



# State Medical Board of Ohio

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March 9, 2005

Russell James Raus, D.P.M.  
10200 Granger Road, Apt. 310  
Garfield Heights, OH 44125

Dear Doctor Raus:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 9, 2005, including motions modifying the Findings of Fact, and approving and confirming the Hearing Examiner's Conclusions of Law and Order, and adopting the Findings of Fact, Conclusions of Law and Order, as amended.

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

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

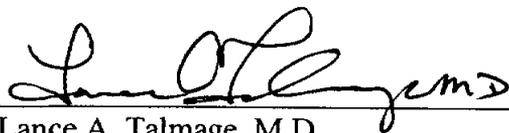
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RETURN RECEIPT REQUESTED

MAILED 3-24-05

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on March 9, 2005, including motions modifying the Findings of Fact, approving and confirming the Hearing Examiner's Conclusions of Law and Order, and adopting the Findings of Fact, Conclusions of Law and Order, as amended; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Russell James Raus, D.P.M., 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.



Lance A. Talmage, M.D.  
Secretary

(SEAL)

March 9, 2005  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF

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RUSSELL JAMES RAUS, D.P.M.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on March 9, 2005.

Upon the Report and Recommendation of Sharon W. Murphy, 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 modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

- A. **SUSPENSION:** The certificate of Russell James Raus, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Raus' certificate to practice podiatric medicine and surgery until all of the following conditions have been met:
  1. **Application for Reinstatement or Restoration:** Dr. Raus shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
  2. **Psychiatric Assessment/Treatment:** Prior to submitting his application for reinstatement or restoration, Dr. Raus shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Raus' choice. Upon approval by the Board, Dr. Raus shall obtain from the approved psychiatrist an assessment of Dr. Raus' current mental and psychiatric status. Prior to the initial assessment, Dr. Raus shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions of Law, and Order, and any other

documentation from the hearing record which the Board may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial assessment, Dr. Raus shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Raus' current mental and psychiatric status and condition;
- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. Raus' current needs; and
- c. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommend treatment, and upon approval by the Board, Dr. Raus shall undergo and continue treatment weekly or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Raus shall comply with his treatment plan, including taking medications as prescribed for his disorder.

3. **Certification of Compliance with Treatment Plan:** If treatment is recommended pursuant to the psychiatric assessment, upon submission of his application for reinstatement or restoration, Dr. Raus shall provide the Board with certification from the psychiatrist approved by the Board that Dr. Raus has been in full compliance with the plan of recommended treatment for a period of at least three months immediately preceding the submission of his application for restoration or reinstatement.
4. **Reports of Evaluation:** Upon submission of his application for reinstatement or restoration, Dr. Raus shall provide the Board with written reports of evaluation by two psychiatrists acceptable to the Board indicating that Dr. Raus' ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such assessments shall have been performed within sixty days prior to submission of his application for reinstatement or restoration. Each report shall describe with particularity the bases for this determination and shall set forth any recommended limitations upon Dr. Raus' practice.
5. **Absence from Practice:** In the event that Dr. Raus has not been engaged in the active practice of podiatric medicine and surgery for a period in excess of two years prior to the submission of his application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Raus' fitness to resume practice.

- C. **PROBATIONARY CONDITIONS:** Upon reinstatement or restoration, Dr. Raus' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least ten years:
1. **Obey Laws in Ohio:** Dr. Raus shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
  2. **Quarterly Declarations:** Dr. Raus shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which the Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  3. **Appearances:** Dr. Raus shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order. Dr. Raus must also appear every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
  4. **Continue Psychiatric Treatment:** If the psychiatrist approved by the Board prior to Dr. Raus' reinstatement or restoration recommends that Dr. Raus undergo treatment, Dr. Raus shall continue in treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. Raus' current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Raus' compliance with the treatment plan; Dr. Raus' mental and psychiatric status; Dr. Raus' progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Raus shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for his quarterly declaration.

In addition, Dr. Raus shall ensure that his treating psychiatrist immediately notifies the Board of Dr. Raus' failure to comply with his treatment plan and/or any determination that Dr. Raus is unable to practice due to his disorder.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Raus must immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Raus shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

5. **Practice Plan**: Prior to commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Raus shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Raus' activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Raus shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Raus submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Raus and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Raus and his podiatric practice, and shall review Dr. Raus' patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Raus and his podiatric practice, and on the review of Dr. Raus' patient charts. Dr. Raus shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Raus' quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Raus must immediately so notify the Board in writing. In addition, Dr. Raus shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Raus shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

6. **Tolling of Probationary Period While Out of State**: Dr. Raus shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

- D. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Raus' certificate will be fully restored.

- E. **RELEASES:** Dr. Raus shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Raus' mental or psychiatric condition and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

Dr. Raus shall also provide the Board written consent permitting any psychiatrist, counselor, or other treatment provider from whom Dr. Raus obtains treatment to notify the Board in the event Dr. Raus fails to agree to or comply with any recommended treatment. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

- F. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Raus shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Raus shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. Further, Dr. Raus shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

- G. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Raus shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Raus shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Raus shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

**EFFECTIVE DATE OF ORDER:** This Order shall become effective immediately upon the mailing of notification of approval by the Board.



Lance A. Talmage, M.D.  
Secretary

(SEAL)

March 9, 2005

Date

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**REPORT AND RECOMMENDATION  
IN THE MATTER OF RUSSELL JAMES RAUS, D.P.M.**

The Matter of Russell James Raus, D.P.M., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on January 5, 2005.

**INTRODUCTION**

I. Basis for Hearing

- A. In a Notice of Summary Suspension and Opportunity for Hearing dated October 13, 2004, the State Medical Board of Ohio [Board] notified Russell James Raus, D.P.M., that, pursuant to Section 4731.22(G), Ohio Revised Code, the Board had adopted an Order of Summary Suspension of Dr. Raus' certificate to practice podiatric medicine and surgery in Ohio. The Board further advised that continued practice would be considered practicing without a certificate, in violation of Section 4731.60, Ohio Revised Code.

Moreover, the Board notified Dr. Raus that it had proposed to take disciplinary action against his certificate. The Board alleged that, on September 9, 2004, it had received a report of a Board-ordered psychiatric evaluation of Dr. Raus. The report concluded that Dr. Raus is unable to practice podiatric medicine and surgery according to acceptable and prevailing standards of care due to his mental disorder of vascular dementia, and that Dr. Raus' continued practice "presents a danger of immediate and serious harm to the public." Further, the Board alleged that Dr. Raus' condition constitutes an "[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." Accordingly, the Board advised Dr. Raus of his right to request a hearing in this matter. (State's Exhibit 1A).

- B. On November 12, 2004, Dr. Raus submitted a written hearing request to the Board. (State's Exhibit 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Tara L. Berrien, Assistant Attorney General.

- B. On behalf of the Respondent: Dr. Raus, having previously been apprised of his right to be represented by an attorney, appeared on his own behalf.

## EVIDENCE EXAMINED

### I. Testimony Heard

A. Presented by the State

1. Russell James Raus, D.P.M., as upon cross-examination
2. Brenda Harrison, by telephone
3. Stephen Noffsinger, M.D.
4. Rebecca J. Marshall, Esq.

B. Presented by the Respondent

Russell James Raus, D.P.M.

### II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1H: Procedural exhibits.
- \* 2. State's Exhibit 2: Copy of an April 16, 2004, letter to Dr. Raus from the Board ordering Dr. Raus to a psychiatric evaluation.
3. State's Exhibit 3: Copy of an April 16, 2004, letter to Stephen Noffsinger, M.D., regarding Dr. Raus' psychiatric evaluation.
- \* 4. State's Exhibits 4, 5A, 5B, and 7 through 9: Copies of medical records concerning Dr. Raus.
5. State's Exhibit 6: Copy of a July 21, 2004, letter to Dr. Noffsinger from Board staff concerning Dr. Raus' medical records.
6. State's Exhibit 10: Copy of Dr. Noffsinger's September 9, 2004, report to the Board concerning his psychiatric evaluation of Dr. Raus.
7. State's Exhibit 11: Dr. Noffsinger's curriculum vitae.

- \* 8. State's Exhibit 12: Copy of a letter to Rebecca J. Albers, Assistant Attorney General, from Dr. Raus, with attached copy of a Final Report of a November 19, 2004, MRI of Dr. Raus' brain.
9. State's Exhibit 13: Copies of character letters in support of Dr. Raus, and Dr. Raus' cover letter dated December 15, 2004.
10. State's Exhibit 14: Copy of a December 30, 2004, letter to the Hearing Examiner from Dr. Raus.
11. State's Exhibit 15: Copy of a December 20, 2004, report of an evaluation of Dr. Raus by Joseph Steiner, Ph.D., Clinical Psychologist.

B. Presented by the Respondent

Respondent's Exhibit A: An index card upon which is written a list of things Dr. Raus was to say or present at hearing.

\* Note: Exhibits marked with an asterisk [\*] have been sealed to protect patient confidentiality.

### **PROCEDURAL MATTERS**

At hearing, Counsel for the State advised that Paragraph 2A in the Notice of Summary Suspension and Opportunity for Hearing contains the date January 8, 2002. Counsel for the State further advised that the date should be January 8, 2003. The Hearing Examiner agreed to correct the date, and the Respondent did not object to the change. (See Hearing Transcript at 5).

### **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. Russell James Raus, D.P.M., testified that he had graduated from Defiance College with a double major in Biology and Chemistry. Thereafter, Dr. Raus worked "in chemistry" for about five years. (Hearing Transcript [Tr.] at 10-11). Dr. Raus further testified that,  
  
[O]ne year I was walking around Western Reserve University, and I wanted to go over to the dental school, but by the time I got there, it was too late. When I went in, they had the podiatry school open, and I looked through there and found out I could apply and applied to the podiatry

school. And when they accepted me, I told my boss and started in December of -- September of '64.

(Tr. at 11). Dr. Raus graduated from the Ohio College of Podiatry in 1969. He practiced podiatry in Ohio until the Board summarily suspended his certificate to practice on October 2004. (Tr. at 11-12).

2. On March 6, 2001, Dr. Raus was seen by a physician at the Elder Health Center at University Hospitals of Cleveland. The medical record for that visit states that Dr. Raus had been referred by his Catholic Charities social worker, who had advised as follows:

- Dr. Raus had been having declining memory over the past eighteen months;
- Dr. Raus had been having problems with multitasking, such as managing his Medicaid and foodstuffs and following simple directions;
- Dr. Raus had been having problems understanding instructions;
- Dr. Raus' apartment was filthy; and
- Dr. Raus had been spitting on the walls and demonstrating "pack-rat behavior."

(State's Exhibit [St. Ex.] 5B at 12).

The physician performed a neurological examination of Dr. Raus. The physician noted that Dr. Raus was obsessive, and had repetitive thoughts about getting married, starting his practice and increasing his patient load. The physician further noted that Dr. Raus' language, his ability to recall and calculate, and his attention were all diminished. (St. Ex. 5B at 15).

On March 12, 2001, Dr. Raus underwent a CT scan of the brain to evaluate "possible dementia." The CT revealed "probably old and non-hemorrhagic cerebral infarct in the left basal ganglia." On May 8, 2001, an EEG was performed on Dr. Raus, which revealed "mild encephalopathy." Dr. Raus also underwent SPECT imaging of the brain, which revealed "decreased biparietal perfusion, consistent with early Alzheimer's disease, and decreased perfusion in the left frontal region of uncertain etiology." (St. Ex. 5B at 17; St. Ex. 5A at 6, 7).

Dr. Raus was seen on May 29, 2001, at the Elder Health Center. Dr. Raus was diagnosed with dementia, possibly Alzheimer's disease, for which Aricept was prescribed. He was also scheduled for neuropsychological testing and was told to stop practicing podiatry until the testing was completed. Dr. Raus was seen again on July 12, 2001. At that time, it was questioned whether Dr. Raus was suffering from early Alzheimer's disease or a personality

disorder. Again, he was instructed to refrain from the practice of podiatry pending full evaluation. (St. Ex. 5B at 27, 28).

On July 13, 2001, Dr. Raus was seen by a social worker for Catholic Social Services. The social worker encouraged Dr. Raus to attend a senior center and food bank, but noted that Dr. Raus was “fixated on getting married [and] having children.” A physician who examined Dr. Raus later that date wrote, in part, as follows: “Given his prominent behavioral [symptoms] and borderline ‘N’ score on cognitive eval in the past, it is reasonable to do a comprehensive neuropsych eval and then determine if a case can be made for guardianship.” The physician further stated that he agreed with the recommendation that Dr. Raus stop practicing podiatry for the time being. (St. Ex. 5B at 29, 30).

On February 21, 2002, Dr. Raus’ internist, John Plucinsky, M.D., noted an impression of “early dementia.” (St. Ex. 4 at 20).

On March 19, 2002, Dr. Raus was seen at the Elder Health Center. It was noted that he had been referred for an evaluation of his behavioral problems, which included spitting on the walls and maintaining an unkempt home. It was also noted that Dr. Raus had been scheduled for an evaluation of his ability to drive and for neuropsychiatric testing, but that Dr. Raus had not gone to either appointment. (St. Ex. 5B at 10).

On May 17, 2003, a CT of the head revealed small vessel ischemic changes, volume loss, and a remote stroke with encephalomalacia. (St. Ex. 9 at 71).

On September 15, 2003, Dr. Raus was evaluated by Dennis Savinsky, M.D., a psychiatrist, for concerns about Dr. Raus’ paranoia and cognitive impairment. Dr. Savinsky noted that Dr. Raus had seen Dr. Jan Bautista, Dr. Raus’ medical doctor, for an evaluation of his “mild to moderate Alzheimer’s disease” and “depression over the possibility that he may lose his podiatry license.” Dr. Savinsky also noted that Dr. Raus had reported that he had agreed to the evaluation after the staff at the Elder Health Center suggested that Dr. Raus may have Alzheimer’s disease. Dr. Raus was concerned that he could lose his license to practice podiatry. (St. Ex. 7 at 2).

Dr. Savinsky found Dr. Raus’ thought processes to be “logical and coherent.” He also noted that Dr. Raus’ recall and memory were intact, his affect appropriate, and his mood mildly depressed. As a result of the evaluation, Dr. Savinsky diagnosed Dr. Raus with “Adjustment disorder with depressed mood, mild to moderate.” Dr. Savinsky noted, however, that he had ordered labwork “to complete his dementia work up.” (St. Ex. 7 at 2).

On September 26, 2003, Dr. Raus was seen by a physician at the Elder Health Center who noted that Dr. Raus continued to demonstrate cognitive impairment. The physician also noted that Dr. Raus demonstrated poor judgment and a lack of insight. The physician told Dr. Raus to refrain from the practice of podiatry, but noted that Dr. Raus had refused to cease practicing. (St. Ex. 5B at 35).

On November 10, 2003, Dr. Savinsky noted that Dr. Raus had not submitted the results of the lab work Dr. Savinsky had ordered for a dementia work-up. Nevertheless, Dr. Savinsky noted that Dr. Raus' mood was improved and he was "exhibiting no significant cognitive impairment." Therefore, Dr. Savinsky discharged Dr. Raus from Dr. Savinsky's care. (St. Ex. 7 at 4).

On February 1, 2004, Dr. Raus underwent a CT scan of the brain, without contrast, which revealed, in part, "a mild atrophy. Diminished attenuation involves a portion of the left lenticular nucleus suggesting remote lacunar infarct. Diminished white matter attenuation suggests chronic small vessel disease. There is no intracranial hemorrhage or midline shift." (St. Ex. 8 at 12).

3. Brenda Harrison testified at hearing by telephone on behalf of the State. Ms. Harrison testified that she has been an Enforcement Investigator for the Board for the past eighteen years. In her role as an Enforcement Investigator, Ms. Harrison investigates complaints filed with the Board regarding its licensees. (Tr. at 46).

Ms. Harrison testified that, in October 2003, during the course of her professional duties, she had contacted Dr. Raus at his apartment in Lakewood, Ohio. Ms. Harrison testified that she had rung the buzzer and identified herself to Dr. Raus as a Medical Board Investigator. She stated that Dr. Raus had "buzzed" her into the building, and she had walked up the stairs to Dr. Raus' apartment. Dr. Raus met her in the hallway, and she identified herself again as a Medical Board Investigator. Ms. Harrison stated that Dr. Raus had thought she was a representative of the Ohio Medicare Department bringing him a check, and had been a little concerned to learn that she was not. (Tr. at 46-47).

Ms. Harrison testified that Dr. Raus' appearance had been disheveled. She stated that his hair had been uncombed. Moreover, his shirt was dingy, his slacks were ripped, and he appeared unkempt. Ms. Harrison further stated that Dr. Raus had been agitated, anxious, disoriented, and forgetful. (Tr. at 47).

Ms. Harrison testified that she had asked Dr. Raus about his practice and his patient medical records. Dr. Raus had described his practice, and stated that he kept the medical records in the living room of his apartment. Ms. Harrison stated that the living room had been very cluttered with papers. There was also trash in the hallways, in the living room, and in the kitchen. She said that the apartment had been very unkempt and unclean. (Tr. at 47-49).

Ms. Harrison testified that she had asked Dr. Raus for the names of his patients, so that she could obtain their medical records. He told her that she could call him the next day for his patients' names because he was in a hurry. She asked for his telephone number, but Dr. Raus could not remember his number. Ms. Harrison explained, "He was looking through his wallet and his pockets for his phone book to give me his telephone number. His hands were shaking. He appeared nervous." Dr. Raus could not give her a telephone number. (Tr. at 49-50).

4. By letter dated April 16, 2004, the Board advised Dr. Raus that it had determined that there was reason to believe that Dr. Raus was in violation of Section 4731.22(B)(19), Ohio Revised Code, in that Dr. Raus was unable “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.” Accordingly, the Board ordered Dr. Raus to present for a psychiatric evaluation on May 5, 2004. (St. Ex. 2).
  
5. On May 5, 2004, Dr. Raus presented for the Board-ordered psychiatric evaluation which was performed by Stephen Noffsinger, M.D., Assistant Professor of Psychiatry at Case Western Reserve University. (St. Ex. 11). In his September 9, 2004, report to the Board, Dr. Noffsinger advised that he had diagnosed Dr. Raus as suffering from “Vascular Dementia, Uncomplicated, with Behavioral Disturbance 290.40.” (St. Ex. 10) Dr. Noffsinger further advised that,

It is my opinion with reasonable medical certainty that, due to his Vascular Dementia, Dr. Raus is unable to practice medicine according to acceptable and prevailing standards of care. This is evidenced by:

1. Dr. Raus’ memory impairment and difficulty with executive functioning would substantially impair his ability to interview patients, perform a physical examination, make an accurate diagnosis and formulate and carry out a reasonable plan of treatment.
  
2. Dr. Raus’ memory impairment and difficulty with executive functioning would impair his judgment and behavior.
  
3. Dr. Raus’ memory impairment and difficulty with executive functioning, combined with his resultant unusual behavior and presentation, would substantially impair his professional relationships and ability to relate to patients.

Due to the severity of his deficits Dr. Raus’ continued practice presents a danger of immediate and serious harm to the public.

It is my opinion with reasonable medical certainty that Dr. Raus’ Vascular Dementia is not treatable. He has attempted to address his dementia with the medication Aricept, with only marginal results. Dementia is a progressive illness with little available treatment. There are no restrictions or conditions that could be placed on his practice that would allow Dr. Raus to continue to practice medicine.

(St. Ex. 10 at 7-8).

6. Dr. Noffsinger testified at hearing on behalf of the State. Dr. Noffsinger testified that he had received a medical degree in 1987 from the Northeastern Ohio University College of Medicine. In 1991, Dr. Noffsinger completed an internship and residency in psychiatry at the MetroHealth Medical Center in Cleveland. For the next four years, Dr. Noffsinger served as the Medical Director of Psychiatric Emergency Services at St. Vincent Charity Hospital in Cleveland. Thereafter, he completed a fellowship in Forensic Psychology at Case Western Reserve University in 1996. (Tr. at 53; St. Ex. 11).

Dr. Noffsinger testified that, since 1996, he has served as the Chief of Forensic Psychiatry at Northcoast Behavioral Healthcare, a state-run psychiatric hospital. Dr. Noffsinger also serves as the Associate Director of the Forensic Psychiatry Fellowship at University Hospitals of Cleveland and as a Forensic Psychiatrist for the Cuyahoga County Court Psychiatric Clinic. In addition, Dr. Noffsinger maintains a private practice in forensic psychiatry at the University Hospitals of Cleveland, and is employed on a part-time basis at the University of Akron School of Law. Dr. Noffsinger is certified in psychiatry and in forensic psychiatry by the American Board of Psychiatry and Neurology. (Tr. at 52-54; St. Ex. 11).

Dr. Noffsinger testified that, in performing a forensic psychiatric evaluation, he reviews as many records as possible. Then, he meets with the individual on a one-on-one basis for a personal interview, which would include obtaining a history regarding social, educational, work, psychiatric, substance use, and legal issues. Thereafter, Dr. Noffsinger performs a mental status examination, makes a diagnosis, and attempts to address the questions presented by the referral source. (Tr. at 56-57).

7. Dr. Noffsinger testified that he had interviewed Dr. Raus on May 5, 2004, at the request of the Board. Dr. Noffsinger stated that he had also reviewed Dr. Raus' medical records during the course of the forensic evaluation. (Tr. at 57).

Dr. Noffsinger testified that Dr. Raus had been unkempt at the interview. Dr. Raus' clothing had been soiled and his hair uncombed. Dr. Noffsinger further stated that Dr. Raus had been "a bit confused." (Tr. at 58).

Dr. Noffsinger discussed the report of his evaluation of Dr. Raus. Dr. Noffsinger testified that,

I thought it was interesting, when I was taking [Dr. Raus'] educational history, he told me a somewhat strange story about how he decided to become a podiatrist. He told me that he was walking around the Case Western campus in the mid 1960s, and decided to not apply to medical school or dental school, which had been his first interest, because those buildings happened to be closed on that day. That seemed to be a bit odd. In hindsight, I think this really is an example of confabulation, which is a symptom of dementia. If a

person has a gap in their memory, they make up a story to fill that gap in. Dr. Raus, in his medical history, told me he had had a small stroke two or three years before, and that he had been diagnosed at Fairfield Hospital with dementia. That he had also received a medication called Aricept from Dr. Bautista at Lakewood Hospital. When I asked for a listing of medications, he told me he could not recall all the medications, which I thought odd for a doctor not to recall his own medication list.

(Tr. at 60-61). Dr. Noffsinger further testified regarding the mental examination, as follows:

At times when he was talking, he went off on tangents. I had to direct him to bring him back on topic. That could be an example of a problem with his thinking. Isn't able to focus thoughts, instead, off on tangents and rambled. He told me he had forgotten to bring the payment for the evaluation, which again, I think is an example of problems with his memory. This was an important examination for a professional.

(Tr. at 62).

Dr. Noffsinger testified that, after considering the results of the interview and mental status examination, and after reviewing Dr. Raus' medical records, he had diagnosed Dr. Raus as having mild to moderate vascular dementia. Dr. Noffsinger explained that the vascular dementia is caused by problems in the circulatory system in his brain. Dr. Noffsinger added that it is "uncomplicated," because there is no indication that Dr. Raus has had problems with depression or psychosis. Dr. Noffsinger acknowledged that Dr. Raus has demonstrated some behavioral problems, so Dr. Noffsinger gave the diagnosis of vascular dementia the specifier of "behavioral disturbance." (Tr. at 62-72).

Moreover, Dr. Noffsinger testified that Dr. Raus' condition is likely to worsen over time. Dr. Noffsinger added that, although there are medications that might slow the progression of the disease, the disease itself is not treatable "in the sense that there is no way to make it better." (Tr. at 72-73).

Dr. Noffsinger stated that Dr. Raus' dementia renders him unable to practice medicine according to acceptable standards of care. He added that there is nothing Dr. Raus can do to regain his ability to practice within the standard of care. Dr. Noffsinger explained, as follows:

[T]he deficits which I've observed and seen in the records would impact his practice in such a basic level that no restrictions or supervision would be able to really allow him to practice. \* \* \* Being able to talk to patients and get -- for him to get a clear understanding of the patient's complaints. \* \* \* The past history, again he's had problems with his memory, with his abstract thinking,

with his comprehension. And so just in order to make a diagnosis, you have to talk to the patient, take their history, their background, do the examination. You have to be able to keep those things in your mind in order to make a diagnosis and form a plan of treatment. So this isn't a sophisticated subspecialty or a small part of medicine. This is the core of what doctors do is talk to patients, get a history, get a chief complaint, do an examination, form a diagnosis, and form a plan of treatment. And again, since he has deficits in these areas which impact him, he wouldn't be able to even do the basic parts of medicine.

(Tr. at 74).

8. Rebecca Jean Marshall, Esq., testified at hearing on behalf of the State. Ms. Marshall testified that she is an Enforcement Attorney for the Board. As an Enforcement Attorney, Ms. Marshall coordinates investigations regarding possible violations of the Medical Practices Act. Ms. Marshall further testified that she had been involved in the investigation of Dr. Raus. (Tr. at 89).

Ms. Marshall testified regarding her involvement in the investigation of Dr. Raus, including the Board's April 2004 letter ordering Dr. Raus to the evaluation by Dr. Noffsinger, the medical records the Board obtained during the course of the investigation, and Dr. Noffsinger's report regarding his evaluation of Dr. Raus. Ms. Marshall further testified that she had presented this information to the Secretary and Supervising Member of the Board. Ms. Marshall testified that, upon review of that information, the Secretary and Supervising Member of the Board had decided "that the Board would need to summarily suspend Dr. Raus' certificate to practice podiatry." (Tr. at 90-93; St. Exs. 3, 6, 10).

Ms. Marshall also stated that, upon receipt of Dr. Noffsinger's report, she had contacted Dr. Raus and advised him that Dr. Noffsinger had determined that Dr. Raus was unable to practice according to the minimal standards of care. Ms. Marshall testified that Dr. Raus had "vehemently disagreed" with that finding. (Tr. at 93).

Ms. Marshall further testified that, upon the recommendation of the Secretary and Supervising Member, in October 2004, written allegations regarding Dr. Raus had been presented to the Board. Upon review of the written allegations, the Board voted to summarily suspend Dr. Raus' certificate. (Tr. at 93; St. Ex. 1A).

9. On November 19, 2004, Dr. Raus had a MRI of the brain performed for a diagnosis of "senile dementia and memory loss." The impressions included, "Chronic small vessel ischemic changes without evidence of an acute process." (St. Ex. 12 at 2).
10. On December 1 and December 16, 2004, Dr. Raus appeared for a psychological evaluation by Joseph Steiner, Ph.D., Clinical Psychologist, North East Ohio Health Services,

Beachwood, Ohio. In his December 20, 2004, report of the evaluation, Dr. Steiner wrote, in part, as follows:

[Dr. Raus] participated quite anxiously, often asking many questions or conversing off topic. He was obsessed with the quality of his performance, fearful of poor results and his license being revoked. Current intellectual function measures in the average range on the WAIS-III (FSIQ=94), which is at expectation for his age group. Average verbal skill (93) and performance ability (95) were quite consistent with the overall result. Verbal Comprehension (94) and Perceptual Organization (93) were similarly shown. Best scores were evident on tasks involving long-term memory, fund of information and on a task of abstract verbal reasoning. Dr. Raus struggled the most on tasks involving abstract verbal reasoning, attention to visual detail, and arithmetic, all below expectation. Visual-motor integration on the Bender Gestalt II was better shown with a high average range score of (113) on the copying portion and average visual recall score of (105) demonstrated fairly intact visual memory. His work sheet was well organized, items laid out in a reasonably logical order, with fair planning for use of space, suggesting that most of Dr. Raus' paperwork can be completed in this fashion. Achievement area scores on the WRAT-III varied more widely with high average Spelling (117), average Reading Recognition (108) and Arithmetic (97). These were consistent with measured ability. Although scores range from average to high average across skills, current performance likely represents some decline in abilities for someone with a medical degree. On observation, there is evidence of language retrieval confusion and difficulty with concentration.

Current diagnosis from this evaluation includes Adjustment Disorder with mixed anxiety and depressed mood. It seems that Dr. Raus' current cognitive status represents a decline from earlier function over the years, although all measured skills measured from average to high average. Counseling can focus on client's adjustment to possible career changes and developing continuing fulfilling life activities.

(St. Ex. 15).

11. Upon review of Dr. Steiner's report, Dr. Noffsinger stated that Dr. Steiner had noted that Dr. Raus has "a full scale IQ of 94." Dr. Noffsinger stated that ninety-four is a score below what one would expect from a physician. He explained that this is an indication that Dr. Raus has suffered a decline from his previous functioning which is consistent with dementia. Dr. Noffsinger further noted that Dr. Steiner had indicated that Dr. Raus struggled with tasks involving abstract verbal reasoning, attention to visual detail, language retrieval, concentration, and math, all of which is consistent with the diagnosis of dementia. (Tr. at 78-79).

Dr. Noffsinger testified that he does not understand Dr. Steiner's diagnosis of adjustment disorder. Dr. Noffsinger explained that Dr. Steiner did not mention a stressful event upon which to base the diagnosis. Moreover, Dr. Noffsinger stated that,

[T]hat diagnosis has not taken into account the deficits that he describes in the second paragraph. The problems with the concentration, math, abstract reasoning. Those would not be explained by the diagnosis he made. But he also does say that in the bottom of the first page, seems that his current cognitive status declined from his earlier functioning. But then he says all the major skills are measured from average to high average. That's not what he said higher up, hey there is problems with abstract verbal reasoning, attention to visual detail, math skills. His IQ is below average. So he had problems with his language retrieval, concentration. That doesn't – that doesn't fit with his conclusion at the end.

(Tr. at 79-80).

12. Dr. Raus testified at hearing on his own behalf. Dr. Raus acknowledged that he suffers from dementia, possibly Alzheimer's disease, but stated that it affects his functioning only slightly and would not affect his practice of podiatry. Dr. Raus further testified that, for the past year or two, he has been taking Aricept, which he described as a medication that should prevent worsening of his "brain disease." (Tr. at 9, 16-17).
13. When asked to describe his podiatric practice from the time he was first licensed by the Board, the following exchange took place:
  - A. [by Dr. Raus] Yeah. I had my practice, my father helped me out, spent \$12,000 for the equipment in the office. Rented an office on Garfield Boulevard in Garfield Heights. I practiced there. There was a few things I needed. I didn't know at that time. I should have had somebody there. I should have had a girl. I didn't get a girl until about 1978, and I just -- I did the practice. The point through my whole thirty years, these insurance companies, you probably notice -- Dr. Noffsinger knows too -- when you hand in procedures to the insurance companies, they would only send back a certain portion of that. We had to send them in three or four times before I got the full amount and didn't have enough money to get the practice going on the good days.
  - Q. [by Ms. Berrien] Are you talking about billing?
  - A. Yes, receiving the billing.
  - Q. So do you currently have malpractice insurance?

A. No.

Q. Or any insurance?

A. No, I don't have any because I don't do that much progressive work. I mean, I do cutting nails and corns. And I know you probably should have some, but until I get enough money to pay for that, which is very few patients that I do have now.

Q. Now before you were summarily suspended, did you ever stop practicing for any period of time?

A. No. The lawyer told me -- He was very good. He sent me a letter as soon as he found out I was suspended by the Board. He has an 800 number that I have talked five or six times, and I asked all these questions. He told me all these things and tried to stay in good touch with the Board, so they will restore my license. That's the main thing.

(Tr. at 12-14).

Upon further questioning, Dr. Raus testified that, prior to the summary suspension of his podiatric license, he had been seeing about five or six patients, all of whom live in senior centers. Dr. Raus testified that he sees the patients in their homes because he does not have an office. He explained that he had closed his office in 1982. Dr. Raus further testified that, for his five or six patients, he cuts nails and corns every two months. Otherwise, Dr. Raus is supported by Social Security of \$488.00 per month. (Tr. at 18-20).

Dr. Raus testified that, when he saw patients, he had performed a physical examination and evaluated the patient's feet on each visit. He stated that he had recorded the medical information on a piece of paper. Dr. Raus keeps his patients' medical records in a file cabinet in his apartment. He further stated that he uses a billing service to bill for his services, and that the last time he had had malpractice insurance was approximately ten years ago. (Tr. at 20-23).

Dr. Raus testified that he does not have hospital privileges and that he does not perform surgery, other than cutting corns and toenails. He added that he occasionally removes toe nails. (Tr. at 23-24).

14. When asked what he meant by evaluating the feet, Dr. Raus testified as follows:

I find out if they're diabetic, what drugs they're taking, what surgeries they have had, what condition they're in. Then I evaluate the foot, look at the foot naturally. I have my rubber gloves on, and I take the pulses of the foot,

posterior tibial and dorsalis pedis, and then, let's see, what else? That's important that I take the pulse. Because if I do, if I should decide to do surgery, I have to know how the pulses are.

(Tr. at 24). When asked if it is important to monitor a patient's blood pressure, Dr. Raus responded that it is "a good thing to do." He clarified, however, that he does not monitor blood pressures on house calls because he does not have the necessary equipment. (Tr. at 26-27).

15. Dr. Raus testified that he is not currently practicing podiatry, because the Board suspended his license in October 2004. (Tr. at 12).
16. Dr. Raus testified that he is currently seeing a social worker for marriage counseling. He is hoping to meet a woman he can marry after he improves his financial situation. He further testified that he has been seen by a psychologist, Dr. Steiner, on two occasions, because his social worker sent him for an evaluation. Dr. Raus testified that he had gone for the evaluation so that he could prove to the Board that he is a good person and that his disease does not prevent him from practicing podiatry. (Tr. at 29-30).
17. Dr. Raus testified that Dr. Steiner had said a number of good things about him, and Dr. Raus wanted the Board to be aware of that. Dr. Raus pointed out that Dr. Steiner had said that Dr. Raus can lay out work well, and can do evaluations. Dr. Raus concluded that there is no reason that he cannot practice, and requested the opportunity to continue a limited practice. He stated that his "mind is fine." (Tr. at 97).
18. Dr. Raus testified that he disagrees with Dr. Noffsinger's conclusion that Dr. Raus is not capable of practicing podiatry at this time. He further disagrees that he needs to stop practicing, that he needs supervised living, or that he needs a legal guardian. Dr. Raus stated that, "A lot of people tell me different things. It's up to me to judge what's right and wrong." (Tr. at 38-40).

Dr. Raus testified that he had been aware, prior to the summary suspension of his certificate, that Dr. Noffsinger had concluded that Dr. Raus needed to stop practicing. Dr. Raus explained that he had been "floored" when he learned of Dr. Noffsinger's conclusion, and had not thought it necessary that he stop practicing. Dr. Raus explained that he had not stopped practicing, despite his knowledge of Dr. Noffsinger's opinion, because he had wanted to have a chance to prove that he could still practice. (Tr. at 41).

Regarding Dr. Noffsinger's testimony, Dr. Raus stated that,

He's saying a lot of things that aren't true that make me look bad. I have a lot of good points that he doesn't mention." \* \* \* He's looking at it from a negative. I wish he would take a more positive look at my approach to this.

Everything I can hear is mostly negative from him. Hasn't said almost nothing good about me.

(Tr. at 84-85). Dr. Raus further testified that,

[Dr. Noffsinger] doesn't realize that he's looking at this in degrees. Sure, I've done bad things, but I don't think I've done that many bad things that they should take my license away. And if they have someone monitoring me or evaluating me, that's fine, but as long as I keep my license and I've got some patients, but with a little practice I don't have -- I don't have much money. I know he's not concerned with money, if you don't have money, if I had a good memory -- I said if I didn't have this disease, I could go for a practice, I could build it up. But what he considers a good physician, I'm not. He looks down and is going to take my license away, and I don't see that. That's all.

(Tr. at 99-100).

19. Because Dr. Raus testified repeatedly that Dr. Noffsinger had seen only his negative points, Dr. Raus was encouraged to share his good points with the Board. (Tr. at 100). In response, and with frequent redirection, Dr. Raus shared his good points, as follows:

- “I've been in practice for thirty years now. I haven't made much money because I haven't had a billing department. That's the only thing. They would have got more money, but I didn't have anyone to do the bills. The past couple years, I made more money.” (Tr. at 101).
- “I come in and evaluate the patient. I could tell them exactly -- I know the surgeries, the drugs that they take, what insurance they have. I evaluate, get the pulses and everything on their feet. When I cut their nails and trim the corns, that's all I want to do. I'm not going to do all these procedures that are more extravagant. I never do those.” (Tr. at 101-102).
- “I've got those character letters. I don't know how much those will carry. I wish they would carry a whole lot of weight, but probably I shouldn't have sent them.”
- “But the thing is I work on my patients, okay? I'm not going to do things -- I'm not going to think of anything wrong. Nothing in my brain to ruin it for their health. I don't do that much surgery. I don't do the major surgeries that require that much practice. I just do those small things. Mostly, I cut the nails and trim the corns and calluses. That's all. I very seldom would go into

anything like removing nails. I don't do bunions at all or the reconstruction of tendons or anything like that. I don't see why small things should be bothersome to [Dr. Noffsinger]. He thinks I'm a professional, a billing doctor. I'm not that big. He thinks that I should be in a hospital. You heard him talk, a hospital that could have control over me, and I would have to have insurance from the hospital. I don't have the money for it. But if I just do my little things, what I do in my office, nobody bothers me. I could do those things, and I wouldn't have that many patients. I probably won't -- well, I don't think some of these, like Sylvia Brown's, I hope to live to see some prophecies. In fact, one of these, I forget, one year -- one year she says they will give a pill, but beyond when I'll live, that will illuminate the brain, and make it all better. She predicts that. Read the book. You can find that in her book, Sylvia Brown the Prophecy book. \* \* \*I intend to get it from the library. I buy a book for my own when I get the money because I want to see the prophecies that come true. In 2006, they have a cure for cancer. I'm going to wait and see what happens. That's going to help my situation too because I have some cancer. I don't know, but I think they are going to - - I'm going to go see somebody about that after I get his hearing taken care of. But I think as far as I'm concerned, I'm not harming anybody. He seems to think I am; that I can't think properly. I can think properly. I can make the business reports. I can take down evaluations. I put down what's wrong with the patient, put it down while seeing the patient. Don't wait until I get home. Put it down then and there, so I know exactly what I did that day. So I don't have I have [sic] the records there. So anybody asks me and send to the insurance company. I don't see where I could go wrong."

(Tr. at 102-105).

20. Dr. Raus submitted letters written in his support. James C. Rustic wrote that he had known Dr. Raus for six years through Faith-talk, a monthly event of a Catholic Singles organization. Mr. Rustic wrote,

I have often seen Russ at dances and picnics. Russ is very active and sociable. He likes people and has a very optimistic view towards life. He is a refreshing person to have in the club and once served six months as trustee. Russ is an understanding person and I would personally recommend him in any work he chooses to do.

(St. Ex. 13). Dr. Raus submitted a number of other letters, which contain similar praises of Dr. Raus. (St. Ex. 13).

### **FINDINGS OF FACT**

1. On May 5, 2004, Russell James Raus, D.P.M., underwent a Board-ordered psychiatric evaluation, which was performed by Stephen Noffsinger, M.D., on May 5, 2004.
2. By letter dated September 9, 2004, Dr. Noffsinger notified the Board that he had determined within a reasonable degree of medical certainty that Dr. Raus is unable to practice podiatric medicine or surgery according to acceptable and prevailing standards of care due to a mental disorder of vascular dementia. Dr. Noffsinger further advised that he had based his determination on the Board-ordered psychiatric evaluation of Dr. Raus, as well as Dr. Noffsinger's evaluation of additional medical records that Dr. Raus had requested be considered as part of the evaluation process. Further, Dr. Noffsinger opined within a reasonable degree of medical certainty that Dr. Raus' memory impairment and difficulty with executive functioning substantially impair Dr. Raus' ability to interview patients, perform a physical examination, make accurate diagnoses, and formulate and carry out a reasonable plan of treatment. Dr. Noffsinger additionally opined within a reasonable degree of medical certainty that Dr. Raus' memory impairment and difficulty with executive functioning, combined with his resultant unusual behavior and presentation, substantially impair his professional relationships and ability to relate to patients.
3. Dr. Noffsinger stated that it is his opinion, within a reasonable degree of medical certainty, that Dr. Raus' mental disorder of vascular dementia is not treatable, that there are no restrictions or conditions that could be placed on Dr. Raus' practice which would allow him to continue to practice podiatric medicine in accordance with acceptable and prevailing standards of care, and that Dr. Raus' continued practice presents a danger of immediate and serious harm to the public.

### **CONCLUSIONS OF LAW**

The findings regarding Russell James Raus, D.P.M., as set forth in Findings of Fact 2 and 3, constitute an "[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.

\* \* \* \* \*

Dr. Raus was cooperative and pleasant at hearing. Moreover, the evidence supports a conclusion that he is, as noted by his friends, active and sociable, liked by others, an understanding person, and a refreshing person with whom to socialize. Nevertheless, the evidence also supports a conclusion that Dr. Raus' current condition renders him impaired of his ability to practice podiatric medicine and surgery, even on a limited basis.

## PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUSPENSION:** The certificate of Russell James Raus, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Raus' certificate to practice podiatric medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Dr. Raus shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
  2. **Psychiatric Assessment/Treatment:** Prior to submitting his application for reinstatement or restoration, Dr. Raus shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Raus' choice. Upon approval by the Board, Dr. Raus shall obtain from the approved psychiatrist an assessment of Dr. Raus' current mental and psychiatric status. Prior to the initial assessment, Dr. Raus shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions of Law, and Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial assessment, Dr. Raus shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Raus' current mental and psychiatric status and condition;
- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. Raus' current needs; and
- c. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommend treatment, and upon approval by the Board, Dr. Raus shall undergo and continue treatment weekly or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Raus shall comply with his treatment plan, including taking medications as prescribed for his disorder.

3. **Certification of Compliance with Treatment Plan:** If treatment is recommended pursuant to the psychiatric assessment, upon submission of his application for reinstatement or restoration, Dr. Raus shall provide the Board with certification from the psychiatrist approved by the Board that Dr. Raus has been in full compliance with the plan of recommended treatment for a period of at least three months immediately preceding the submission of his application for restoration or reinstatement.
  4. **Reports of Evaluation:** Upon submission of his application for reinstatement or restoration, Dr. Raus shall provide the Board with written reports of evaluation by two psychiatrists acceptable to the Board indicating that Dr. Raus' ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such assessments shall have been performed within sixty days prior to submission of his application for reinstatement or restoration. Each report shall describe with particularity the bases for this determination and shall set forth any recommended limitations upon Dr. Raus' practice.
  5. **Absence from Practice:** In the event that Dr. Raus has not been engaged in the active practice of podiatric medicine and surgery for a period in excess of two years prior to the submission of his application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Raus' fitness to resume practice.
- C. **PROBATIONARY CONDITIONS:** Upon reinstatement or restoration, Dr. Raus' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least ten years:
1. **Obey Laws in Ohio:** Dr. Raus shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
  2. **Quarterly Declarations:** Dr. Raus shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which the Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  3. **Appearances:** Dr. Raus shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order. Dr. Raus must also appear every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

4. **Continue Psychiatric Treatment:** If the psychiatrist approved by the Board prior to Dr. Raus' reinstatement or restoration recommends that Dr. Raus undergo treatment, Dr. Raus shall continue in treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. Raus' current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Raus' compliance with the treatment plan; Dr. Raus' mental and psychiatric status; Dr. Raus' progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Raus shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for his quarterly declaration.

In addition, Dr. Raus shall ensure that his treating psychiatrist immediately notifies the Board of Dr. Raus' failure to comply with his treatment plan and/or any determination that Dr. Raus is unable to practice due to his disorder.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Raus must immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Raus shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

5. **Practice Plan:** Prior to commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Raus shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Raus' activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Raus shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Raus submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Raus and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Raus and his podiatric practice, and shall review Dr. Raus' patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Raus and his podiatric practice, and on the review of Dr. Raus' patient charts. Dr. Raus shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Raus' quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Raus must immediately so notify the Board in writing. In addition, Dr. Raus shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Raus shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

6. **Tolling of Probationary Period While Out of State:** Dr. Raus shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Raus' certificate will be fully restored.
- E. **RELEASES:** Dr. Raus shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Raus' mental or psychiatric condition and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

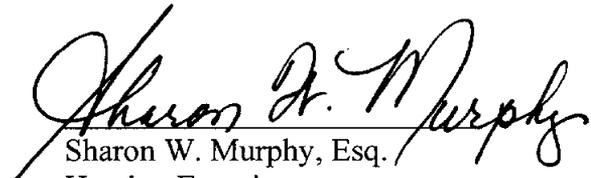
Dr. Raus shall also provide the Board written consent permitting any psychiatrist, counselor, or other treatment provider from whom Dr. Raus obtains treatment to notify the Board in the event Dr. Raus fails to agree to or comply with any recommended treatment. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

- F. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Raus shall provide a copy of this Order to all employers or entities with which he is under contract to provide health

care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Raus shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. Further, Dr. Raus shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

- G. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Raus shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Raus shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Raus shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

**EFFECTIVE DATE OF ORDER:** This Order shall become effective immediately upon the mailing of notification of approval by the Board.

  
Sharon W. Murphy, Esq.  
Hearing Examiner



# State Medical Board of Ohio

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

## EXCERPT FROM THE DRAFT MINUTES OF MARCH 9, 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: Roy Merle Hutchinson, M.D.; Russell J. Raus, D.P.M.; Veena V. Sengupta, M.D.; and Evan Laythe Sykes, D.O. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- 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. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- 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.

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.

.....  
RUSSELL J. RAUS, D.P.M.

Dr. Davidson directed the Board's attention to the matter of Russell J. Raus, D.P.M. She advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

Dr. Davidson continued that a request to address the Board has been timely filed on behalf of Dr. Raus. Five minutes would be allowed for that address.

Dr. Raus stated that he has lost quite a bit of sleep over this situation. He added that he has four sentences for the Board: First of all, the disease is not of his own doing. He is not addicted to any substances. Secondly, his practice of podiatry is on a limited extent. Third, Joseph Steiner, Ph.D., a clinical psychologist, has said that he is competent to run a practice. Fourth, he is willing to have his practice evaluated at regular intervals. Dr. Steiner stated that that is all he has to say.

Dr. Davidson asked whether the Assistant Attorney General wished to respond.

Ms. Albers stated that this was not her case. She advised that Ms. Berrien is ill and unable to appear before the Board today, but she has prepared some comments for Ms. Albers to read.

The Report and Recommendation in this case summarizes the evidence correctly, and makes appropriate findings and conclusions. But, it makes the wrong recommendation to this Board. And for that reason, with all due respect, I disagree with the proposed order.

This is a very sad case. Dr. Raus suffers from Vascular Dementia. And because of it, he is no longer fit to practice medicine. The key proof in this case was the report and testimony of Dr. Noffsinger (Stephen Noffsinger, M.D.). As you look through his report and read his testimony, you can see Dr. Noffsinger was thorough and objective in his evaluation of Dr. Raus. Dr. Noffsinger came to a firm, clear conclusion: Dr. Raus cannot practice because he is suffering from dementia. This condition is not treatable.

There are no effective limitations or restrictions that can be placed on Dr. Raus if he were to resume practice.

Dr. Raus submitted an MRI report, which is State's Exhibit 12, to demonstrate that he is still capable of practicing podiatry. But Dr. Noffsinger testified that this report only confirms his conclusion that Dr. Raus suffers from Vascular Dementia and that condition makes him unfit to practice.

Before he was summarily suspended, Dr. Raus had a limited practice of treating senior citizens for corns and calluses. But Dr. Noffsinger recognized the limits on his practice and still is of the opinion that Dr. Raus cannot practice.

Dr. Raus is not able to perform basic aspects of practicing, such as developing comprehensive treatment plans for his patients.

Outlining conditions for reinstatement only give Dr. Raus false hope that one day he may be able to practice again. Unfortunately, from the medical evidence and our expert testimony, we know that is not true. Dr. Raus can no longer practice podiatry.

Dr. Raus was pleasant and cooperative. I feel deeply sorry for Dr. Raus. And I'm sure we all wish him the very best. But this is not about punishing Dr. Raus. This is about protecting him and the public, particularly his elderly patients that live in senior centers.

This is a very sad case. And this Board is being asked to make a very difficult decision that should not be taken lightly. But it's clear that Dr. Raus' license should be taken away. He's not able to practice according to minimal standards. His condition is not treatable and it's not going to improve. There are no conditions or limitations that can be placed on his practice.

Don't give Dr. Raus false hope by giving him conditions to have his license reinstated. Be honest with Dr. Raus ---as difficult as this may be, and protect his patients. Thank you.

Dr. Davidson advised that Assistant Attorney General Berrien has filed a motion for an order ratifying the determination of the Secretary and Supervising Member that there was clear and convincing evidence that Dr. Raus' continued practice of medicine constituted a danger of immediate and serious harm to the public.

**DR. EGNER MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF RUSSELL JAMES RAUS, D.P.M. DR. ROBBINS SECONDED THE MOTION.**

Dr. Davidson stated that she would now entertain discussion in the above matter. She asked that the Board

begin its discussion by addressing the motion filed by the State, following which discussion, she will ask for a motion addressing Ms. Berrien's motion. Dr. Davidson asked that Board members not make a motion until she asks for one.

Dr. Egner stated that she is glad that Dr. Raus appeared before the Board today; she found it good to see him and to listen to him. Dr. Egner stated that she does agree with the Assistant Attorney General that this is a very difficult case. Dr. Egner stated that she will assume that Dr. Raus was offered the option of surrendering his license and that he declined that offer. She commented that it would have been an easier way to end his career. However, the Board can't just take the opinion of a physician when you like what that physician has to say, and then discount what another physician says. Dr. Egner stated that she thinks that Dr. Noffsinger's evaluation was very thorough, and it was backed up by the imaging studies that were consistent with his diagnosis. Dr. Egner stated that she doesn't think that Dr. Raus will ever be able to meet the conditions proposed by the Hearing Examiner. It's a softer end, but it's an end all the same. Dr. Egner stated that she would agree with Ms. Berrien that the Board should just take Dr. Raus' license, even though she knows it's harsh. She's sorry for that. Dr. Egner stated that the Board will see these kinds of cases more than it would like, but sometimes it has to take those hard actions.

Dr. Bhati asked whether the Assistant Attorney General had the opportunity to discuss the possibility of allowing Dr. Raus to voluntarily surrender his license. He stated that it would be a kind thing to do.

Dr. Davidson stated that she believes that the Board can assume that a voluntary surrender was discussed.

Dr. Egner stated that she can't imagine that it wasn't discussed.

Dr. Buchan stated that he agrees with all that has been said. He stated that this is quite an amazing case. Dr. Raus had an honorable and reasonable career for 36 years. He's simply unable to practice at this point in time. He's not done anything wrong. He's just unable in his present capacity to practice podiatric medicine. Dr. Buchan stated that he feels that the Report and Recommendation is reasonable. It suspends Dr. Raus' license, and if Dr. Raus is at some point in time able to reverse this trend, so be it. Otherwise, he's on an indefinite hold and the Board has appropriately protected the public. Dr. Buchan stated that he would just have a difficult time pulling the trigger on a revocation here, based upon Dr. Raus' conduct. Dr. Raus has had a nice 36-year career, and he's suspended right now. Dr. Buchan stated that he thinks that that's where Dr. Raus should be.

Dr. Davidson asked whether there was a motion to accept or deny the Assistant Attorney General's motion.

**MR. BROWNING MOVED TO AMEND THE FINDINGS OF FACT BY ADDING A FINDING THAT THE SECRETARY AND SUPERVISING MEMBER, AT THE TIME THEY MADE THE RECOMMENDATION TO SUMMARILY SUSPEND THE LICENSE OF DR. RAUS, HAD CLEAR AND CONVINCING EVIDENCE THAT DR. RAUS' CONTINUED PRACTICE OF MEDICINE CONSTITUTED A DANGER OF IMMEDIATE AND SERIOUS HARM TO THE PUBLIC. MS. SLOAN SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

The motion carried.

Dr. Davidson stated that she would entertain further discussion in this matter.

Dr. Kumar stated that he thinks that he agrees with Dr. Buchan, adding that, even if the Board suspends Dr. Raus' license, it will be difficult for him to meet the conditions for reinstatement. Short of a voluntary surrender, suspension rather than permanent revocation would be appropriate. Dr. Kumar stated that he believes that Dr. Raus' condition should have been picked up a lot sooner than it was; but, for whatever reason, it wasn't. Dr. Kumar stated that it bothers him that the Board sent Dr. Raus to a psychiatric evaluation on May 5. Dr. Raus was seen then, and the Board didn't get a report back for almost five months. In any case, the proposed indefinite suspension would protect both Dr. Raus and the public.

Ms. Sloan agreed with Dr. Buchan concerning the Proposed Order. She added that she does not feel that Dr. Raus will be able to meet the conditions for reinstatement. Dr. Raus has advised that he hasn't done anything wrong. This case doesn't involve drugs; it's a natural condition that, whether or not any of the Board members want to face it, they will more than likely face in their lives. Ms. Sloan stated that she's hoping that, if Dr. Raus starts to take some of these steps, he'll think about the fact that he still would be able to surrender his license in the future.

Dr. Egner stated that she doesn't want to come across as harsh. She does have a lot of empathy for Dr. Raus. She stated that the Board has a mission statement and that is to protect the public. The Board doesn't discipline physicians just when they do something wrong. The Board takes action against physicians for many things. Sometimes it is for wrongdoing. Sometimes it's an illegal or unethical act. But the Board has also taken action due to mental illness, physical illness, and even impairment. If you look at it from the disease model, it is not that they've done wrong. It is their disease process. The Board doesn't change its rules based on that.

Dr. Egner stated that, in other severe impairment cases, she's felt that some of the suggestions have been so difficult with which to comply, it would be near impossible for the physician to ever meet the terms and come back for a license, because it feels bad to take away that license and to take away all hope. However, just the fact that Dr. Raus does not understand that he should surrender his license is more evidence that he

does not have a full understanding of what's going on with him. Will he understand that, under a suspension, he can't practice? If the Board's primary role is to protect the public, she doesn't think that Dr. Raus can have a license. Dr. Egner added that the clearer you are with a patient with dementia, the better off it is. As awful as it is, the clear answer is that you can't practice because you don't have a license. Dr. Egner stated that she does understand that there is a very bad feel to it.

**DR. EGNER MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION. DR. ROBBINS SECONDED THE MOTION.**

Dr. Davidson asked for further discussion.

Dr. Robbins stated that he agrees with Dr. Egner. He stated that, as difficult as this case is, the main point is that Dr. Raus didn't take the opportunity to voluntarily surrender his license. He truly doesn't understand his dementia, and that is part of the process. A suspension, albeit essentially forever, fully expects him to try to get other psychiatrists and other exams to come before the Board and try to get his license back. It is important that the Board be as clear as it can be in this situation; and as harsh as it sounds, revocation is appropriate.

A vote was taken on Dr. Egner's motion to amend:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- nay
	Dr. Buchan	- nay
	Dr. Kumar	- nay
	Mr. Browning	- nay
	Ms. Sloan	- nay
	Dr. Robbins	- aye

The motion failed.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY'S AMENDED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF RUSSELL JAMES RAUS, D.P.M. MS. SLOAN SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye

EXCERPT FROM THE DRAFT MINUTES OF MARCH 9, 2005  
IN THE MATTER OF RUSSELL J. RAUS, D.P.M.

Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye

The motion carried.



# State Medical Board of Ohio

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October 13, 2004

Russell James Raus, D.P.M.  
10200 Granger Road  
Apartment 310  
Garfield Heights, Ohio 44125

Dear Doctor Raus:

Enclosed please find certified copies of the Entry of Order, the Notice of Summary Suspension and Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on October 13, 2004, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate, in violation of Section 4731.60, Ohio Revised Code.

Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing on the matters set forth in the Notice of Summary Suspension and Opportunity for Hearing. If you wish to request such hearing, that request must be made in writing and be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice. Further information concerning such hearing is contained within the Notice of Summary Suspension and Opportunity for Hearing.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D., Secretary

LAT:blt  
Enclosures

*Mailed 10-14-04*

**CERTIFICATION**

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on October 13, 2004, to Adopt the Order of Summary Suspension and to Issue the Notice of Summary Suspension and Opportunity for Hearing, constitute true and complete copies of the Motion and Order as they appear in the Journal of the State Medical Board of Ohio.

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

  
Lance A. Talmage, M.D., Secretary

(SEAL)

October 13, 2004 \_\_\_\_\_

Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF :

**RUSSELL JAMES RAUS, D.P.M.** :

**ENTRY OF ORDER**

This matter came on for consideration before the State Medical Board of Ohio the 13th day of October, 2004.

Pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Raymond J. Albert, Supervising Member; and

Pursuant to their determination that there is clear and convincing evidence that Russell James Raus, D.P.M., has violated Section 4731.22(B)(19), Ohio Revised Code, as alleged in the Notice of Summary Suspension and Opportunity for Hearing which is enclosed herewith and fully incorporated herein, which determination is based upon review of information received pursuant to an investigation; and

Pursuant to their further determination that Dr. Raus's continued practice presents a danger of immediate and serious harm to the public;

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 13th day of October, 2004:

It is hereby ORDERED that the certificate of Russell James Raus, D.P.M., to practice podiatric medicine and surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Russell James Raus, D.P.M., shall immediately close all his podiatric medical offices and immediately refer all active patients to other appropriate physicians and/or podiatrists.

This Order shall become effective immediately.

(SEAL)

  
Lance A. Talmage, M.D., Secretary

October 13, 2004

Date



# State Medical Board of Ohio

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## EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 13, 2004

### RUSSELL JAMES RAUS, D.P.M. ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Order of Summary Suspension and Notice of Opportunity For Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**DR. BUCHAN MOVED TO APPROVE THE ORDER OF SUMMARY SUSPENSION AND TO SEND THE NOTICE OF OPPORTUNITY FOR HEARING TO DR. RAUS. DR. BHATI SECONDED THE MOTION. A vote was taken:**

Vote:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Ms. Sloan	- aye

The motion carried.



# State Medical Board of Ohio

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## NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

October 13, 2004

Russell James Raus, D.P.M.  
10200 Granger Road  
Apartment 310  
Garfield Heights, Ohio 44125

Dear Doctor Raus:

### Notice of Summary Suspension

The Secretary and the Supervising Member of the State Medical Board of Ohio [Board] have determined that there is clear and convincing evidence that you have violated Section 4731.22(B)(19), Ohio Revised Code, and have further determined that your continued practice presents a danger of immediate and serious harm to the public. Such determinations were made upon review of information received pursuant to an investigation, including the following information:

- (1) You hold an active, unrestricted certificate to practice podiatric medicine and surgery in the State of Ohio, and as such are authorized by the Board to practice podiatric medicine and surgery in the State of Ohio.
- (2) By letter dated April 16, 2004, the Board notified you of its determination that it had reason to believe that you are in violation of Section 4731.22(B)(19), Ohio Revised Code, and ordered you to undergo a psychiatric examination to determine if you are in violation of Section 4731.22(B)(19), Ohio Revised Code. The Board's determination was based upon one or more of the reasons outlined in such letter, which included the following:
  - (a) On or about January 8, 2002, you were interviewed by one of the Board's Investigators. During the interview, you were initially confused because you mistakenly thought that the Investigator was there to deliver a Medicare check to you. Upon questioning, you informed the Investigator that you were performing podiatric house calls to a few Medicare patients.

When asked by the Investigator about where you maintained your patient records, you pointed to your living room, which the Investigator observed was completely cluttered with papers and trash. Further, the Investigator noted that your clothing was torn and dirty, and that it appeared that you had not bathed in some time. Further, when the Investigator requested your phone number, you were unable to recall your phone number and had to look it up in the local telephone directory.

- (b) During or about March 2001 through September 2003, you were intermittently evaluated by various physicians and healthcare providers affiliated with University Hospitals of Cleveland. A May 8, 2001, SPECT brain imaging study reflected a clinical indication of memory loss, and resulted in diagnostic impressions that you suffered from decreased biparietal perfusion, consistent with early Alzheimer's disease, and decreased perfusion in the left frontal region of uncertain etiology, for which further evaluation was recommended. An evaluation treatment note dated June 13, 2003, indicates that you suffered from severe impaired executive function, and had mild to moderate memory and language impairment. This treatment note further documents that it was recommended that you move to a supervised living facility, that you stop practicing podiatry, and that a [legal] guardian be appointed for you. A subsequent evaluation treatment note dated September 26, 2003, indicates that adult protective services had been notified on your behalf, and that the specialists who evaluated you determined that you were unfit to practice as a podiatrist due to frontal-temporal dementia. This treatment note further documents that you stated that you were continuing to provide podiatric house calls to patients and that you refused to accept the treatment team's recommendation that you cease practicing podiatry, claiming that you had no problems practicing your profession.
- (3) By letter dated September 9, 2004, from Stephen Noffsinger, M.D., the Board was notified that Dr. Noffsinger had determined within a reasonable degree of medical certainty that you are unable to practice podiatric medicine or surgery according to acceptable and prevailing standards of care due to your mental disorder of vascular dementia. Such determination was based upon a Board-ordered psychiatric evaluation of you that commenced on or about May 4, 2004, as well as Dr. Noffsinger's receipt and evaluation of additional medical records that you requested be considered as part of the evaluation process. Further, Dr. Noffsinger opined within a reasonable degree of medical certainty that your memory impairment and difficulty with executive functioning substantially impair your ability to interview patients, perform a physical examination, make an accurate diagnosis, and formulate and carry out a reasonable plan of treatment. Dr. Noffsinger additionally opined within a reasonable degree of

medical certainty that your memory impairment and difficulty with executive functioning, combined with your resultant unusual behavior and presentation, substantially impairs your professional relationships and ability to relate to patients.

- (4) Dr. Noffsinger further opined within a reasonable degree of medical certainty that your mental disorder of vascular dementia is not treatable, that there are no restrictions or conditions that could be placed on your practice which would allow you to continue to practice podiatric medicine in accordance with acceptable and prevailing standards of care, and that your continued practice presents a danger of immediate and serious harm to the public.
- (5) Section 4731.22(B)(19), Ohio Revised Code, provides that if the Board finds an individual unable to practice because of the reasons set forth in this division, the Board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the Board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the individual's certificate.
- (6) If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that an individual has violated Section 4731.22(B), Ohio Revised Code, and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the Board suspend the individual's certificate to practice without a prior hearing, and the Board may issue an order of summary suspension as provided in Section 4731.22(G), Ohio Revised Code.

Therefore, pursuant to Section 4731.22(G), Ohio Revised Code, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Raymond J. Albert, Supervising Member, you are hereby notified that, as set forth in the attached Entry of Order, your certificate to practice podiatric medicine and surgery in the State of Ohio is summarily suspended.

#### **Notice of Opportunity for Hearing**

Furthermore, 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 podiatric medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (A) By letter dated September 9, 2004, from Stephen Noffsinger, M.D., the Board was notified that Dr. Noffsinger had determined within a reasonable degree of medical certainty that you are unable to practice podiatric medicine or surgery according to acceptable and prevailing standards of care due to your mental disorder of vascular dementia. Such determination was based upon a Board-ordered psychiatric evaluation of you that commenced on or about May 4, 2004, as well as Dr. Noffsinger's receipt and evaluation of additional medical records that you requested be considered as part of the evaluation process. Further, Dr. Noffsinger opined within a reasonable degree of medical certainty that your memory impairment and difficulty with executive functioning substantially impair your ability to interview patients, perform a physical examination, make an accurate diagnosis, and formulate and carry out a reasonable plan of treatment. Dr. Noffsinger additionally opined within a reasonable degree of medical certainty that your memory impairment and difficulty with executive functioning, combined with your resultant unusual behavior and presentation, substantially impairs your professional relationships and ability to relate to patients.
- (B) Dr. Noffsinger further opined within a reasonable degree of medical certainty that your mental disorder of vascular dementia is not treatable, that there are no restrictions or conditions that could be placed on your practice which would allow you to continue to practice podiatric medicine in accordance with acceptable and prevailing standards of care, and that your continued practice presents a danger of immediate and serious harm to the public.

Your acts, conduct, and/or omissions as alleged in paragraphs (A) and (B) 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, and Chapter 4731., 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.

Suspension  
Russell James Raus, D.P.M.  
Page 5

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 podiatric 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 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,



Lance A. Talmage, M.D.  
Secretary

LAT/blt  
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5144 2852  
RETURN RECEIPT REQUESTED