

1. Respondent's Exhibit A: Dr. Pierce's curriculum vitae.

2001 NOV -9 P 1: 29

2. Respondent's Exhibit B1: Copy of a publication for which Dr. Pierce was an editor, published by The Annapolis Center for Science-Based Public Policy, entitled *Asthma: Separating Facts from Fiction*.
3. Respondent's Exhibit B2: Copy of the cover from the program of the thirtieth annual meeting of the American College of Clinical Pharmacology, which Dr. Pierce chaired.
4. Respondent's Exhibit C: Copy of a January 24, 2001, letter to the Board from Dr. Pierce.
5. Respondent's Exhibit D: Copy of a June 18, 2001, letter to the Board from Dr. Pierce.
6. Respondent's Exhibit E: Copy of an October 29, 1990, letter to Dr. Pierce from Charles A. Valiquette, M.D., Chairman, Complaints Committee, Corporation Professionnelle des Médecins du Québec.
7. Respondent's Exhibit F: Copy of a March 2, 1993, letter to Jack S. Norby, Esq., from Ronald D. Brown, M.D., concerning Dr. Pierce's licensure in Minnesota.
8. Respondent's Exhibit G: October 1, 2001, letter to the Board from Dr. Brown. (Note: Post hearing, the original letter was substituted for the somewhat illegible fax copy that was submitted at hearing.)
9. Respondent's Exhibit H: Copy of a February 26, 2001, memorandum addressed to "[w]hom it may concern" from Fernand Taras, M.D., President, Global Medic, Ltd; Owner, Metro Medic Centre-Ville Medical Center.
10. Respondent's Exhibit I: Copies of letters of support for Dr. Pierce that had been sent to the Board, and an August 21, 2001, cover letter from the Board to Attorney Byers.

### SUMMARY OF THE EVIDENCE

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

1. Charles H. Pierce, M.D., obtained a Masters of Science in Pharmacology in 1961 from the University of Minnesota. Subsequently, in 1968, Dr. Pierce obtained his medical degree

2001 NOV -9 P 1:29

from the University of Saskatchewan College of Medicine, Saskatoon, Saskatchewan. From 1968 until 1969, Dr. Pierce participated in a rotating internship at University Hospital, University of Saskatchewan. Dr. Pierce testified that, following his internship, he entered graduate school at the University of Saskatchewan and, in 1974, obtained a Ph.D. in Pharmacology and Surgery. Moreover, Dr. Pierce testified that he completed a postdoctoral fellowship in pharmacology at McGill University, Montreal, Quebec, in 1974. Since 1974, Dr. Pierce has held a number of positions, including academic appointments, research positions, and clinical practice positions, in the United States and Canada. (Respondent's Exhibit [Resp. Ex.] A; Hearing Transcript [Tr.] at 25-29)

Dr. Pierce testified that he has been a fellow of the American College of Pharmacology [ACP] since 1974, was a regent of the ACP from 1995 through 2000, and chaired the Thirtieth Annual Meeting of the ACP, which took place from September 23 to 25, 2001, in Washington, D.C. (Resp. Ex. B-2; Tr. at 55-56)

2. The parties stipulated that, on or about February 16, 2001, Dr. Pierce submitted an application to the Board for a certificate to practice medicine in Ohio, and that the application is currently pending. (Tr. at 6)
3. Dr. Pierce testified that he had practiced family medicine in Vermont from 1985 to December 1989. Prior to working in Vermont, Dr. Pierce had worked for three years in Toronto, Ontario. In 1985, Dr. Pierce and his wife decided to move to Vermont; Dr. Pierce's wife had wanted to move closer to Montreal, and Dr. Pierce had wanted to move back to the United States. Dr. Pierce testified that he sought work in Vermont: "I was recruited by an internist. I saw his address in the Vermont State Medical Association bulletin and wrote to him and we corresponded back and forth and he brought me in—I thought I was going to be joining his group." However, Dr. Pierce testified that, upon arriving in Burlington, "my office was in the lower floor, and I was solo." (Resp. Ex. A; Tr. at 13-14, 31-32)

Dr. Pierce testified that his practice in Vermont kept him extremely busy. Dr. Pierce further testified: "I was working 12, 14 hours a day 7 days a week and on call 24 hours a day 7 days a week." Dr. Pierce further testified that he had no one with whom to share coverage:

There [were] no other family docs and Vermont was a tough situation. If you were an internist, you were a doctor. If you were a family physician, you were a second class doctor. That was sort of the—that's the way I felt. That's the way it appeared in Vermont. You weren't quite as good as an internist.

(Tr. at 32-33) Dr. Pierce testified that he had never before run into such bias against family practitioners. (Tr. at 33-35)

2001 NOV -9 P 1: 29

Dr. Pierce testified that his time in Vermont “was disastrous, financially very difficult, hard to make a living, and very stressful. \* \* \* [I]t was my worst time in general.” Dr. Pierce further testified that his marriage had not been successful either, and that he and his wife subsequently divorced in 1992. (Tr. at 35)

4. On November 30, 1989, Dr. Pierce signed a Stipulation with the State of Vermont Board of Medical Practice [Vermont Board]. In that Stipulation, Dr. Pierce agreed to the following:

“3. Dr. Pierce admits that he engaged in sexual relations with two women who were, at that time, his patients.

“4. Dr. Pierce admits that his having sexual contact as set forth above constitutes unprofessional conduct pursuant to 26 V.S.A. §1354(7).

“5. Dr. Pierce’s license to practice medicine in Vermont shall be suspended pending his successful application for reinstatement. The suspension will begin on January 1, 1990.”

(State’s Exhibit [St. Ex.] 3A) Further, on December 18, 1989, the Vermont Board entered an Order affirming the Stipulation, and suspended Dr. Pierce’s license to practice medicine in Vermont effective January 1, 1990. (St. Ex. 3B)

Dr. Pierce testified that he has not applied for reinstatement of his Vermont certificate, that he has no intention of ever doing so, and that his Vermont license currently remains suspended. (Tr. at 13-14, 38)

5. On April 25, 1993, Dr. Pierce signed a Stipulation and Order with the Minnesota Board of Medical Practice [Minnesota Board], which was adopted and made effective by the Minnesota Board on July 10, 1993. The Minnesota Board Stipulation and Order was based on the earlier Vermont Board action. The Minnesota Board Stipulation and Order restricted Dr. Pierce from practicing in Minnesota until he met certain specified terms and conditions including practicing in a setting approved in advance by the Complaint Review Committee of the Minnesota Board; releasing to the Minnesota Board all records of therapy or mental health treatment; and submitting to an evaluation performed in advance by an evaluator approved by the Minnesota Board. Moreover, the Minnesota Board Stipulation and Order indicated that the Minnesota Board could impose further restrictions on Dr. Pierce’s Minnesota license based on the results of the evaluation. (St. Ex. 2)
6. Dr. Pierce acknowledged that he had engaged in sexual relations with two female patients while practicing in Vermont. Dr. Pierce testified that the first incident occurred with one of his patients in September or October 1985. Dr. Pierce further testified that he had known the patient for several weeks. Moreover, Dr. Pierce testified, “at the time I sensed

2001 NOV -9 P 1: 29

that she was coming on to me, and it just happened, but it shook me up. I knew it was wrong and, in fact, you know, apologized sort of afterwards and offered to find her another doctor and she stayed with me for the next three years as a patient without anything ever happening after that." Dr. Pierce testified that "[t]he one time act occurred after hours" at his office and had consisted of "one episode of oral sex." (Tr. at 15-16, 36)

Dr. Pierce testified that the patient had filed a complaint against him "some four years" after the event. (Tr. at 16-17)

Dr. Pierce testified that the second patient was someone whom he had met outside of his practice, "and I guess I assumed that she wanted to get to know me better" when she came to see Dr. Pierce professionally. Dr. Pierce further testified that the patient first came to see him professionally in October or November 1985. Dr. Pierce testified that the sexual contact had occurred on one occasion in the patient's apartment, and had involved one incident during which Dr. Pierce fondled the patient's breasts. Moreover, Dr. Pierce testified that he had continued to see the second patient as her physician and that there had been no further sexual contact. Dr. Pierce testified that the second patient had filed a complaint against him following the publicity generated by the first patient's complaint. (Tr. at 17-21, 36-37)

Dr. Pierce testified that there had been no romantic or sexual involvement between the second patient and him prior to her becoming his patient. (Tr. at 37)

7. Dr. Pierce testified that both of the patients had been in their late twenties or early thirties. (Tr. at 64)
8. Dr. Pierce testified that, after leaving Vermont, he took a position in Montreal with Bio-Research, a clinical research organization. Dr. Pierce further testified that he practiced family medicine on a part-time basis with a colleague, Fernand Taras, M.D., who operated a clinic. Dr. Pierce testified that his family practice work in Quebec had been pleasant and rewarding. (Tr. at 38-39, 41-42)

Dr. Pierce presented a February 2, 2001, memorandum addressed to "[w]hom it may concern," from Fernand Taras, M.D. Dr. Taras wrote that Dr. Pierce had worked in his clinic three or four sessions per week and on weekends. Dr. Taras further wrote that Dr. Pierce was a competent and dedicated physician who was well liked by the patients. (Resp. Ex. H) [Note that the State did not have an opportunity to cross-examine Dr. Taras.]

Dr. Pierce testified that he did not tell Dr. Taras about his history in Vermont. Dr. Pierce further testified that "[h]e may have known because it was on T.V. and they get Vermont T.V. in Montreal but he never said anything and I don't know." (Tr. at 59-60)

2001 NOV -9 P 1: 29

9. Dr. Pierce testified that, in 1989, his attorney informed the Corporation Professionnelle des Médecins du Québec [Quebec Board] of the Vermont Board action. Dr. Pierce further testified that the Quebec Board investigated the Vermont incidents, met with Dr. Pierce, and took no action against his Quebec certificate. Moreover, although the Quebec Board recommended and encouraged Dr. Pierce to seek psychiatric care, it did not require him to do so. Dr. Pierce was informed of the Quebec Board's decision by letter dated October 29, 1990. (Resp. Ex. E; Tr. at 39-40)
10. Dr. Pierce testified that, after the Vermont incidents had been reported to the Vermont Board, he had obtained psychiatric counseling. Dr. Pierce testified that he had seen a counselor in Vermont from May or June 1989 until December 1989. Moreover, Dr. Pierce testified that from March 1990 through December 1995 he had seen a psychiatrist, Dr. Ronald Brown, in Montreal. Dr. Pierce testified that his counseling with Dr. Brown had been "a very positive experience." Dr. Pierce testified, "I learned a lot about myself and certainly a lot about the unwritten things, the power that a physician has, the things about myself that led to the difficulties in Vermont." (Tr. at 45-48)

Dr. Pierce testified that after having treated with Dr. Brown, he now understands that he could not be "anything but the aggressor" in a sexual relationship with a patient, and could never be the victim. Dr. Pierce further testified that today he would never take as a patient a person who he sees socially, whereas before he would not have viewed that as wrong. (Tr. at 48-49)

Dr. Pierce testified that his persona is different today from how it was during his time in Vermont. Dr. Pierce testified that he is not under stress, his "life is ordered," and his "family life is excellent." (Tr. at 49-50)

11. By letter dated October 1, 2001, Ronald D. Brown, M.D., stated that he had had twice-weekly, face-to-face psychotherapy sessions with Dr. Pierce for five years beginning in March 1990. Dr. Brown stated that, during this time, "Dr. Pierce was adherent to his appointments." (Resp. Ex. G)

In his letter, Dr. Brown gave a report of Dr. Pierce's condition and treatment. To summarize briefly, Dr. Brown stated that Dr. Pierce had initially denied "the abusive nature of the transgressions" and his regret had initially "focused on having been caught, rather than on guilt for damage done." The transgressions themselves had resulted from a perceived need to push boundaries, including the boundaries of the physician/patient relationship. Dr. Brown stated that he had worked with Dr. Pierce concerning a number of issues over a long period of time, and "[i]t was only with the emergence of feelings of true guilt towards the patients whom he had seduced, that I considered that an acceptable and protective resolution had occurred. This was a rather long process, as Dr. Pierce first came to me believing that it was he who had been seduced." Dr. Brown further stated that, in addition to the key psychiatric issues addressed, "other more psychosocial work was being

2001 NOV -9 P 1: 29

accomplished in the therapy. Specifically, Dr. Pierce had to deal with the failure of his marriage, establishing a new relationship and eventual marriage, and creating a better, and more protective, work-life balance.” (Resp. Ex. G)

Dr. Brown concluded, “Dr. Pierce, at the time of the termination of his therapy, presented virtually no risk of sexual transgressions with patients.” (Resp. Ex. G)

[Note that the State did not have an opportunity to cross-examine Dr. Brown.]

12. Dr. Pierce testified that he is no longer obtaining psychological or psychiatric counseling. Dr. Pierce further testified that he had discontinued seeing Dr. Brown upon Dr. Brown’s recommendation. (Tr. at 68-69)
13. Dr. Pierce testified that he had worked in Quebec from January 1990 through April or May 1997. Dr. Pierce testified that he had left Quebec to take a position as Director of Medical Affairs for MDS Harris, Lincoln, Nebraska. Dr. Pierce testified that he did not obtain, or need to obtain, a Nebraska certificate for that position. (Tr. at 42-43)

Dr. Pierce testified that MDS Harris “is a contract research organization that does drug studies, studies on humans regarding drugs that are going to market for approval, drugs being developed.” Dr. Pierce testified that he had been the scientific medical officer for MDS Harris, that he “brought in studies,” and worked with the principal investigator. (Tr. at 43)

Dr. Pierce testified that he had left MDS Harris in July 1999 to take a position as Senior Vice President and Chief Operating Officer of Phoenix International, Cincinnati, Ohio. Dr. Pierce further testified, however, that MDS Harris subsequently purchased Phoenix International and, in May 2000, closed the Cincinnati facility. This resulted in Dr. Pierce losing his job. (Tr. at 44-45)

14. In his curriculum vitae, Dr. Pierce indicated that he presently holds two academic appointments at the University of Cincinnati. Since September 2000, Dr. Pierce has been a Professor of Pharmaceutical Science in the Department of Pharmaceutical Sciences of the College of Pharmacy. In addition, since August 2000, Dr. Pierce has been an Assistant Professor in the Department of Family Medicine for the College of Medicine. (Resp. Ex. A)

In addition to his academic appointments, Dr. Pierce indicated that, since July 2000, he has been the President of Pharmaceutical Medicine Consultants, Inc., which he described as “[a] solo consulting practice focusing on insuring clinical research results.” (Resp. Ex. A)

15. Dr. Pierce testified that he currently resides in Ohio but is not practicing medicine. Dr. Pierce further testified that he has been in administrative medicine since 1997.

2001 NOV -9 P 1: 29

Moreover, Dr. Pierce testified that, if he is granted a license to practice medicine in Ohio, he does not intend to practice medicine in Ohio. (Tr. at 11-12)

Dr. Pierce testified that he is seeking an Ohio certificate in order to do clinical research at Children's Hospital Medical Center, Cincinnati, Ohio [CHMCC]. Dr. Pierce testified that he is currently the Associate Director of the Clinical Trials Office at CHMCC, but is unable to fully do his job. Dr. Pierce stated that he can currently write protocols and teach, but cannot perform all of the functions of the Director's position until he has a certificate. Moreover, Dr. Pierce testified that, in order for him to be a principal investigator on a study, he would need to have a license to practice medicine. Dr. Pierce testified that his work would not involve managing patient care, but would require him to be able to read and approve, for example, an ECG. Dr. Pierce testified that "[y]ou have to have the license to interpret lab results to put those on case report forms." Finally, Dr. Pierce stated that a certificate would enable him to be placed on the payroll rather than act as a consultant; Dr. Pierce noted that he has so far not been paid for his work with CHMCC. (Tr. at 51-53, 62)

Dr. Pierce testified that, in addition to working with CHMCC, he assists in directing the research activities of Riverhills Healthcare, a neurology and neurosurgery practice in Cincinnati. Dr. Pierce testified that he does not see patients, but advises Riverhills Healthcare concerning research projects. In addition, Dr. Pierce stated that he is the Vice President of North American Medical Affairs for Harrison Clinical Research, which Dr. Pierce testified is a European company. Dr. Pierce testified that he is essentially "a marketer for them," and acts as their U.S. contact. (Tr. at 62-63, 70-71)

16. By letter dated January 24, 2001, Dr. Pierce provided the Board with detailed information concerning the actions taken by the medical boards of Vermont and Minnesota, and of the investigation by the Quebec Board. However, Dr. Pierce testified concerning a statement in this letter that indicated that the Minnesota Board "did not recommend disciplinary action but did place conditions regarding practice in Minnesota." Dr. Pierce testified that "that's wrong." Dr. Pierce further testified that he had interpreted a disciplinary action as being a revocation or suspension of a license. Finally, Dr. Pierce testified that the conditions placed on his Minnesota certificate had constituted a disciplinary action. (Resp. Ex. C; Tr. at 56-58, 64-66)
17. Dr. Pierce presented two letters of support from clinical research colleagues, James C. Kisicki, M.D., and Louis H. Steinert, Ph.D., M.B.A. Both characterize Dr. Pierce as a person of honesty and integrity. (Resp. Ex. I) (Note that the State did not have an opportunity to cross-examine the authors of these letters.)

Dr. Pierce testified that he had informed Dr. Kisicki of his history in Vermont, but that Dr. Pierce had not informed Dr. Steinert. Dr. Pierce noted that Dr. Steinert had been one

2001 NOV -9 P 1: 29

of twelve department heads at Phoenix International who had reported to Dr. Pierce.  
(Tr. at 60-61)

18. Dr. Pierce testified that he currently holds active physician licensure in Quebec, and a restricted license in Minnesota. Dr. Pierce stated that he has never practiced in Minnesota, but that he holds a certificate there because Minnesota is his home state. (Tr. at 11, 52)

### FINDINGS OF FACT

1. On or about February 16, 2001, Charles H. Pierce, M.D., submitted an application to the Board for a license to practice medicine and surgery in Ohio. That application remains pending.
2. On or about December 18, 1989, the Vermont Board of Medical Practice [Vermont Board] entered an Order suspending Dr. Pierce's license to practice medicine in Vermont, effective January 1, 1990, pending his successful application for reinstatement. This Order had been based on a Stipulation adopted and implemented by the Vermont Board, wherein Dr. Pierce admitted to engaging in sexual relations with two women who were his patients, action that constituted unprofessional conduct pursuant to 26 V.S.A. Section 1354(7). Dr. Pierce's license to practice medicine in Vermont currently remains suspended.
3. On or about April 25, 1993, the Minnesota Board of Medical Practice [Minnesota Board] adopted and implemented a Stipulation and Order, restricting Dr. Pierce's license, effective July 10, 1993, based upon the action of the Vermont Board as stated in Findings of Fact 2.
4. Dr. Pierce has not been engaged in the practice of medicine since 1997.

### CONCLUSIONS OF LAW

1. The Order of the Vermont Board of Medical Practice concerning Charles H. Pierce, M.D., as set forth in Finding of Fact 2, 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.
2. The Stipulation and Order of the Minnesota Board of Medical Practice concerning Dr. Pierce, as set forth in Findings of Fact 3, constitutes "[a]ny of the following actions

2001 NOV -9 P 1: 29

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.

\* \* \* \* \*

The conduct of Dr. Pierce that gave rise to the actions of the Vermont Board and Minnesota Board occurred more than fifteen years ago. Moreover, following complaints filed with the Vermont Board four years after the events occurred, Dr. Pierce voluntarily sought psychiatric counseling, and continued in psychiatric counseling for over five years. Although the violations committed by Dr. Pierce were of a serious nature, a considerable period of time has passed since the violations were committed, and the record indicates that necessary remedial measures have already been completed.

Under the circumstances of this case, the Board should grant a license to Dr. Pierce. This should be conditioned on his successful completion of the SPEX examination, because the record indicates that Dr. Pierce has not been engaged in the practice of medicine since 1997.

### PROPOSED ORDER

It is hereby ORDERED that:

The application of Charles H. Pierce, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he successfully completes the SPEX examination, and that he otherwise meets all statutory and regulatory requirements.

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



R. Gregory Porter  
Attorney Hearing Examiner



# State Medical Board of Ohio

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## EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 12, 2001

### REPORTS AND RECOMMENDATIONS

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

Dr. Bhati asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matter of Hany M. Iskander, M.D.; Charles H. Pierce, M.D.; and Edward J. Urban, D.O.? A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

Dr. Bhati 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. Somani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

Dr. Bhati 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.

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

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

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Dr. Garg left the meeting at this time.

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CHARLES H. PIERCE, M.D.

.....

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF CHARLES H. PIERCE, M.D. DR. TALMAGE SECONDED THE MOTION.**

.....

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Somani	- nay
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- nay

The motion carried.



# State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: [www.state.oh.us/med/](http://www.state.oh.us/med/)

July 11, 2001

Charles H. Pierce, M.D.  
5563 Regimental Place  
Cincinnati, Ohio 45239

Dear Doctor Pierce:

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

- (1) On or about February 16, 2001, you submitted an application for a license to practice medicine and surgery to the State Medical Board of Ohio. That application is currently pending.
- (2) On or about December 18, 1989, the Vermont Board of Medical Practice (Vermont Board) entered an Order, suspending your license to practice medicine in Vermont, effective January 1, 1990, pending your successful application for reinstatement. Your license to practice medicine in Vermont remains suspended to date. This Order was based on the Stipulation adopted and implemented by the Vermont Board, wherein you admitted to engaging in sexual relations with two women who were your patients, action that constituted unprofessional conduct pursuant to 26 V.S.A. Section 1354(7). A copy of the Stipulation and Order is attached hereto and fully incorporated herein
- (3) On or about April 25, 1993, the Minnesota Board of Medical Practice (Minnesota Board) adopted and implemented a Stipulation and Order, conditioning and limiting your license, effective July 10, 1993, based upon the actions of the Vermont Board as stated above. A copy of the Stipulation and Order is attached hereto and fully incorporated herein.

The Vermont Board Stipulation and Order, and the Minnesota Board Stipulation and Order, as alleged in paragraphs (2) and (3) above, individually and/or collectively, constitute "[a]ny of the following actions taken by the agency responsible for regulating

*Mailed 7-12-01*

CHARLES H. PIERCE, M.D.

Page 2

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.

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

You are further advised that, 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 (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, 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 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,



Anand G. Garg, M.D.  
Secretary

AGG/mpb

CHARLES H. PIERCE, M.D.

Page 3

Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 4546  
RETURN RECEIPT REQUESTED

Mailing Address:  
109 State Street  
Montpelier, VT 05609-1106  
Tel.: (802) 828-2673  
Fax: (802) 828-5450



State of Vermont  
Board of Medical Practice

Office Location:  
One Prospect Street  
Montpelier, VT 05602

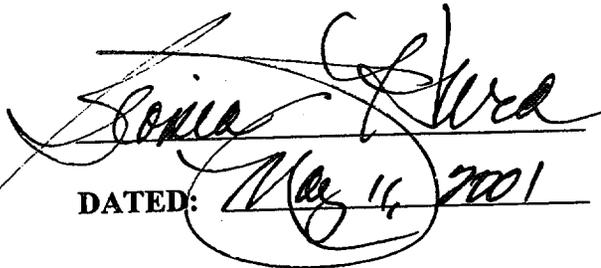
OHIO STATE MEDICAL BOARD

MAY 14 2001

CERTIFICATION

I, Gloria J. Hurd, Executive Director of the Vermont Board of Medical Practice,  
Custodian of the Records, HEREBY CERTIFY that the attached is a true and accurate  
copy of the Stipulation In Re: Charles H. Pierce, M.D.; Docket Number MP-59-0389; dated  
December 5, 1989.

ATTESTED:

  
DATED: May 14, 2001

OHIO STATE MEDICAL BOARD  
MAY 14 2001

STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE

IN RE: Charles Pierce, M.D.

Docket No. MP-59-0389

STIPULATION

Charles Pierce, M.D., respondent in this matter, and the State of Vermont, by and through Marilyn Skoglund, Assistant Attorney General, agree to the following facts, conditions and disposition in this matter.

1. Charles Pierce, M.D. holds a license issued by the Board of Medical Practice, which license is subject to disciplinary action under 26 V.S.A. Chapter 23.

2. The parties waive formal hearing in this matter.

3. Dr. Pierce admits that he engaged in sexual relations with two women who were, at the time, his patients.

4. Dr. Pierce admits that his having sexual contact as set forth above constitutes unprofessional conduct pursuant to 26 V.S.A. §1354(7).

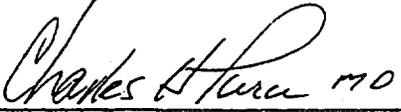
5. Dr. Pierce's license to practice medicine in Vermont shall be suspended pending his successful application for reinstatement. The suspension will begin on January 1, 1990.

6. The parties understand that this Stipulation and any Order issued pursuant to it are a matter of public record, will become a part of the respondent's licensing file, and may be reported to other licensing authorities.

MAY 14 2001

This stipulation is conditioned on acceptance by the Board. If the Board rejects any part of this Stipulation, then the entire agreement is void.

Dated at Burlington, Vermont, this 30<sup>th</sup> day of <sup>Nov</sup>~~December~~, 1989.

  
 \_\_\_\_\_  
 Charles Pierce, M.D.

Dated at Montpelier, Vermont this 5 day of <sup>Dec</sup>~~November~~, 1989.

  
 \_\_\_\_\_  
 Marilyn Skoglund  
 Assistant Attorney General

Mailing Address:  
109 State Street  
Montpelier, VT 05609-1106  
Tel.: (802) 828-2673  
Fax: (802) 828-5450



State of Vermont  
**Board of Medical Practice**

**OHIO STATE MEDICAL BOARD**

**MAY 14 2001**

Office Location:  
One Prospect Street  
Montpelier, VT 05602

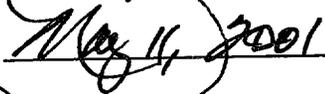
**CERTIFICATION**

I, **Gloria J. Hurd, Executive Director of the Vermont Board of Medical Practice,**  
**Custodian of the Records, HEREBY CERTIFY** that the attached is a true and accurate  
**copy of the Order In Re: Charles H. Pierce, M.D.; Docket Number MP-59-0389; dated**  
**December 18, 1989.**

**ATTESTED:**

  
A handwritten signature in cursive, appearing to read "Gloria J. Hurd", written over a horizontal line.

**DATED:**

  
A handwritten date "May 11, 2001" written in cursive, circled in black, and placed over a horizontal line.

OHIO STATE MEDICAL BOARD  
MAY 14 2001

STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE

In re: Charles H. Pierce, M.D.

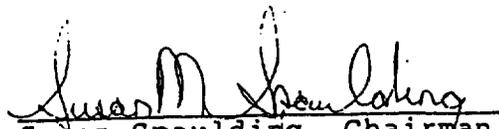
Docket No. MP-59-0389

ORDER

Based on the Stipulation of the Parties, wherein Dr. Pierce admits to engaging in sexual relations with two women who were, at the time, his patients, action that constitutes unprofessional conduct pursuant to 26 V.S.A. §1354(7), the Board of Medical Practice hereby suspends his license to practice medicine in Vermont pending his successful application for reinstatement. This suspension to begin on January 1, 1990.

DATED this 8<sup>th</sup> day of December, 1989, at Montpelier,  
Vermont.

BOARD OF MEDICAL PRACTICE

  
Susan Spaulding, Chairman

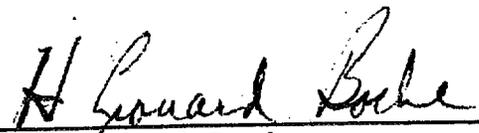
JUL 02 2001

**MINNESOTA BOARD OF MEDICAL PRACTICE**

2700 University Avenue West, #106 St. Paul, MN 55114-1080 (612) 642-0538

**CERTIFICATION OF DISCIPLINARY ACTIONS**ORDER DATED July 10, 1993IN THE MATTER OF: Charles H. Pierce, M.D.CITY AND STATE OF: Montreal, Canada

I, H. Leonard Boche, Executive Director of the Minnesota Board of Medical Practice, Do hereby certify that the attached Board Order is a copy of the original official record on file in the office of the Minnesota Board of Medical Practice. As Executive Director, I am the official custodian of such documents and I have personally compared the attached copy with the original and find it to be a true and correct copy thereof.

  
\_\_\_\_\_  
H. Leonard Boche,  
Executive Director  
Minnesota Board of Medical Practice

(S E A L)

BEFORE THE MINNESOTA  
BOARD OF MEDICAL PRACTICE

STIPULATION  
AND ORDER

In the Matter of the  
Medical License of  
Charles H. Pierce, MD  
Date of Birth: 7/26/34  
License Number: 20,104

IT IS HEREBY STIPULATED AND AGREED, by and between Charles H. Pierce, MD (hereinafter "Respondent"), and the Minnesota Board of Medical Practice (hereinafter "Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice medicine and surgery in the State of Minnesota;

FACTS

2. For the purpose of this stipulation, the Board may consider the following facts as true:

a. On January 1, 1990, the Vermont Board of Medical Practice suspended Respondent's license to practice medicine in the State of Vermont based on his admission of engaging in sexual relations with two women, who at the time were his patients. Respondent's license is indefinitely suspended pending his successful application for reinstatement;

b. On July 22, 1991, Respondent was indefinitely excluded from participating in the title XVIII (Medicare) program based on his Vermont discipline. He remains excluded to date;

c. Respondent has received weekly psychotherapy since approximately March 1990 to address issues surrounding his sexual misconduct. His psychiatrist states that Respondent poses no present threat to patient safety or welfare;

d. Respondent does not practice in Minnesota and has no present plans to do so.

### STATUTES

3. The Board views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(d), (g), (k) and (t) (1992) and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action;

### REMEDY

4. Upon this stipulation and all of the files, records, and proceedings herein and without any further notice or hearing herein, Respondent does hereby consent that until further order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an order restricting Respondent's license to practice medicine and surgery in Minnesota as follows:

a. Respondent shall not practice in Minnesota unless he first satisfies the terms of paragraphs b-d below and meets with the Complaint Review Committee;

b. Respondent shall practice only in a setting approved in advance by the Complaint Review Committee;

c. Respondent shall release to the Board all records of therapy or other mental health treatment;

d. Respondent shall submit to an examination performed by an evaluator(s) approved in advance by the Complaint Review Committee, the cost of which shall be borne by Respondent. The nature, scope and duration of the evaluation shall be determined by the evaluator, and may include mental and physical evaluation. The evaluation results shall be transmitted directly to the Board office. The Board may impose other restrictions on Respondent's license to practice medicine and surgery in Minnesota based on the results of the evaluation;

e. Should there be an admission by Respondent or a finding of any sort or from any authority or jurisdiction that Respondent has engaged in further sexual misconduct with a patient, Respondent's license to practice medicine and surgery in the state of Minnesota shall be immediately revoked upon written notice from the Complaint Review Committee to Respondent.

5. Within ten days of the date of this order, Respondent shall provide the Board with a list of all hospitals at which Respondent currently has medical privileges. The information shall be sent to Board of Medical Practice, Suite 106, 2700 University Avenue West, St. Paul, Minnesota 55114;

6. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the license of Respondent to practice medicine and surgery in the State of Minnesota shall be suspended immediately upon written notice by the Complaint Review Committee to Respondent, such a suspension to remain in full force and effect until Respondent petitions the Board to terminate the suspension after a hearing. Nothing contained herein shall prevent the Board from revoking or suspending Respondent's license to practice medicine and surgery in the State of Minnesota after any such hearing;

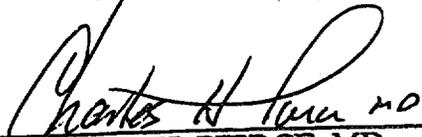
7. In the event the Board in its discretion does not approve this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating hereto;

8. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter and has chosen Jack Nordby;

9. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein;

10. Respondent hereby acknowledges that he has read and understands this stipulation and has voluntarily entered into the stipulation without threat or promise by the Board or any of its members, employees, or agents. This stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this stipulation.

Dated: 28 April, 1993

  
\_\_\_\_\_  
CHARLES H. PIERCE, MD  
Respondent

  
\_\_\_\_\_  
JACK NORDBY  
Attorney for Respondent  
  
Meshbesh & Spence, Ltd.  
1616 Park Avenue  
Minneapolis, Minnesota 55404  
Telephone: (612) 339-9121

  
\_\_\_\_\_  
SARAH G. MULLIGAN  
Attorney for Board  
  
500 Capitol Office Building  
525 Park Street  
St. Paul, Minnesota 55103  
Telephone: (612) 297-2040

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by the Board this 10th day of July, 1993.

MINNESOTA BOARD OF  
MEDICAL PRACTICE

By: A. Donald Roche