

STATE OF OHIO  
THE STATE MEDICAL BOARD  
Suite 510  
65 South Front Street  
Columbus, Ohio 43215

December 30, 1982

David H. Black, D.P.M.  
190 Beck Road  
Avon Lake, OH 44012

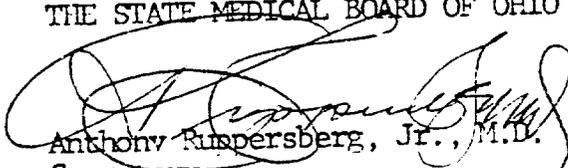
Dear Dr. Black:

Please find enclosed a certified copy of the Order; a certified copy of the Report and Recommendation of Lucy O. Oxley, M.D., Member, State Medical Board of Ohio; a certified copy of the Motions by the State Medical Board meeting in regular session on December 8, 1982, approving and confirming the Findings of Fact and Conclusions and modifying the Recommended Order as the Findings and Order of the State Medical Board.

You are hereby notified that you may appeal this Order to the Court of Common Pleas of the county in which your place of business is located, or the county in which you reside. If you are not a resident and have no place of business in this state, you may appeal to the Court of Common Pleas of Franklin County, Ohio.

To appeal as stated above, you must file a notice of appeal with the Board setting forth the Order appealed from, and the grounds of the appeal. You must also file a copy of such notice with the court. Such notice of appeal shall be filed within fifteen (15) days after the date of mailing of this letter and in accordance with Section 119.12, Revised Code.

THE STATE MEDICAL BOARD OF OHIO

  
Anthony Ruspersberg, Jr., M.D.  
Secretary

AR:bb

CERTIFIED MAIL NO. P 349 643 987  
RETURN RECEIPT REQUESTED

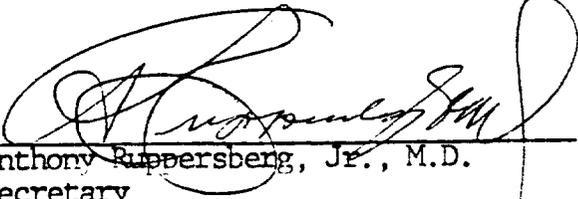
cc: Michael F. Beeker, Esq.

CERTIFIED MAIL NO. P 349 643 988  
RETURN RECEIPT REQUESTED

STATE OF OHIO  
THE STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Lucy O. Oxley, M.D., Member, State Medical Board of Ohio; and the attached copy of the Motions approved by the State Medical Board, meeting in regular session on December 8, 1982, approving and confirming the Finding of Fact and Conclusions and modifying the Order as the Findings and Order of the State Medical Board in the matter of David H. Black, D.P.M., as it appears in the Journal of the State Medical Board of Ohio.

  
\_\_\_\_\_  
Anthony Ruppberg, Jr., M.D.  
Secretary

(SEAL)

\_\_\_\_\_  
December 30, 1982  
Date

STATE OF OHIO  
THE STATE MEDICAL BOARD

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF       \*  
                                  \*  
DAVID H. BLACK, D.P.M. \*

ORDER

This matter came on for consideration before the State Medical Board the 8th day of December, 1982.

Upon the Report and Recommendation, attached hereto and incorporated herein, of Lucy O. Oxley, M.D., the Hearing Member in this matter designated pursuant to R.C. 4731.23, the Findings of Fact and Conclusions are hereby APPROVED and CONFIRMED, and the Recommended order is hereby MODIFIED for the reasons specified in the minutes of the Board meeting for the above date, which are attached hereto and incorporated herein.

WHEREFORE, it is hereby ORDERED that effective immediately:

1. For commission of such acts as described in Paragraphs 1 and 2 of State's Exhibit 4:
  - A. The certificate to practice podiatry of David H. Black, D.P.M., is SUSPENDED for a period of two (2) years. All but the first sixty (60) days of such suspension are STAYED, and Dr. Black shall be on PROBATION during such stayed period, subject to the terms outlined below.
  - B. During these two years he is prohibited from prescribing, administering, or dispensing all controlled substances.
  - C. He should report in person to the State Medical Board of Ohio every six months during his two years' probation, should the full Medical Board so deem necessary.
2. For commission of such acts as described in Paragraph 3 of State's Exhibit 4:
  - A. The Certificate to practice Podiatry of David H. Black, D.P.M. is SUSPENDED for a period of two (2) years. All but the first sixty (60) days of such suspension are STAYED and Dr. Black shall be on PROBATION during such stayed period, subject to the terms outlined below.
  - B. During these two years he is prohibited from prescribing, administering, or dispensing all controlled substances.
  - C. He should report in person to the State Medical Board of Ohio every six months during his two years probation should the full Medical Board so deem necessary.

STATE OF OHIO  
THE STATE MEDICAL BOARD

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF \*

\*

DAVID H. ELACK, D.P.M. \*

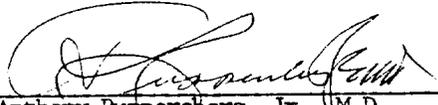
ORDER

The above suspensions and probations shall run concurrently.

This order is hereby entered upon the Journal of the State Medical Board the 8th day of December, 1982.

(SEAL)

December 30, 1982  
Date

  
\_\_\_\_\_  
Anthony Ruppertsberg, Jr., M.D.  
Secretary

REPORT AND RECOMMENDATION  
IN THE MATTER OF DAVID H. BLACK, D.P.M.

OHIO STATE  
MEDICAL BOARD

The matter of David H. Black, D.P.M., came before me, Lucy O. Oxley, M.D., Member of the State Medical Board of the State of Ohio, on August 11, 1982, for hearing.

INTRODUCTION AND SUMMARY OF EVIDENCE

1. On April 14, 1982, Dr. Black was formally cited and notified by letter that the State Medical Board of Ohio intends to determine under the provisions of Sections 4731.22, 4731.591, and 4731.61, Ohio Revised Code, whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate his certificate to practice podiatry for one or more of the following reasons:

A. On or about the following dates, he wrote prescriptions in the amounts indicated for PERCODAN, a Schedule II controlled substance for a female patient for the purpose of maintaining her narcotic dependency. Such prescriptions were not written for a purpose falling within the scope of the practice of podiatry:

Prescription drugs: all for Percodan:

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
3/26/80	25	5/2/80	50
3/27/80	25	5/3/80	50
4/2/80	25	5/4/80	50
4/5/80	25	5/5/80	50
4/11/80	50	5/6/80	50
4/14/80	50	5/7/80	50
4/16/80	50	5/8/80	50
4/17/80	50	5/9/80	50
4/19/80	50	5/10/80	50
4/21/80	50	5/11/80	50
4/23/80	50	5/12/80	50
4/26/80	50	5/12/80	50
4/28/80	50	5/13/80	50
4/29/80	50	5/14/80	50
4/30/80	50	5/17/80	50
5/1/80	50		

Such acts in Paragraph (A) above individually and/or collectively allegedly constituted "failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease", as that clause is used in Section 4731.22(B)(2), Ohio Revised Code.

Further, such acts, individually and/or collectively allegedly constituted "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

Further, such acts individually and/or collectively, allegedly constituted "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established", as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

Further, such acts individually and/or collectively allegedly constituted gross immorality or grossly unprofessional conduct, for which a certificate to practice podiatry may be revoked or suspended pursuant to Section 4731.591, Ohio Revised Code.

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OHIO STATE  
MEDICAL BOARD

Further, such acts individually and/or collectively allegedly exceeded the scope of practice of podiatry, as set forth in Section 4731.51 of the Ohio Revised Code, for which a certificate may be refused, revoked, or suspended pursuant to Section 4731.61 of the Ohio Revised Code.

- B. On or about the following dates, Dr. Black wrote prescriptions in the amounts indicated for Percodan for another patient, the husband of the patient in Paragraph (1). Such prescriptions were written for the sole purpose of maintaining the patient's narcotic addiction, and were written without prior evaluation or physical examination of the patient:

Prescriptions drugs: all for Percodan

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
4/24/80	50	6/4/80	20
5/17/80	50	6/5/80	50
5/18/80	50	6/7/80	20
5/19/80	50	6/8/80	10
5/20/80	50	6/12/80	20
5/23/80	50	6/13/80	20
5/27/80	50	6/19/80	20
5/27/80	50	6/20/80	20
5/28/80	50		

Such acts individually and/or collectively allegedly constituted failure to comply with clauses as used in Section 4731.22(B)(2), Section 4731.22(B)(3), Section 4731.22(B)(6), Section 4731.591, Section 4731.51, and Section 4731.61 of the Ohio Revised Code, Medical Practice Act.

- C. On or about November 23, 1981, Dr. Black was convicted in the Court of Common Pleas, Lorain County, Ohio, of sixteen (16) counts of violating Section 2925.23(B)(1) of the Ohio Revised Code, Illegal Processing of Drug Documents, all counts being felonies of the third degree. Such conviction was based on his having written prescriptions dated 5/17/80 through 6/20/80 in the above Paragraph (B).

Pursuant to Sections 4731.22(B)(3), 4731.22(B)(10), 4731.22(B)(11), and 4731.591 of the Ohio Revised Code, conviction of a felony relating to the possession, distribution, or use of any drug is grounds to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate a certificate to practice podiatry.

2. On June 2, 1982, the Ohio State Medical Board was advised that the Court of Appeals affirmed the decision of Dr. Black's criminal charges and according to his attorney, Michael F. Becker of Avon, Ohio, an appeal process to the Supreme Court of Ohio was begun. (State's Exhibit 7.)
3. On September 15, 1982, the Supreme Court of the State of Ohio dismissed the appeal of Dr. Black for the reason that no substantial constitutional question existed. This dismissal left the findings of the Court of Appeals for Lorain County, against Dr. Black, in effect.
4. On August 11, 1982, Dr. Black's adjudication hearing was held in the offices of the State Medical Board of Ohio with Jeffrey J. Jurca, Assistant Attorney General, appearing on behalf of the State of Ohio and attorney at law, Michael F. Becker, appearing on behalf of Dr. David Black, Respondent.
5. The State's case was exclusively a documentary case presenting Exhibits 1 through 9, summarizing the background of the matter and the basis for Dr. Black's conviction in Common Pleas Court under the Ohio Revised Code of Section 2925.23. Mr. Becker defended Dr. Black as a very sensitive, caring, naive physician, who inadvertently and unwittingly became involved with two drug addicts, Lawrence and Jacqueline Pringle, both quite well versed at conning physicians. He maintained that Dr. Black had the best of intentions and derived no profit from his prescribing.

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He, instead, had adverse publicity, telephone harassment, <sup>OHIO STATE</sup> ~~COMMUNITY BOARD~~ <sup>BOARD</sup> affiliation, a sixty percent drop in gross income, and a pending criminal sentence as a result of the criminal conviction.

6. To attest to the high moral character and professional efficiency of Dr. Black, Rev. F. Richard Bucey, Minister of the United Church of Christ in Avon Lake, was a witness and commended the leadership and activity of Dr. Black as a church school teacher, a member of the church council, and a member of the Board of Missions. Dr. Black also took part in the entire educational program of the church. He also referred to Dr. Black's devotion to the community, to his many patients, and to his participation with Human Resources on the volunteer Program Planning Committee. It was through these many contacts, the doctor was trying to get his two patients into a detoxifying center and program. Over eighty letters from patients and friends in his community were sent to the Medical Board in behalf of Dr. Black. (Respondent's Exhibits 3.)
7. Mrs. Janet Deorr of Avon Lake, Ohio, presently the coordinator of Resident Care Program for Easter Seal Association of Lorain County and formerly Program Planner for the Human Resources Center, a community Mental Health Agency in Avon Lake, Ohio, testified on behalf of Dr. Black and related how she tried to help him get Jacqueline Pringle into a detoxification center at Saint Anthony's Hospital in Columbus, Talbot Hall, to little avail.
8. Dr. Black testified in his own behalf.
  - A. He stated after seven years of school he received his undergraduate bachelor's degree from Hiram College in 1954 on his G.I. Bill. In 1968, he went to Ohio College of Podiatric Medicine where he graduated in 1972. He is a single divorced parent with three children living with him and has been practicing Podiatry in Avon Lake, Ohio, since 1975. He is on Saint Joseph Hospital staff.
  - B. Dr. Black testified that Jacqueline Pringle called for an appointment claiming her family doctor was out of town and that she had foot problems stemming from a leg injury eight months before that was still giving her a lot of pain. She wanted Percodan prescribed because only that gave her relief; nothing else helped. He strapped her foot for stabilization, wrote her a prescription for Percodan, and requested she bring back old x-rays of her injured ankle and foot in seven days. She returned with hospital x-rays showing a trimalleolate fracture which had never healed. Dr. Black referred the patient to Dr. Wild, an orthopedic surgeon at Cleveland Clinic, for open surgical repair to correct her problem, but she could not be scheduled until August or later.
  - C. On the third visit in ten days, Dr. Black became suspicious because the patient kept asking for prescriptions of Percodan. He accused her of being chemically dependent and she admitted it. Dr. Black told her to return to her family doctor and to enroll in a detoxification program. He contacted Mrs. Deorr of Human Resources to get Jacqueline Pringle into such a program. In the meantime, Dr. Black still wrote prescriptions for Percodan, as she requested, to maintain her so she would not go through withdrawal, and would not have to go doctor hopping and spend so much of the family income, depriving her children as well.
  - D. It was not long before Dr. Black faced his patient with the probability that her husband, Lawrence Pringle, was also chemically dependent and using the Percodan he had prescribed for her. He found himself writing Percodan prescriptions for both Pringles.
  - E. It was not until June that the parole officer informed Dr. Black that both Pringles were paroled and were addicts. He told the parole officer he was trying to get them both into a detoxification program, but in the meantime supplying them with Percodan as they requested. The Pringles were put in jail.

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OHIO STATE  
MEDICAL BOARD

- F. Dr. Black learned he was one of thirty-one physicians involved with these people. He was subsequently arrested on May 27, found guilty, and sentenced by Judge Betheski to one to ten years in prison. All but ninety days of the prison sentence was suspended and Dr. Black was put on two years probation.

#### FINDINGS OF FACT

Based upon the testimony and evidence presented, I find that:

1. Dr. David H. Black, Podiatrist since 1972, was convicted in the Court of Common Pleas, Lorain County, Ohio on sixteen (16) counts of illegal processing of drug documents, all counts being felonies, on November 23, 1981. These criminal charges were affirmed by June 2, 1982 and an appeal was made to the Supreme Court of Ohio.
2. Dr. Black was formally cited by the Ohio State Medical Board April 14, 1982 for writing prescriptions for the purpose of maintaining patients' narcotic dependency.
3. The prescriptions listed in the Introduction and Summary of Evidence, Paragraphs 1(A) and 1(B), were prescribed by Dr. Black.
4. Character witnesses testified and over eighty written correspondents attested to Dr. Black's high moral and professional attributes.
5. On September 15, 1982, the Supreme Court of Ohio dismissed Dr. Black's appeal, allowing the findings of the Lorain County Court of Appeals to stand.

#### CONCLUSIONS

1. Dr. David Black, D.P.M., in spite of his splendid service to his community and his practice of podiatry in said community, is entirely guilty of failing to meet the provisions of Sections 4731.22, 4731.591, and 4731.61, of the Ohio Revised Code.
  - A. Such acts as are listed in Paragraph 1 and 2 in State's Exhibit 4, as found to have been committed in Finding of Fact 3 above, individually and collectively, constitute "failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease", as that clause is used in Section 4731.22(B)(2), Ohio Revised Code.
  - B. Further, such acts described in Paragraph 1 and 2 in State's Exhibit 4, as found to have been committed in Finding of Fact 3 above, individually and collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes" as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.
  - C. Further, such acts described in Paragraph 1 and 2 in State's Exhibit 4, as found to have been committed in Finding of Fact 3 above, individually and collectively, constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established" as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.
  - D. Further, such acts described in Paragraph 1 and 2 in State's Exhibit 4, as found to have been committed in Finding of Fact 3 above, individually and collectively, constitute gross immorality or grossly unprofessional conduct, for which a certificate to practice podiatry may be revoked or suspended pursuant to Section 4731.591, Ohio Revised Code.

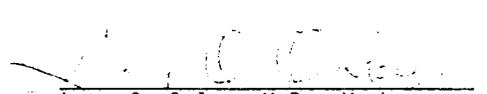
- E. Further, such acts described in Paragraph 1 and 2 in State's Exhibit 4, as found to have been committed in Finding of Fact 3 above, individually and collectively, exceed the scope of practice of podiatry, as set forth in Section 4731.51 of the Ohio Revised Code, for which a certificate may be refused, revoked, or suspended pursuant to Section 4731.61 of the Ohio Revised Code.
- F. Pursuant to Sections 4731.22(B)(3), 4731.22(B)(10), 4731.22(B)(11), and 4731.591 of the Ohio Revised Code, conviction of a felony as described in Paragraph 3 of State's Exhibit 4 relating to the possession, distribution, or use of any drug is grounds to limit, reprimand, revoke, suspend, place on probation, refuse to register or reinstate a certificate to practice podiatry.

PROPOSED ORDER

- 1. For commission of such acts as described in Paragraph 1 and 2 of State's Exhibit 4, it is ordered that:
  - A. David H. Black, D.P.M., be placed on probation for two years.
  - B. During these two years he is prohibited from prescribing, administering, or dispensing all controlled substances.
  - C. He should report in person to the State Medical Board of Ohio every six months during his two years probation should the full Medical Board so deem necessary.
- 2. For commission of such acts as described in Paragraph 3 of State's Exhibit 4, it is ordered that:
  - A. David H. Black, D.P.M., be placed on probation for two years.
  - B. During these two years he is prohibited from prescribing, administering, or dispensing all controlled substances.
  - C. He should report in person to the State Medical Board of Ohio every six months during his two years probation should the full Medical Board so deem necessary.

The above suspensions and probations shall run concurrently.

The order shall become effective immediately upon approval by the Board.

  
Lucy O. Oxley, M.D., Member  
State Medical Board of Ohio

DR. LANCIONE MOVED THAT DR. SINGLA BE REQUIRED TO APPEAR BEFORE THE BOARD AT ITS DECEMBER, 1984 MEETING. DR. BUCHAN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. O'Connor	- nay
	Dr. Lancione	- aye
	Dr. Buchan	- aye
	Mr. Johnston	- aye
	Dr. Yut	- abstain
	Dr. Oxley	- aye
	Ms. Rolfes	- aye

The motion carried.

Dr. Lovshin returned to the meeting at this time and resumed the Chair.

DAVID H. BLACK, D.P.M.

In the event a hearing is necessary, Dr. Oxley was assigned as hearing officer and left the meeting at this time.

Dr. Black appeared at this time pursuant to the Board's order of December 8, 1982.

In response to Dr. Lovshin's questions, Dr. Black stated that he has started to see an increase in his patient load from what it has been during the past three years. He stated that in 1983 he made \$11,000, but will do better in 1984. Dr. Black stated that he had to borrow money to keep alive, but he is starting to pay this money back. He has a son who will be going to college in the fall.

In response to Dr. Lancione's questions, Dr. Black stated that he does not prescribe any medications. He stated that he does not do any orthopedic surgery any more, and for pain prescribes Tylenol. He does not use any types of nerve medicine. Dr. Black stated that since he doesn't do surgery like he used to, he doesn't have patients that complain of a lot of pain.

In response to Dr. Buchan's questions, Dr. Black stated that he does not have any trauma patients. He occasionally sees ankle injuries, which he handles with injections of Lidocaine. He stated that there are no other podiatrists in his town, but there is a young doctor who works with a local osteopathic group on a part-time basis. He stated that his practice is located in Avon Lake, Ohio. He is not a member of the local podiatric society because he cannot afford it. He gets his C.M.E. credits through seminars he attends. He has attended seminars in Cincinnati, Akron and Columbus. He does have his credits for renewal.

In response to Dr. Yut's questions, Dr. Black stated that generally things are improved for him. They are not going well, but they are better. He stated that he can see the light at the end of the tunnel. Dr. Black stated that in six months, when his probation is over and he has prescribing privileges, he does not intend to change the way he is practicing now. Dr. Black stated that he doesn't intend to apply for another narcotics license, and does not intend to return to podiatric surgery, other than the minor things he is doing now.

Dr. Black left the meeting at this time.

DR. YUT MOVED THAT THE BOARD CONTINUE DR. BLACK UNDER ITS ORDER OF DECEMBER, 1982. MR. JOHNSTON SECONDED THE MOTION. A ROLL CALL VOTE WAS TAKEN:

ROLL CALL VOTE:	Dr. O'Connor	- aye
	Dr. Lancione	- aye
	Dr. Buchan	- aye
	Dr. Rauch	- aye
	Mr. Johnston	- aye
	Dr. Yut	- aye
	Ms. Rolfes	- aye

The motion carried.

Dr. Oxley returned to the meeting at this time.

EXECUTIVE SESSION

Pursuant to Section 121.22(G)(3), Revised Code, the Board went into executive session

STATE OF OHIO  
THE STATE MEDICAL BOARD  
Suite 510  
65 South Front Street  
Columbus, Ohio 43215

EXCERPT FROM THE MINUTES OF DECEMBER 8, 1982

REPORT AND RECOMMENDATION IN THE MATTER OF DAVID H. BLACK D.P.M.

Mr. Bumgarner, Mr. Schmidt, Ms. Cato, Mr. Albert and Mr. Meyer left the meeting at this time, and remained out of the room during the following discussion.

Dr. Cover asked if each member of the Board received, read and considered the hearing record, the proposed findings and order, and any objections filed to the proposed findings and order in the matter of David H. Black, D.P.M. A roll call was taken:

ROLL CALL:	Dr. Lancione	- aye
	Dr. Lovshin	- aye
	Dr. Yut	- aye
	Dr. Oxley	- aye
	Mr. Paulo	- aye
	Dr. Ferritto	- aye
	Dr. Ruppertsberg	- aye

Mr. Lee stated that there are two considerations for the Board in this case. The first consideration is that there is a motion to stay the Board's proceedings in this matter. There are also objections that have been filed by Dr. Black.

Mr. Lee stated that the attorney has moved for a stay of the proceedings pending a proceeding in the U.S. District Court for a writ of Habeus Corpus. Mr. Lee stated that what the attorney is saying in this case is that the felony convictions are still in the air, and the Board should wait until there is a final decision on them.

Dr. Yut stated that this is similar to a request made by another attorney in another case, and the Board denied that request. Dr. Yut felt that the Board should be consistent.

DR. YUT MOVED TO DENY MR. BECKER'S MOTION TO STAY PROCEEDINGS. DR. LOVSHIN SECONDED THE MOTION. A discussion followed.

Dr. Ferritto remarked that this case is different from that mentioned by Dr. Yut in that in the previous case the attorney was requesting the stay pending results of the appeal. In this case, there is a question of the constitutionality of bringing a felony charge against the physician. Dr. Ferritto continued that he would be in favor of tabling any consideration of this case until the matter is cleared up. He stated that Dr. Black was cited for having been convicted of a felony, and the Board cannot proceed on that felony charge until the Courts have determined that a felony has been committed.

Dr. Yut disagreed, stating that Dr. Black has already been convicted of a felony, even though he is now trying to have that felony charge changed.

Dr. Oxley noted in the Findings of Fact it indicates that the Supreme Court of

Ohio did uphold the lower court's conviction.

Henry G. Cramblett, M.D., Board Member joined the meeting at this time.

Dr. Yut stated that Dr. Black was convicted of illegal processing of drug documents, which is a felony. Therefore the Board has the right to act on this conviction, and he did not feel that the Board should allow a stay in this matter.

A roll call vote was taken on Dr. Yut's motion to deny Mr. Becker's motion to stay proceedings.

ROLL CALL VOTE:	Dr. Cramblett	- aye
	Dr. Lancione	- nay
	Dr. Lovshin	- aye
	Dr. Yut	- aye
	Dr. Oxley	- abstain
	Mr. Paulo	- aye
	Dr. Ferritto	- nay
	Dr. Ruppertsberg	- aye
	Dr. Cover	- aye

The motion carried.

Dr. Oxley read her proposed order from the report and recommendation, the original of which shall be maintained in the exhibits section of this journal.

Dr. Cover asked Dr. Cramblett if he received, read and considered the hearing record, the proposed findings and order and any objections filed to the proposed findings and order in the matter of David H. Black, D.P.M. Dr. Cramblett stated that he did.

DR. FERRITTO MOVED TO APPROVE AND CONFIRM DR. OXLEY'S REPORT AND RECOMMENDATION IN THE MATTER OF DAVID H. BLACK, D.P.M. DR. YUT SECONDED THE MOTION. A discussion followed.

Dr. Lancione disagreed with the proposed order, stating that he felt that Dr. Black should spend some time under suspension.

Dr. Ferritto withdrew his motion.

DR. YUT MOVED TO APPROVE AND CONFIRM DR. OXLEY'S REPORT AND RECOMMENDATION IN THE MATTER OF DAVID H. BLACK, D.P.M. MR. PAULO SECONDED THE MOTION. A discussion followed.

DR. LANCIONE MOVED TO AMEND 1(A) and 2(A) OF THE PROPOSED ORDER TO STATE THAT THE LICENSE OF DR. BLACK WOULD BE SUSPENDED FOR A PERIOD OF TWO YEARS, ALL BUT 60 DAYS OF THE SUSPENSION STAYED, AND THAT HE REMAIN ON PROBATION THE FULL TWO YEARS. DR. CRAMBLETT SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. Lovshin	- nay
	Dr. Yut	- aye
	Dr. Oxley	- abstain

Mr. Paulo	- nay
Dr. Ferritto	- abstain
Dr. Ruppertsberg	- abstain

The motion carried.

A roll call vote was taken on Dr. Yut's motion to approve and confirm the Report and Recommendation as amended.

ROLL CALL VOTE:

Dr. Cramblett	- aye
Dr. Lancione	- aye
Dr. Lovshin	- aye
Dr. Yut	- aye
Dr. Oxley	- abstain
Mr. Paulo	- aye
Dr. Ferritto	- abstain
Dr. Ruppertsberg	- abstain
Dr. Cover	- aye

The motion carried.

STATE OF OHIO  
THE STATE MEDICAL BOARD  
Suite 510  
65 South Front Street  
Columbus, Ohio 43215

April 14, 1982

David H. Black, D.P.M.  
32277 Lake Road  
Avon Lake, OH 44012

Dear Doctor Black:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine under the provisions of Sections 4731.22, 4731.591, and 4731.61, Ohio Revised Code, whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate your certificate to practice podiatry for one or more of the following reasons:

1. On or about the following dates you wrote prescriptions in the amounts indicated for Percodan, a Schedule II controlled substance, for one Patient A, who is named in the attached Patient Key (to be withheld from public disclosure). Such prescriptions were written for the purpose of maintaining the patient's narcotic dependency, and were not written for a purpose falling within the scope of practice of podiatry:

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
3/26/80	25	5/2/80	50
3/27/80	25	5/3/80	50
4/2/80	25	5/4/80	50
4/5/80	25	5/5/80	50
4/11/80	50	5/6/80	50
4/14/80	50	5/7/80	50
4/16/80	50	5/8/80	50
4/17/80	50	5/9/80	50
4/19/80	50	5/10/80	50
4/21/80	50	5/11/80	50
4/23/80	50	5/12/80	50
4/26/80	50	5/12/80	50
4/28/80	50	5/13/80	50
4/29/80	50	5/14/80	50
4/30/80	50	5/17/80	50
5/1/80	50		

Such acts in Paragraph (1) above, individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease" as that clause is used in Section 4731.22 (B)(2), Ohio Revised Code.

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Further, such acts in Paragraph (1) above, individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes" as that clause is used in Section 4731.22 (B)(3), Ohio Revised Code.

Further, such acts in Paragraph (1) above, individually and/or collectively, constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established" as that clause is used in Section 4731.22 (B)(6), Ohio Revised Code.

Further, such acts in Paragraph (1) above, individually and/or collectively, constitute gross immorality or grossly unprofessional conduct, for which a certificate to practice podiatry may be revoked or suspended pursuant to Section 4731.591, Ohio Revised Code.

Further, such acts in Paragraph (1) above, individually and/or collectively, exceed the scope of practice of podiatry, as set forth in Section 4731.51 of the Ohio Revised Code, for which a certificate may be refused, revoked, or suspended pursuant to Section 4731.61 of the Ohio Revised Code.

2. On or about the following dates you wrote prescriptions in the amounts indicated for Percodan for one Patient B, who is named in the attached Patient Key (to be withheld from public disclosure). Such prescriptions were written for the sole purpose of maintaining the patient's narcotic addiction, and were written without prior evaluation or physical examination of the patient:

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
4/24/80	50	6/4/80	20
5/17/80	50	6/5/80	50
5/18/80	50	6/7/80	20
5/19/80	50	6/8/80	10
5/20/80	50	6/12/80	20
5/23/80	50	6/13/80	20
5/24/80	50	6/19/80	20
5/27/80	50	6/20/80	20
5/28/80	50		

Such acts in Paragraph (2) above, individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease" as that clause is used in Section 4731.22 (B)(2), Ohio Revised Code.

Further, such acts in Paragraph (2) above, individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes" as that clause is used in Section 4731.22 (B)(3), Ohio Revised Code.

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Further, such acts in Paragraph (2) above, individually and/or collectively, constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established" as that clause is used in Section 4731.22 (B)(6), Ohio Revised Code.

Further, such acts in Paragraph (2) above, individually and/or collectively, constitute gross immorality or grossly unprofessional conduct, for which a certificate to practice podiatry may be revoked or suspended pursuant to Section 4731.591 of the Ohio Revised Code.

Further, such acts in Paragraph (2) above, individually and/or collectively, exceed the scope of practice of podiatry, as set forth in Section 4731.51 of the Ohio Revised Code, for which a certificate may be refused, revoked, or suspended pursuant to Section 4731.61 of the Ohio Revised Code.

3. On or about November 23, 1981 you were convicted in the Court of Common Pleas, Lorain County, Ohio, of sixteen (16) counts of violating Section 2925.23 of the Ohio Revised Code, Illegal Processing of Drug Documents, all counts being felonies of the third degree. Such conviction was based on your having written the prescriptions dated 5/17/80 through 6/20/80, in the above Paragraph (2).

Pursuant to Sections 4731.22 (B)(3), 4731.22 (B)(10), 4731.22 (B)(11), and 4731.591 of the Ohio Revised Code, conviction of a felony relating to the possession, distribution, or use of any drug is grounds to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate a certificate to practice podiatry.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you may request a hearing on this matter. If you wish to request such a hearing, that request must be made within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or 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.

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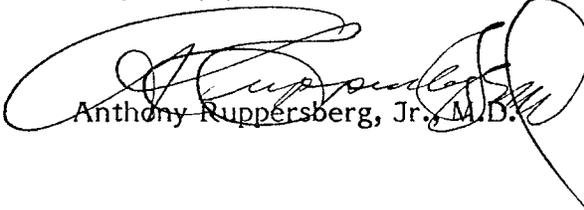
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In the event there is no request for such hearing made within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate your certificate to practice podiatry.

A copy of the Medical Practice Act is enclosed for your examination.

Very truly yours,

  
Anthony Ruppertsberg, Jr., M.D.

AR:ls

Enclosure

CERTIFIED MAIL NO. P30 5155412  
RETURN RECEIPT REQUESTED