



# STATE MEDICAL BOARD OF OHIO

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

January 10, 1997

Daniel M. Kavanaugh, D.P.M.  
24 S. Canton Road  
Akron, OH 44312

Dear Doctor Kavanaugh:

Please find enclosed certified copies of the Entry of Order; the Report OF *Goldman* Hearing and Recommendation of Sharon 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 January 8, 1997, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

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

THE STATE MEDICAL BOARD OF OHIO

Thomas E. Greter, M.D.  
Secretary

TEG:ll  
Enclosures

CERTIFIED MAIL RECEIPT NO. P 152 982 864  
RETURN RECEIPT REQUESTED

Mailed January 16, 1997

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Sharon Murphy, Attorney Hearing Examiner, State Medical Board; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on January 8, 1997, including Motions approving and confirming the Findings of Fact, Conclusions of Law and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Daniel M. Kavanaugh, 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.

(SEAL)



Thomas E. Gretter, M.D.  
Secretary

1/14/97

\_\_\_\_\_  
Date



# STATE MEDICAL BOARD OF OHIO

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

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

\*

DANIEL M. KAVANAUGH, D.P.M.

\*

## ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on the 8th day of January, 1997.

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

It is hereby ORDERED that:

The certificate of Daniel M. Kavanaugh, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be permanently REVOKED.

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

Thomas E. Gretter, M.D.  
Secretary

(SEAL)

1/14/97

Date

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**REPORT OF GOLDMAN HEARING AND RECOMMENDATION  
IN THE MATTER OF DANIEL M. KAVANAUGH, D.P.M.**

The Matter of Daniel M. Kavanaugh, D.P.M., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on December 3, 1996.

**INTRODUCTION**

**I. Basis for Hearing**

- A. By letter dated September 11, 1996, the State Medical Board of Ohio [Board] notified Daniel M. Kavanaugh, D.P.M., that, pursuant to Section 3719.121(C), Ohio Revised Code, the Board had immediately suspended Dr. Kavanaugh's certificate to practice podiatric medicine and surgery in the State of Ohio. This action was based on Dr. Kavanaugh's December 26, 1995, plea of guilty to three felony counts of trafficking in drugs, in violation of Section 2925.03, Ohio Revised Code.

The Board further notified Dr. Kavanaugh that continued practice of podiatric medicine or surgery would be considered practicing without a certificate, in violation of Section 4731.41, Ohio Revised Code. In addition, the Board notified Dr. Kavanaugh that, based on the guilty plea, the Board proposed to take disciplinary action against his certificate to practice podiatric medicine and surgery in this state.

Finally, the Board alleged that Dr. Kavanaugh's conduct constitutes "(s)elling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,' as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code." Further, the Board alleged that the guilty plea constitutes "(a) plea of guilty to, or a judicial finding of guilt of, a felony,' as that clause is used in Section 4731.22(B)(9), Ohio Revised Code." (State's Exhibit 1).

- B. Pursuant to Chapter 119.09, Ohio Revised Code, the Board advised Dr. Kavanaugh of his right to request a hearing. Dr. Kavanaugh personally signed the certified mail receipt. (State's Exhibit 1). Nevertheless, Dr. Kavanaugh did not request a hearing. Accordingly, the Board provided Dr. Kavanaugh with courtesy notice that, on December 3, 1996, the Board would hold a *Goldman* hearing at which the State would present evidence in this matter. (State's Exhibit 2) (See *Douglas S. Goldman, C.T., v. State*

*Medical Board of Ohio* [March 29, 1996], Franklin App. No. 95APE10-1358, unreported).

## II. Appearances

On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by James M. McGovern, Assistant Attorney General.

## EVIDENCE EXAMINED

I. Testimony Heard: No witnesses were presented.

## II. Exhibits Examined

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

- A. State's Exhibit 3: State Medical Board of Ohio Prosecutor's Reporting Form, with attached court documents. (10 pp.)
- B. State's Exhibit 4: Affidavit of Debra L. Jones, Chief of Continuing Medical Education, Records and Renewal for the Board, verifying the last known address of Dr. Kavanaugh.

## FINDINGS OF FACT

On December 22, 1995, in the Summit County Court of Common Pleas, the Prosecuting Attorney of Summit County filed a Bill of Information in *State of Ohio v. Daniel M. Kavanaugh*, Case No. 95-10-2737. The Bill of Information alleged that Dr. Kavanaugh did, on two occasions in June and July 1995:

knowingly prepare to shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, to wit: [Idenal or APAP/Codeine, each] a Schedule III controlled

substance, and at the time the said Daniel M. Kavanaugh knew or had reasonable cause to believe that such drug was intended for sale or resale by himself or another, in violation of Section 2925.03(A)(2), a felony of the fourth degree.

(State's Exhibit [St. Ex.] 3 at 4) (emphasis omitted). In addition, the Bill of Information alleged that, in August 1995, Dr. Kavanaugh had committed:

STATE MEDICAL BOARD  
OF OHIO  
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trafficking in drugs, in that he did, knowingly sell or offer to sell a controlled substance, to wit: APAP/codeine, a Schedule III controlled substance, in violation of Section 2925.03(A)(1) of the Ohio Revised Code, a felony of the fourth degree.

(St. Ex. 3 at 5) (emphasis omitted).

On December 26, 1995, Dr. Kavanaugh entered pleas of guilty to the three counts set forth in the Bill of Information. The court accepted his pleas. (St. Ex. 3 at 6).

Dr. Kavanaugh appeared for sentencing on January 23, 1996. The court sentenced Dr. Kavanaugh to three terms of incarceration for six months, to be served concurrently. The court further ordered that Dr. Kavanaugh pay fines in the amount of \$5,500.00. Finally, the court suspended Dr. Kavanaugh's driver's license for six months. (St. Ex. 3 at 8-9).

#### CONCLUSIONS OF LAW

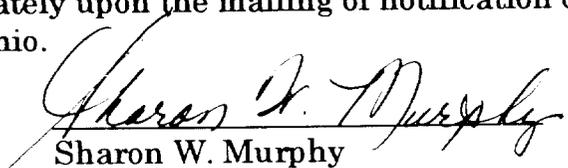
1. The conduct of Daniel M. Kavanaugh, D.P.M., as set forth in the Findings of Fact, constitutes "[s]elling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes [and] a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code.
2. The conduct of Dr. Kavanaugh, as set forth in the Findings of Fact, constitutes "[a] plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

#### PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Daniel M. Kavanaugh, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be permanently REVOKED.

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

  
Sharon W. Murphy  
Attorney Hearing Examiner



# STATE MEDICAL BOARD OF OHIO

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## EXCERPT FROM THE DRAFT MINUTES OF JANUARY 8, 1997

### REPORTS AND RECOMMENDATIONS

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

Ms. Noble asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Daniel A. Breitenbach, M.D.; Jeffrey Chaitoff, M.D.; Myron S. Lee, M.D.; Dennis P. Orr, D.O.; Bruce W. Sherrets; Rajinder Singh, M.D.; Paul W. Wilson, D.O.; and the hearing records and reports of *Goldman* hearings and recommendations on the following: Valerie Shearman Gilreath, D.O.; David H. Brown, D.O.; Tatsuko Morimoto and the All Hawaiian School of Massage; Daniel M. Kavanaugh, D.P.M.; Michael D. Reynolds, M.D.; and Dennis L. Farr, M.D.

A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Buchan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Noble	- aye

Mr. Sinnott stated that he would recuse himself in the matters of Myron S. Lee, M.D., and Paul W. Wilson, D.O.

Dr. Stienecker stated that he would recuse himself in the matters of Myron S. Lee, M.D. and Michael D. Reynolds, M.D.

Dr. Garg stated that he would recuse himself in the matter of Dennis P. Orr, D.O.

Ms. Noble 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. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye

Dr. Buchan	- aye
Dr. Stienecker	- aye
Dr. Agresta	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Ms. Noble	- aye

In accordance with the provision in Section 4731.22(C)(1), 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 this matter.

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

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REPORT OF GOLDMAN HEARING AND RECOMMENDATION IN THE MATTER OF DANIEL M. KAVANAUGH, D.P.M.

.....

**DR. BHATI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DANIEL M. KAVANAUGH, D.P.M. DR. BUCHAN SECONDED THE MOTION.**

.....

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

VOTE:	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Heidt	- aye
	Dr. Egnor	- aye
	Mr. Sinnott	- aye
	Dr. Buchan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.



# STATE MEDICAL BOARD OF OHIO

## 1896 - 1996 Celebrating One Hundred Years

### NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

**Charles D. Stienecker, M.D.**  
President  
Wapakoneta, Ohio

**Nora M. Noble**  
Vice-President  
Newark, Ohio

**Thomas E. Gretter, M.D.**  
Secretary  
Cleveland, Ohio

**Raymond J. Albert**  
Supervising Member  
Amanda, Ohio

**Ronald C. Agresta, M.D.**  
Board Member  
Steubenville, Ohio

**Anant R. Bhati, M.D.**  
Board Member  
Cincinnati, Ohio

**David S. Buchan, D.P.M.**  
Board Member  
Westerville, Ohio

**Carol L. Egner, M.D.**  
Board Member  
Cincinnati, Ohio

**Anand G. Garg, M.D., Ph.D.**  
Board Member  
Boardman, Ohio

**Robert S. Heidt, Sr., M.D.**  
Board Member  
Cincinnati, Ohio

**Bradley K. Sinnott, Esq.**  
Board Member  
Columbus, Ohio

**Anita M. Steinbergh, D.O.**  
Board Member  
Westerville, Ohio

September 11, 1996

Daniel M. Kavanaugh, D.P.M.  
24 S. Canton Road  
Akron, OH 44312

Dear Doctor Kavanaugh:

In accordance with Section 2929.17, Ohio Revised Code, the Office of the Prosecuting Attorney of Summit County, Ohio, reported that on or about December 26, 1995, in the Summit County Court of Common Pleas, you pleaded guilty to and were found guilty of three (3) felony counts of Trafficking in Drugs in violation of Section 2925.03, Ohio Revised Code.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your license to practice podiatry in the State of Ohio is immediately suspended. Continued practice after this suspension shall be considered practicing without a certificate in violation of Section 4731.60, Ohio Revised Code.

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, suspend, refuse to register or reinstate your certificate to practice podiatry, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about December 26, 1995, in the Summit County Court of Common Pleas, you pleaded guilty to and were found guilty of three (3) felony counts of Trafficking in Drugs in violation of Section 2925.03, Ohio Revised Code.

Your guilty plea and/or the acts, conduct, and/or omissions underlying your guilty plea, as alleged in paragraph (1) above, individually and/or collectively, constitute "(s)elling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as those clauses are used in Section 4731.22(B)(3), Ohio Revised Code.

Mailed 9/12/96

September 11, 1996

KAVANAUGH, D.P.M.  
PAGE 2

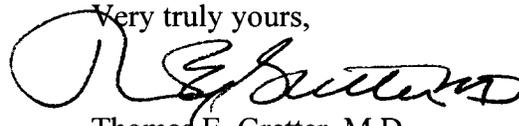
Further, your guilty plea and the judicial finding of guilt, as alleged in paragraph (1) above, individually and/or collectively, constitute "(a) plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

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

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

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

Copies of the applicable sections are enclosed for your information.

Very truly yours,  
  
Thomas E. Gretter, M.D.  
Secretary

TEG/bjm

Enclosures

CERTIFIED MAIL # P 152 983 874  
RETURN RECEIPT REQUESTED

Duplicate mailing to: 4261 Americana Dr., Apt. 403  
Stow, OH 44224

CERTIFIED MAIL # P 152 983 881  
RETURN RECEIPT REQUESTED