



STATE MEDICAL BOARD OF OHIO

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

April 10, 1997

Christopher E. Bryniarski, D.P.M.
1422 Som Center Road, # 414
Mayfield Heights, OH 44124

Dear Doctor Bryniarski:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Melinda R. Early, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 9, 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 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, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Thomas E. Gretter, M.D.
Secretary

TEG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. P 152 984 899
RETURN RECEIPT REQUESTED

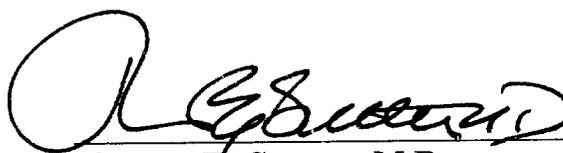
cc: Robert A. Dixon, Esq.
CERTIFIED MAIL RECEIPT NO. P 152 984 910
RETURN RECEIPT REQUESTED

Mailed 4/11/97

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Melinda R. Early, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 9, 1997, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Christopher E. Bryniarski, 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.



Thomas E. Gretter, M.D.
Secretary

(SEAL)

4/10/97

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

CHRISTOPHER E.
BRYNIARSKI, D.P.M.

*

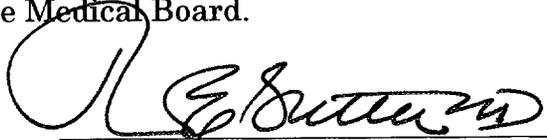
ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on April 9, 1997.

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

It is hereby ORDERED that the certificate of Christopher E. Bryniarski, 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.



Thomas E. Gretter, M.D.
Secretary

(SEAL)

4/10/97

Date

STATE BOARD OF MEDICINE
OF OHIO
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**REPORT AND RECOMMENDATION
IN THE MATTER OF CHRISTOPHER E. BRYNIARSKI, D.P.M.**

The Matter of Christopher E. Bryniarski, D.P.M., was heard by Melinda R. Early, Attorney Hearing Examiner for the State Medical Board of Ohio, on January 22, 1997.

INTRODUCTION

I. Basis for Hearing

- A. The State Medical Board of Ohio notified Christopher E. Bryniarski, D.P.M., by letter dated October 9, 1996, that his license to practice podiatry in the State of Ohio was immediately suspended pursuant to Section 3719.121(C), Ohio Revised Code. The Board's action in immediately suspending Dr. Bryniarski's certificate was the result of the Board having received notice that on or about June 7, 1996, in the United States District Court for the Northern District of Ohio, Dr. Bryniarski pleaded guilty to one felony count of knowingly possessing with intent to distribute a controlled substance in violation of Title 21, United States Code, Section 841(a)(1). Additionally, in suspending Dr. Bryniarski's podiatric license, the Board advised Dr. Bryniarski that the federal statute was substantially equivalent to the fifth degree felony, Section 2925.11(A) and (C)(4), Ohio Revised Code, Possession of drugs, as in effect prior to July 1, 1996.

Moreover, the Board notified Dr. Bryniarski that it intended to determine whether to take further disciplinary action against his certificate for one or more of the following reasons:

On or about June 7, 1996, in the United States District Court for the Northern District of Ohio, Eastern Division, [Dr. Bryniarski] pleaded guilty to one (1) felony count of knowingly possessing with intent to distribute controlled substances, to wit: approximately 200 grams of marihuana, and less than 5 grams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1). The acts comprising this offense occurred from on or about December 1, 1994, through on or about March 24, 1995.

The Board asserted that Dr. Bryniarski's "acts, conduct, and/or omissions" in pleading guilty to the one felony count, knowingly possessing with intent to distribute controlled substances, approximately 200 grams of marijuana, and less than 5 grams of cocaine, "individually and/or collectively, constitute[d]:"

- a) '(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 that clause is used in Section 4731.22(B)(3), Ohio Revised Code, to wit: Title 21, United States Code, Section 841(a)(1);
- b) '(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;
- c) 'violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,' as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731-11-02(E), Ohio Administrative Code; and
- d) '(c)ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed,' as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03(A)(1) and (2), Ohio Revised Code, as in effect prior to July 1, 1996, Trafficking in Drugs."

The Board advised Dr. Bryniarski of his right to request a hearing in this matter. (State's Exhibit [St. Ex.] 1).

- B. Robert A. Dixon, Esq., in behalf of Dr. Bryniarski, submitted a written hearing request on November 8, 1996. (St. Ex. 2).

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by James M. McGovern, Assistant Attorney General.
- B. On behalf of the Respondent: Robert A. Dixon, Esq.

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OF OHIO

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EVIDENCE EXAMINED

I. Testimony Heard

A. Presented by the State

The State did not present any witnesses.

B. Presented by the Respondent

Christopher E. Bryniarski, D. P.M.

II. Exhibits Examined

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

A. Presented by the State

1. State's Exhibit 3: November 15, 1996, letter to Dr. Bryniarski from the Board advising that a hearing was initially set for November 19, 1996, and further advising that the hearing had been postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit 4: November 18, 1996, letter to Dr. Bryniarski from the Board scheduling the hearing for January 7, 1997. (2 pp.)
3. State's Exhibit 4-A: Respondent's January 3, 1997, Motion for Continuance of Hearing due to conflict with counsel's schedule.
4. State's Exhibit 4-B: January 6, 1997, Entry granting Respondent's motion for continuance.
5. State's Exhibit 5: Prosecutor's Reporting Form notifying the Board that Dr. Bryniarski had pleaded guilty to the charge of possession with intent to distribute marijuana and cocaine in connection with a scheme to smuggle drugs into the Mansfield Correctional Institution.
6. State's Exhibit 6: Certified copy of Information filed in the United States District Court for the Northern District of Ohio, Eastern Division, in case number 1:96CR167.

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In the Matter of Christopher E. Bryniarski, D.P.M.

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7. State's Exhibit 7: Certified copy of Plea Agreement Dr. Bryniarski entered into with the United States of America in Case No. 1:96CR167. (8 pp.)
8. State's Exhibit 8: Transcript of Proceedings in the United States District Court for the Northern District of Ohio, Eastern Division, in case number 1:96CR167, June 7, 1996. (27 pp.)
9. State's Exhibit 9: Minutes of Criminal Proceedings, United States District Court for the Northern District of Ohio, Eastern Division, which outline Dr. Bryniarski's sentence and special conditions of supervised release/probation placed.
10. State's Exhibit 10: Copies of applicable statutes: 21 U.S.C. Section 84; Section 2925.11, Ohio Revised Code; and Section 2925.03, Ohio Revised Code.

B. Presented by the Respondent

Respondent did not proffer any exhibits at hearing. (See Post-Hearing Admissions, however).

III. Post Hearing Admissions

- A. The hearing record remained open for a period of time to allow both parties to submit documents. Accordingly, having received the parties' documents, the following are admitted to the record:
 1. State's Exhibit 11: Copy of Transcript of Dr. Bryniarski's Sentencing Hearing before the Honorable Kathleen McDonald O'Malley, United States District Judge. (19 pp.).
 2. Respondent's Exhibit A: Two bound volumes containing Dr. Bryniarski's residency evaluations. (NOTE: This exhibit has been sealed to protect patient confidentiality.)
- B. Additionally, at hearing, the Attorney Hearing Examiner requested that a copy of the federal court ordered drug and alcohol evaluation be submitted to the record. Respondent's counsel, however, advised the Attorney Hearing Examiner, February 7, 1997, that the evaluation could only be released upon court order. Thus, the Attorney Hearing Examiner

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advised counsel that it would not be necessary to submit a copy of Respondent's court ordered drug and alcohol evaluation as more particularly addressed in the Attorney Hearing Examiner's February 10, 1997, Entry. This Entry is admitted to the record as Board Exhibit A.

SUMMARY OF EVIDENCE

All transcripts and exhibits, whether or not specifically referred to herein, were thoroughly reviewed and considered by the Attorney Hearing Examiner prior to the preparation of this Report and Recommendation.

1. Dr. Bryniarski graduated from the Ohio College of Podiatric Medicine in 1994. He was the class valedictorian. Subsequently, Dr. Bryniarski entered a podiatric surgical residency at Richmond Heights General Hospital, Richmond Heights, Ohio. Dr. Bryniarski completed two years of this residency and had planned to complete a third year. (Transcript [Tr.] 28-29; 62; Respondent's Exhibit [Resp. Ex.] A.)
2. In June 1994, after graduating from podiatry school, Dr. Bryniarski moved into an apartment with Frank Swiger [Swiger] whom he had met in podiatry school. In July, 1994, shortly after Dr. Bryniarski moved into the apartment, Swiger left for Florida to participate in an externship. While Swiger was in Florida, Dr. Bryniarski received a letter from Swiger's brother, Ed Swiger, who was incarcerated in the Mansfield Correctional Institute. Dr. Bryniarski did not understand the subject of Ed Swiger's letter, so he contacted Swiger in Florida. Swiger then advised Dr. Bryniarski that he was involved with a scheme of smuggling drugs into the Mansfield Correctional Institute for his brother. Dr. Bryniarski explained that he learned that Ed Swiger's life had been threatened, and that Frank Swiger had paid a large sum of money to protect him. Swiger then advised Dr. Bryniarski that he did not need to be concerned with the subject of his brother's letter; he would handle things. Nevertheless, Dr. Bryniarski eventually became involved with the drug smuggling scheme. (Tr. 30-31; 47-48).
3. Dr. Bryniarski stated that the drug smuggling scheme involved Swiger procuring drugs, concealing the drugs inside cans, and labeling the cans as soup cans. Dr. Bryniarski further explained that a canning machine was used to conceal the drugs. Once the drugs were concealed inside cans and labeled, Swiger delivered the cans to a self-storage facility in Mansfield, Ohio. A prison guard then retrieved the cans, transported them to the prison, and delivered them to Ed Swiger. (Tr. 30-31; 47-48; 60).

4. Dr. Bryniarski stated that a canning machine was delivered to the apartment in September 1994; it was not correctly assembled, however, and would not work properly. Thus, sometime in November 1994, after missing parts to the canning machine arrived, the drug canning scheme went into operation. Dr. Bryniarski stated that he then began assisting Swiger in concealing drugs inside cans. Dr. Bryniarski stated that he assisted Swiger two or three times in preparing multiple cans of concealed drugs. Dr. Bryniarski further stated that Swiger obtained the drugs which were canned on these occasions. Moreover, Dr. Bryniarski admitted that he knew the cans concealing the drugs were intended to be smuggled into the Mansfield Correctional Institute.

Dr. Bryniarski stated that he assisted Swiger in canning drugs through December 1994. Dr. Bryniarski stated, however, that the drug smuggling scheme ended in early February 1995 when the prison guard who transferred the canned drugs from the storage facility to the prison became physically disabled. (Tr. 31-34).

5. On one occasion in January 1995, Dr. Bryniarski acted alone to conceal drugs inside a can that was intended to be smuggled into the Mansfield Correctional Institute. On this occasion, Dr. Bryniarski obtained cocaine, prescription medications, Demerol and Percocet, and formaldehyde. Using the canning machine, Dr. Bryniarski concealed the drugs he had obtained together with marijuana Swiger had previously acquired. Dr. Bryniarski subsequently transported the can to the storage facility in Mansfield but he was unable to gain access to the storage facility. Thus, he later made a second trip and successfully gained access to the storage facility where he deposited the can. Dr. Bryniarski stated that he did not know if the can he packaged was transferred to the Mansfield Correctional Institute. (Tr. 35-36; 50).
6. Dr. Bryniarski explained that he obtained the controlled substances, Demerol and Percocet, and an antibiotic, by utilizing the residency training program's institutional DEA certificate to write prescriptions. He further explained that he wrote the prescriptions utilizing fictitious names. Dr. Bryniarski then personally presented the prescriptions to pharmacies. He presented the Demerol and antibiotic prescriptions at a pharmacy where he represented to the pharmacist that he was scheduled to have ankle surgery. He presented the Percocet prescription at a second pharmacy. In presenting the Percocet prescription, Dr. Bryniarski feigned a limp. (Tr. 51-52).
7. Dr. Bryniarski stated that he received two letters, in addition to telephone calls, which he regarded as threatening. Dr. Bryniarski further stated that he

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In the Matter of Christopher E. Bryniarski, D.P.M.

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received one of the letters in January 1995 when Swiger was out of town participating in an externship. This letter detailed the drugs that would sell well in prison. Moreover, the letter stated that he should continue to carry out the scheme in Swiger's absence. Dr. Bryniarski stated that his receipt of this letter prompted him to procure the cocaine, Demerol, and Percocet which he subsequently packaged and took to the storage facility to be smuggled into the prison. Dr. Bryniarski emphasized that until he received this letter, he had refused Ed Swiger's numerous requests to prescribe medications which would be smuggled into the prison. (Tr. 35; 58-59; 61-62; 64).

8. Dr. Bryniarski stated that he did not go to the police or prison authorities about the drug smuggling scheme or the threats he had received because he thought Ed Swiger's life was in danger. (Tr. 58).
9. Although Dr. Bryniarski stated that he became involved with the drug smuggling scheme in order to help Swiger protect his brother, Dr. Bryniarski and Swiger received money for their participation in the scheme. Dr. Bryniarski stated that they received money orders which were to reimburse Swiger for the purchase of drugs. Additionally, Dr. Bryniarski stated the money was intended to serve as "protection money." Nevertheless, Dr. Bryniarski admitted that he used the money to pay bills, as well as to purchase dinner, drinks, and illegal drugs for his personal use. (Tr. 54-56).
10. In March 1995, the police searched Dr. Bryniarski's and Swiger's apartment pursuant to a search warrant. Dr. Bryniarski, however, was not arrested. Nevertheless, he obtained legal counsel, and cooperated with the U.S. Attorney. Thereafter, Dr. Bryniarski entered into a Plea Agreement with the United States on February 23, 1996.

In entering into this Plea Agreement, Dr. Bryniarski waived his constitutional rights and agreed to allow the government to proceed against him by way of information rather than indictment. The Information charged Dr. Bryniarski with knowingly possessing with intent to distribute a controlled substance, more specifically, approximately 200 grams of marijuana, and less than five grams of cocaine, from on or about December 1, 1994, through on or about March 24, 1995, in the Northern District of Ohio, Eastern Division, in violation of Title 21 of the United States Code, Section 841(a)(1).

In waiving indictment and entering a guilty plea, Dr. Bryniarski additionally agreed to cooperate with the United States government in its investigation of other offenders. Thus, Dr. Bryniarski agreed to testify before the grand jury and at trial. Moreover, Dr. Bryniarski agreed to relinquish his medical,

pharmaceutical, and related certifications or licenses, prior to sentencing, with the understanding that the United States would oppose his efforts to regain licensure.

The Court accepted Dr. Bryniarski's guilty plea on June 7, 1996. (St. Exs. 7, 8, 9; Tr. 37).

11. The United States District Court, Northern District of Ohio, Eastern Division, sentenced Dr. Bryniarski, September 12, 1996. In applying the federal criminal sentencing guidelines, the court noted that Dr. Bryniarski was recruited to participate in the drug smuggling scheme. Thus, he was somewhat less culpable than his co-defendant, Swiger. Dr. Bryniarski explained to the federal court at sentencing that he was caught in a "whirlwind of deceit and lies and at that time [he] did not believe [he] was strong enough to pull [himself] out * * *." The Court sentenced Dr. Bryniarski to three years probation.

The first year of probation Dr. Bryniarski is subject to home confinement with electronic monitoring. Accordingly, Dr. Bryniarski is required to remain in his residence unless he receives prior approval from the probation officer. Dr. Bryniarski, however, is permitted to leave his residence to work and to receive medical treatment pursuant to the probation officer's approval.

Additionally, the Court sentenced Dr. Bryniarski to submit to random drug and alcohol tests as specified by the probation officer during the period of home confinement. Moreover, Dr. Bryniarski was ordered to submit to additional drug testing fifteen days after the discontinuation of home confinement, and twice thereafter, as determined by the probation officer. Further, Dr. Bryniarski was ordered to participate in an outpatient drug and alcohol abuse treatment program. Moreover, Dr. Bryniarski was ordered to undergo a drug and alcohol evaluation to determine which program would best address his needs. Dr. Bryniarski was granted permission to leave his residence in order to participate in the drug and alcohol treatment program.

Further, the Court ordered Dr. Bryniarski to:

- a. provide the probation officer with all information requested, when requested;
- b. participate in 200 hours of community service under the auspices of Court Community Service, Inc., during the last two years of probation; and

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- c. Pay the costs of home confinement.

Finally, the Court prohibited Dr. Bryniarski from practicing medicine, or from being involved in any career dealing with pharmaceuticals or drugs, in any way, while on probation. The Court, however, specifically expressed no opinion as to whether Dr. Bryniarski should be licensed to practice medicine after completion of probation. The Court noted that it would defer to government and state licensing boards on this issue. (St. Exs. 9, 11).

12. Dr. Bryniarski stated that he underwent the Court ordered drug and alcohol evaluation in December 1996. As a result of the evaluation, he is participating in a treatment program twice monthly. At the time of the hearing, he had attended one treatment session. Dr. Bryniarski further stated that he has not used drugs since March 1995 when his apartment was searched by police. (Tr. 58-60).
13. Currently, Dr. Bryniarski is employed by Fasteners for Retail in the shipping and receiving warehouse. His job responsibilities include lifting, packaging, and computerized shipping documentation. Dr. Bryniarski expressed sincere remorse for his actions in participating in the drug smuggling scheme. Particularly, Dr. Bryniarski apologized to his colleagues in podiatry. He acknowledged that it is difficult for podiatrists to gain respect in the medical community, and that he is aware his actions have impacted the profession. (Tr. 45-46; St. Ex. 11, p. 11).
14. During the two years Dr. Bryniarski was in a podiatric surgical residency program at Richmond Heights General Hospital, he received average to superior evaluation scores. During these two years, his clinical instructors noted the improvement in his clinical and surgical skills. One instructor noted in March 1996 that Dr. Bryniarski was "One of the best all around residents in many years." (Resp. Ex. A).

FINDINGS OF FACT

1. On or about June 7, 1996, in the United States District Court for the Northern District of Ohio, Eastern Division, Dr. Bryniarski pleaded guilty to one felony count of knowingly possessing with intent to distribute, controlled substances, to wit: approximately 200 grams of marijuana, and less than 5 grams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1). The acts comprising this offense occurred from on or about November 1994, through on or about March 1995.

CONCLUSIONS OF LAW

1. Finding of Fact 1, above, supports a conclusion that Dr. Bryniarski's acts, conduct, and/or omissions, individually and/or collectively, constitute "[s]elling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes 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 set forth in Section 4731.22(B)(3), Ohio Revised Code, to wit: Title 21, United States Code, Section 841(a)(1).
2. Finding of Fact 1, above, supports a conclusion that Dr. Bryniarski's acts, conduct, and/or omissions, individually and/or collectively, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a felony," as set forth in Section 4731.22(B)(9), Ohio Revised Code, to wit: Title 21, United States Code, Section 841(a)(1).
3. Finding of Fact 1, above, supports a conclusion that Dr. Bryniarski's acts, conduct, and/or omissions, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as set forth in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03(A)(1) and (2), Trafficking in drugs, Ohio Revised Code, as in effect prior to July 1, 1996.
4. Finding of Fact 1, above, supports a conclusion that Dr. Bryniarski's acts, conduct, and/or omissions, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as set forth in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731-11-02(E), Ohio Administrative Code.

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When the federal court judge sentenced Dr. Bryniarski, she stated,

[O]ne of the aspects of this case that I find as troubling as the others is the notion that young professionals who seem to have had everything going for them get dragged down into this mire and were willing to go along with and help participate in this [drug smuggling

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scheme]. * * * [T]here are often people who appear before me in connection with drug offenses who have not had the kind of advantages that these defendants have had, and as a result, it's even more disappointing when these kinds of circumstances present themselves.

(St. Ex. 11, p. 14).

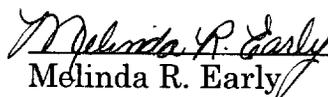
Dr. Bryniarski's circumstances are indeed troubling and disappointing. Nevertheless, it is very difficult to accept Dr. Bryniarski's rationale for participating in the scheme: a desire to help protect his roommate's brother from the code of prison life. Moreover, based on this hearing record, it is difficult to attribute Dr. Bryniarski's involvement with the drug smuggling scheme to drug or alcohol impairment. Thus, it would seem that the only logical rationale for Dr. Bryniarski's participation was very skewed insight. Dr. Bryniarski's skewed insight and inability to exercise sound judgment is perhaps most evident by the fact that he used the residency program's institutional DEA certificate to write prescriptions for controlled substances which he intended to have smuggled to prison inmates.

Dr. Bryniarski's inability to exercise sound judgment and extricate himself from the web of an appalling criminal activity cannot be excused. When all the facts of this case are evaluated, it seems only appropriate that Dr. Bryniarski be subjected to the harshest disciplinary action possible.

PROPOSED ORDER

It is hereby ORDERED that the certificate of Christopher E. Bryniarski, 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.



Melinda R. Early
Attorney Hearing Examiner



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43260-0315 • (614) 466-3911

EXCERPT FROM THE DRAFT MINUTES OF APRIL 9, 1997

REPORTS AND RECOMMENDATIONS

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

Dr. Buchan 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: Christopher E. Bryniarski, D.P.M.; Frank J. Swiger, D.P.M.; William A. Cox, M.D.; William Patrick Maher, D.O.; and David L. Groden, M.D.

A roll call was taken:

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

Dr. Buchan 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. Heidt	- aye
	Dr. Gretter	- aye
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Agresta	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Buchan	- 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 these matters.

Dr. Buchan 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.

REPORT AND RECOMMENDATION IN THE MATTER OF CHRISTOPHER E. BRYNIARSKI, D.P.M.

.....
DR. AGRESTA MOVED TO APPROVE AND CONFIRM MS. EARLY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF CHRISTOPHER E. BRYNIARSKI, D.P.M. DR. STEINBERGH SECONDED THE MOTION.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Heidt	- aye
	Dr. Gretter	- abstain
	Dr. Egner	- aye
	Mr. Sinnott	- aye
	Dr. Agresta	- aye
	Dr. Stienecker	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

**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
Amada, 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

October 9, 1996

Christopher E. Bryniarski, D.P.M.
1422 Som Center Road, #414
Mayfield Heights, OH 44124

Dear Doctor Bryniarski:

In accordance with Section 2929.24, Ohio Revised Code, the Public Integrity Section, Criminal Division, United States Department of Justice, Washington, D.C., reported that on or about June 7, 1996, in the United States District Court for the Northern District of Ohio, Eastern Division, you pleaded guilty to one (1) felony count of knowingly possessing with intent to distribute a controlled substance in violation of Title 21, United States Code, Section 841(a)(1). This section, as it pertains to the possession of cocaine, is substantially equivalent to Section 2925.11(A) and (C)(4)(a), Ohio Revised Code, as in effect prior to July 1, 1996, Possession of Drugs, a felony of the fifth degree.

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 podiatry 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 June 7, 1996, in the United States District Court for the Northern District of Ohio, Eastern Division, you pleaded guilty to one (1) felony count of knowingly

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possessing with intent to distribute, controlled substances, to wit: approximately 200 grams of marihuana, and less than 5 grams of cocaine in violation of Title 21, United States Code, Section 841(a)(1). The acts comprising this offense occurred from on or about December 1, 1994, through on or about March 24, 1995.

Your guilty plea as alleged in paragraph (1) above, individually and/or collectively, 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, to wit: Title 21, United States Code, Section 841(a)(1).

Further, your guilty plea as alleged in paragraph (1) above, individually and/or collectively, 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, to wit: Title 21, United States Code, Section 841(a)(1).

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "(c)ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.03(A)(1) and (2), Ohio Revised Code, as in effect prior to July 1, 1996, Trafficking in Drugs.

Further, your guilty plea as alleged in paragraph (1) above, individually and/or collectively, constitutes "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731-11-02(E), Ohio Administrative 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.

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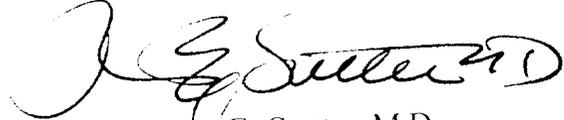
BRYNIARSKI, D.P.M.

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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,

A handwritten signature in black ink, appearing to read "T. E. Gretter, M.D.", written in a cursive style.

Thomas E. Gretter, M.D.
Secretary

TEG/bjm

Enclosures

CERTIFIED MAIL # P 152 983 893
RETURN RECEIPT REQUESTED