



# State Medical Board of Ohio

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March 9, 2005

Evan Laythe Sykes, D.O.  
168 Mount Martha Drive  
Pikeville, KY 41501

Dear Doctor Sykes:

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 approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

CERTIFIED MAIL NO. 7002 2410 0002 3141 3338  
RETURN RECEIPT REQUESTED

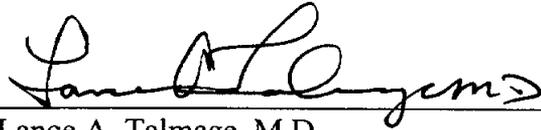
Cc: Kevin P. Byers, Esq.  
CERTIFIED MAIL NO. 7002 2410 0002 3141 3369  
RETURN RECEIPT REQUESTED

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 approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Evan Laythe Sykes, D.O., 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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EVAN LAYTHE SYKES, D.O.

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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. The application of Evan Laythe Sykes, D.O., for a certificate to practice osteopathic medicine and surgery in the State of Ohio shall be PERMANENTLY DENIED.
- B. The training certificate of Evan Laythe Sykes, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

(SEAL)



Lance A. Talmage, M.D.  
Secretary

February 9, 2005  
Date

**REPORT AND RECOMMENDATION  
IN THE MATTER OF EVAN LAYTHE SYKES, D.O.**

The Matter of Evan Laythe Sykes, D.O., was heard by Sharon W. Murphy, Esq., Hearing Examiner for the State Medical Board of Ohio, on December 16, 2004.

**INTRODUCTION**

I. Basis for Hearing

A. By letter dated August 11, 2004, the State Medical Board of Ohio [Board] notified Evan Laythe Sykes, D.O., that it had proposed to take disciplinary action against or to refuse to register or reinstate his certificate and/or training certificate to practice osteopathic medicine and surgery in Ohio. The Board based its proposed action upon allegations that Dr. Sykes had inappropriately prescribed controlled substance medication to individuals who were not patients of his residency program. The Board further alleged that Dr. Sykes's conduct constitutes the following violations:

- “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction 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”;
- “[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: Trafficking in Drugs, Section 2925.03, Ohio Revised Code”;
- “[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: Illegal Processing of Drug Documents, Section 2925.23, Ohio Revised Code”;
- “[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: Deception to Obtain a Dangerous Drug, Section 2925.22, Ohio Revised Code”;

- “a failure to furnish satisfactory proof of good moral character as required by Sections 4731.291 and 4731.08, Ohio Revised Code.”

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

- B. On September 8, 2004, Kevin P. Byers, Esq., submitted a written hearing request to the Board on behalf of Dr. Sykes. (State’s Exhibit 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Rebecca J. Albers, Assistant Attorney General.
- B. On behalf of the Respondent: Kevin P. Byers, Esq.

**EVIDENCE EXAMINED**

I. Testimony Heard

- A. Presented by the State
1. Evan Laythe Sykes, D.O., as upon cross-examination
  2. George D. Henderson
- B. Presented by the Respondent
- Evan Laythe Sykes, D.O.

II. Exhibits Examined

- A. Presented by the State
1. State’s Exhibits 1A through 1N: Procedural exhibits.
  2. State’s Exhibit 2: Certified copies of documents maintained by the Board pertaining to Dr. Sykes, including Dr. Sykes’ 2003 application for Training Certificate, and related materials; and Dr. Sykes’ March 5, 2004, Training Certificate renewal application.
  3. State’s Exhibit 3: Certified copies of documents maintained by the Board pertaining to Dr. Sykes, including Dr. Sykes’ 2004 application Osteopathic

licensure, and related materials. [Note: A Social Security number was redacted from this exhibit by the Hearing Examiner post hearing.]

4. State's Exhibit 4: Certified copies of documents maintained by the Kentucky Board of Medical Licensure [Kentucky Board] pertaining to Dr. Sykes.
  5. State's Exhibit 5: Copy of an April 7, 2004, letter to the Board from Dr. Sykes, with attachments.
  6. State's Exhibit 8: April 23, 2004, certification from the Kentucky Board of Pharmacy concerning Dr. Sykes' status as a pharmacist in that state, with attachments.
- B. Presented by the Respondent
1. Respondent's Exhibit A: A July 9, 2004, letter to Dr. Sykes from Kevin Calhoun, CEO; and Terry Thomas, D.O., Director of Medical Education, Selby General Hospital in Marietta, Ohio, concerning Dr. Sykes' residency contract at that institution.
  2. Respondent's Exhibit B: Copy of a November 19, 2004, letter to the Board from Anderson Spickard Jr., M.D.; and Davit T. Dodd, M.D., of Vanderbilt University Medical Center in Nashville, Tennessee, concerning a CME class attended by Dr. Sykes from November 17 through 19, 2004, entitled, *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls*.
  3. Respondent's Exhibit C: Copy of a Certificate of Attendance concerning Dr. Sykes' attendance at the educational activity entitled, *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls*, at Vanderbilt University School of Medicine.
  4. Respondent's Exhibit D: Copy of a November 4, 2004, Order Denying Application for Licensure concerning Dr. Sykes, issued by the West Virginia Board of Osteopathy.

### **PROCEDURAL MATTERS**

1. The hearing record in this matter was held open to allow the Respondent to obtain and submit additional evidence. On January 13, 2005, however, Counsel for the Respondent advised that the evidence would not be available any time soon and, therefore, would not be submitted. Accordingly, the hearing record closed at that time. (See Hearing Transcript at 80-81 and 85.)

2. Patient names were redacted from page 76 of the Hearing Transcript and the Condensed Hearing Transcript by the hearing examiner post-hearing.

### **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. Evan Laythe Sykes, D.O., testified that he had received his Doctor of Osteopathic Medicine degree in May 2001 from the Pikeville School of Osteopathic Medicine Hospital in Pikeville, Kentucky. Dr. Sykes further testified that, from 2001 through 2002, he had completed an internship at Pikeville Methodist Hospital in Pikeville. In 2002, Dr. Sykes entered a family practice residency at that same institution. (Hearing Transcript [Tr.] at 10-11, 19-20). Dr. Sykes testified that Pikeville, Kentucky, has a population of between 6,000 and 7,000. Dr. Sykes further testified that Pikeville Methodist Hospital has 268 beds, although there are usually only seventy or eighty in use at one time. (Tr. at 47-48).
2. In or about June 2003, Dr. Sykes submitted to the Board an Application for Training Certificate. Subsequently, on June 27, 2003, the Board sent to Dr. Sykes an Acknowledgement of Application for Training Certificate and, by letter dated October 29, 2003, advised Dr. Sykes that a training certificate had been issued to him for the period July 1, 2003, through June 30, 2004. (State's Exhibit [St. Ex.] 2 at 3, 14, 16).

Further, on or about March 5, 2004, Dr. Sykes signed and submitted to the Board an application for renewal of his training certificate. (St. Ex. 2 at 2). Finally, on or about March 10, 2004, the Board received from Dr. Sykes an Application for Certificate – Medicine or Osteopathic Medicine [License Application]. (St. Ex. 3).

3. In both his Application for Training Certificate and his License Application, Dr. Sykes answered “Yes” to several questions in the “Additional Information” questionnaires, and provided written explanations for those affirmative responses. These included the following:

- Dr. Sykes answered “Yes” to the question,

Have you ever resigned from, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical school, clinical clerkship,

externship, preceptorship, residency, or graduate medical education program?

(St. Ex. 2 at 7; St. Ex. 3 at 6). Dr. Sykes provided similar written explanations for this answer in both applications. (St. Ex. 2 at 8; St. Ex. 3 at 10). For example, in his License Application, Dr. Sykes advised,

On March 25, 2003, I was asked to appear before the head of human resources and my director of medical education. This meeting was held in order to inform me that it had come to their attention that I had been writing some controlled drug prescriptions to a few choice people outside the realm of my residency program. It was at that time I was placed on suspension until otherwise notified. Approximately two weeks later (April 10<sup>th</sup>), I was brought before the same company and notified of my termination both as a resident and employee of [the Family Practice Residency Program at] Pikeville Methodist Hospital (PMH). I was also informed that my contract with the hospital would not be considered for renewal.

(St. Ex. 3 at 10).

- Dr. Sykes also answered “Yes” to the question, “Have you ever transferred from one graduate medical education program to another?” (St. Ex. 2 at 7; St. Ex. 3 at 6). In his License Application, Dr. Sykes advised,

After the previously mentioned event, I began searching the Appalachia area for another training program. I spoke with the DME of the training program at Selby General Hospital in Marietta, OH, and he agreed to allow me to transfer with certain restrictions. I was given contracts for only three months’ duration in order to protect the hospital in case legal action was taken. Up to this point, there has been no legal or administrative action placed against me. Therefore, I have been training in family practice with an Ohio training license at Selby General Hospital [as a PGY-2] since 8/1/03.

(St. Ex. 3 at 10).

4. In his application for renewal of his training certificate, Dr. Sykes answered “Yes” to the question,

At any time since signing your last application for renewal of your training certificate, have you \* \* \* [b]een notified by any board, bureau, department, agency, or other governmental body including those in Ohio, other than this

board, of any investigation concerning you, or any charges, allegations, or complaints filed against you?

(St. Ex. 2 at 2). In a subsequent letter, Dr. Sykes informed the Board that he is a licensed pharmacist in the State of Kentucky. Dr. Sykes further informed the Board that the Kentucky Board of Pharmacy had “conducted a brief investigation into [his] case and determined that [his] license should be revoked.” Furthermore, Dr. Sykes advised that he had entered into negotiations with the Kentucky Board of Pharmacy concerning an agreed order. (St. Ex. 3 at 10; St. Ex. 5). At hearing, Dr. Sykes testified that he is continuing to negotiate with the Kentucky Board of Pharmacy concerning his pharmacy license in that state. (Tr. at 71-75).

5. In his license application, Dr. Sykes informed the Board that, on July 3, 2003, he had received notice from the Kentucky Board of Medical Licensure that his residency training certificate in that state had been cancelled based upon his termination from the residency program at Pikeville Methodist Hospital. (St. Ex. 3 at 10; St. Ex. 4).
6. Investigator George D. Henderson testified on behalf of the State. Investigator Henderson testified that he is an Enforcement Investigator for the Board. Investigator Henderson stated that, during the course of his duties, he had had occasion to interview Dr. Sykes. Investigator Henderson further testified that, during that interview, Dr. Sykes had told him that, in late 2002, while Dr. Sykes was participating in the family practice residency at Pikeville Methodist Hospital, two men that he knew had approached him. The two men stated that they were addicted to hydrocodone, the generic name for Lorcet, which is a controlled, scheduled drug. The two men further stated that each of them had been taking thirty to forty pills each day. The two men also told Dr. Sykes that they did not have any insurance or other means to pay for a doctor. They asked Dr. Sykes to provide hydrocodone to them. (Tr. at 37-38).

Investigator Henderson further testified that Dr. Sykes had told him that Dr. Sykes had examined the two men and noted that they had some spinal problems. Dr. Sykes decided to provide hydrocodone to them in an attempt to help wean them from the hydrocodone. Investigator Henderson stated that Dr. Sykes had written prescriptions for the two men, despite the fact that neither man was a patient in Dr. Sykes’ family practice residency. Moreover, Dr. Sykes did not keep medical records regarding his prescribing. Dr. Sykes further told Investigator Henderson that Dr. Sykes had written between fifteen to twenty prescription for each man over a three or four month period. In addition, Dr. Sykes told Investigator Henderson that Dr. Sykes had written prescriptions for hydrocodone to two or three other individuals; the intention was that those individuals would fill the prescriptions but give the drugs to the two men. (Tr. at 38-39).

Investigator Henderson added that Dr. Sykes had told him that, at some point, the two men told Dr. Sykes that they had weaned themselves down to six pills per day. At that point, Dr. Sykes told them to stop taking the drugs. Dr. Sykes later discovered that one of the men had been taken to the hospital with seizures. Dr. Sykes had further told Investigator Henderson that, afterwards, Dr. Sykes had suspected that the two men had not been honest with him. Dr. Sykes stated that he had written one more prescription and told them to find another physician. Nevertheless, subsequently, the men called to say that they had lost their prescription. Dr. Sykes drove to their house, walked in unannounced, and found one of the men passed out on the floor. Dr. Sykes advised Investigator Henderson that he had terminated the relationship at that time. (Tr. at 39).

Moreover, Investigator Henderson testified that he had learned that Dr. Sykes' residency program had discovered Dr. Sykes' prescribing for the two men after one of the prescriptions was filled at the hospital's pharmacy. When the prescription was presented, the hospital pharmacist realized that the recipient was not a patient being treated in any of the hospital's residency programs. The hospital pharmacist informed Dr. Sykes' superiors. As a result, Dr. Sykes was suspended from the program and subsequently terminated. (Tr. at 40).

Finally, Investigator Henderson testified that Dr. Sykes had been cooperative. He added that it had not appeared that Dr. Sykes had tried to shade the truth to make himself look better. (Tr. at 43).

7. With regard to the conduct that gave rise to this action, Dr. Sykes testified that, sometime around late August 2002, a long-time friend [the "Son"] from Dr. Sykes' home town had approached Dr. Sykes and advised that he and his father [the "Father"] had become addicted to hydrocodone, and that they used it in large quantities. Dr. Sykes stated that the Son had told Dr. Sykes that he and his Father had been addicted to hydrocodone off and on for almost twenty years. (Tr. at 14-15).

Dr. Sykes further testified that the Son had asked if Dr. Sykes could help them get off the medication. Dr. Sykes told the Son that he would do what he could to find them a treatment program, but the Son responded that they did not have the financial means to pay for treatment. The Son further advised Dr. Sykes that "[t]hey actually had been selling things out of their home in order to buy the medications illegally off of the streets." Dr. Sykes testified that the Son had asked if Dr. Sykes would write prescriptions for them "here and there" to help them "get off" the medication. Dr. Sykes testified that he had not given an answer at that time, but had told the Son that he would meet with them both to discuss it further. (Tr. at 14-15).

Dr. Sykes further testified that, a few days later, he had met the Son and the Father at their home. Moreover, Dr. Sykes testified that he had done a quick, head-to-toe,

musculoskeletal examination on the Son and the Father at that time. Dr. Sykes testified that he had diagnosed them as suffering from “lumbosacral somatic dysfunction with unilateral radiculopathy in one and bilateral radiculopathy in the other.” Furthermore, Dr. Sykes testified that, previously, as a medical student, he had seen the father and son’s medical records while Dr. Sykes was working with their physician; therefore, Dr. Sykes had known that the two men had legitimate medical problems. (Tr. at 15, 57-58).

Dr. Sykes testified,

And what possessed me to go ahead and decide that I would supplement—that’s a bad word, to help them with their addiction, to wean from the problem, I really can’t—I can’t explain that other than just the compassion that—that I have for people with problems such as that and others.

And the fact that the son was crying, and it seemed very credible that they had a legitimate problem; that they had initially started—or they were initially being treated for a legitimate problem. And I decided at that point that I would supplement or try to give them a prescription here and there to try to get them down from this high quantity that they were taking per day, which was in excess of 20 and 30 tablets a day.

(Tr. at 15-16).

Dr. Sykes estimated that he had provided each the Son and the Father with about twenty to twenty-five Lortab prescriptions over a four-month period; Dr. Sykes stated that he “did not keep track of the exact quantity.” Dr. Sykes further testified that he had also written prescriptions for Valium for the Son and the Father “for the withdrawal symptoms that they were having from cutting down the medication.” (Tr. at 16-17).

8. Dr. Sykes testified that he had also written prescriptions to two or three additional friends of Dr. Sykes’, as well as to two or three friends of the Son and the Father, in order to procure hydrocodone for the Son and the Father. Dr. Sykes testified that, when he had prescribed medication to his own friends as third parties, Dr. Sykes’ friends had filled the prescriptions and given the medication to Dr. Sykes; then Dr. Sykes gave the medication to the Son and the Father. However, when Dr. Sykes prescribed medication to the third-party friends of the Son and the Father, Dr. Sykes had not acted as the intermediary. The friends of the Son and the Father filled the prescriptions and, Dr. Sykes believed, gave the medication to the Son and the Father. Dr. Sykes testified that he had issued no more than two prescriptions each to his friends and the friends of the Son and the Father. Finally, Dr. Sykes testified that he had known that it is wrong to prescribe controlled substance medication to third parties with the intention that the medication would be given to someone else. (Tr. at 17-18, 23-24, 54-55).

Dr. Sykes explained his rationale for having involved third parties, by stating that the Father and the Son had been taking twenty to thirty pills each day. Therefore, a prescription for only “120 tablets, which was normally what was written, does not go a very long way.” Dr. Sykes further explained that it had been necessary for him to involve third parties because the State of Kentucky had instituted a program, called KASPER, that allowed pharmacies and the Kentucky Boards to track controlled substance prescriptions using patients’ Social Security numbers. Therefore, Dr. Sykes had prescribed medications in the names of others so that the KASPER system would not detect the number of prescriptions Dr. Sykes had been writing for the Son and the Father. Dr. Sykes acknowledged that he had been aware of the KASPER program, in part, because he had held a license to practice pharmacy in the State of Kentucky. (Tr. at 17).

9. Dr. Sykes testified that, when the Son and the Father had needed more medication, they had gone the Pikeville Methodist Hospital where Dr. Sykes was doing his residency. They had Dr. Sykes paged, and Dr. Sykes went to the hospital lobby to give them completed prescriptions. Dr. Sykes further testified that he had obtained the prescription pads that he used to write the prescriptions to the Son and the Father by taking them from the emergency department at Pikeville Methodist Hospital. Dr. Sykes acknowledged that he had not kept medical records for the Son or the Father. Dr. Sykes further acknowledged that they had not been patients of the Pikeville Methodist Hospital residency program. (Tr. at 16, 21, 34).
10. Dr. Sykes testified that, during the period relevant to this matter, he had held a Kentucky training certificate that had allowed him to work outside of his residency program. Dr. Sykes further testified that a Kentucky training certificate also allows the holder to obtain DEA registration, which Dr. Sykes did. However, Dr. Sykes also testified that the work done by a training certificate holder outside a residency program must take place in a facility that is approved by the training certificate holder’s Director of Medical Education. Dr. Sykes acknowledged that the prescribing that he had done on behalf of the Son and the Father had not been approved by the Director of Medical Education at his residency program. (Tr. at 20).
11. Dr. Sykes testified that he had always signed the prescriptions for the Son and the Father using his own name and DEA number. (Tr. at 52-53). Dr. Sykes further testified that he had earned no remuneration as a result of his prescribing. (Tr. at 58-59).
12. Dr. Sykes acknowledged that he had not known whether the Son and the Father had continued to buy drugs on the street. Dr. Sykes further acknowledged that he had had no idea what the Son and the Father had actually done with the drugs Dr. Sykes prescribed; he had simply believed what they told him. Moreover, when asked if he had ever considered the possibility that the Son and the Father may have been selling the drugs, Dr. Sykes

replied that he had known that it was a possibility, but that no one had reported to him that the Son or the Father had been doing so. (Tr. at 69-70, 76-77).

Further, Dr. Sykes testified that, in prescribing to the Son and the Father, he had not been trying to supplement what they purchased on the street. He had instead intended that that the drugs he prescribed take the place of what they had been purchasing on the street prior to the time Dr. Sykes agreed to write the prescriptions. However, Dr. Sykes acknowledged that he had not actually known if the Son and the Father had ceased buying drugs on the street. Moreover, Dr. Sykes testified that he had assumed that the Son and the Father had continued to receive medication from their physician. Dr. Sykes stated that he had intended that his prescriptions would supplement that physician's authorized prescriptions. (Tr. at 50-51). Finally, Dr. Sykes acknowledged that he had known that what he was doing was wrong. (Tr. at 70).

13. Dr. Sykes testified that he had not prescribed Lortab to the Son and the Father for injury or for pain. He had done so “[o]nly for purposes of weaning [them] from their addiction.” (Tr. at 21-22).
14. Dr. Sykes acknowledged that, on approximately four or five occasions, the Son or the Father reported that he had lost one of Dr. Sykes' prescriptions. Dr. Sykes stated that, when the Son or the Father reported that he had lost a prescription, Dr. Sykes “would write another one.” Dr. Sykes testified that he had had no training concerning drug-seeking patients either as a pharmacist or in medical school. (Tr. at 67-68).
15. Dr. Sykes testified that he is not aware how his residency program had learned of his out-of-residency prescribing. Nevertheless, Dr. Sykes testified that, approximately one month after he had ceased prescribing controlled substances for the Son and the Father, the Director of Medical Education had told him that such prescribing had been inappropriate. Dr. Sykes testified that, two or three hours later, he was informed that he had been placed on suspension pending further investigation. Moreover, Dr. Sykes testified that, approximately two weeks after that, he was terminated from the residency program. (Tr. at 24-26).
16. After his termination from the residency program at Pikeville Methodist Hospital, Dr. Sykes was accepted into a residency program at Selby General Hospital in Marietta, Ohio. Accordingly, Dr. Sykes applied for and obtained an Ohio training certificate. (St. Ex. 2 at 3). However, Dr. Sykes further testified that, although he had started that residency, he is no longer participating in it. Dr. Sykes explained that, in July 2004, he had been advised that his residency contract would not be renewed. Dr. Sykes was later told that his contract had not been renewed because Pikeville Memorial Hospital had not sent information regarding him to the American Osteopathic Association in a timely

manner; therefore, he had not received the credit he needed to continue in the new program. Dr. Sykes testified that, consequently, other residents at Selby General Hospital had received their choices of rotations ahead of Dr. Sykes and there had been no rotations available for Dr. Sykes. (Respondent's Exhibit [Resp. Ex.] A; Tr. at 29-30).

Dr. Sykes testified that Selby General Hospital had been aware of his residency at Pikeville Methodist Hospital, and the reasons for his termination from that residency. (Tr. at 30). Dr. Sykes further testified that he had had "acceptable and above" evaluations from all of his preceptors at both Pikeville Methodist Hospital and Selby General Hospital. (Tr. at 64). However, information provided to the Federation Credentials Verification Service by Pikeville Methodist Hospital indicates that Dr. Sykes had been placed on probation during the last three months of his internship "due to lack of performance and availability to his preceptors," and a negative report by the emergency medicine preceptor "for poor availability, limited time on service, decrease [sic] motivation." (St. Ex. 3 at 34-35).

17. Dr. Sykes testified that residents at Selby General Hospital also work in nearby West Virginia. Dr. Sykes further testified that, for that reason, he had applied for a license in West Virginia. However, as noted in a November 4, 2004, West Virginia Board of Osteopathy Order Denying Application for License, when Dr. Sykes lost his residency position at Selby General Hospital, the West Virginia Board of Osteopathy deemed the matter to be moot and denied Dr. Sykes' application. (Resp. Ex. D; Tr. at 64-65).
18. Dr. Sykes testified that he had prescribed controlled substance medications to the Son and the Father because he is a very compassionate person, and it is hard for him to say, "No." Dr. Sykes further testified that he had originally intended to issue only occasional prescriptions to the Son and the Father. Dr. Sykes testified, "I thought, 'Where is the harm there?' Because physicians do that all the time, they really do. I see it. I've seen it." Dr. Sykes said that that is why he had not thought that it would be a big problem but admitted that, after four months, he had been "just caught up in it." (Tr. at 31).

Dr. Sykes testified that he had thought that he had been doing the Son and the Father some good "[s]imply by getting them away from the medication." When asked how he had been getting them away from the medication, Dr. Sykes replied, "By taking them down from \* \* \* twenty and thirty pills a day." When asked how he had been cutting down their medication when they may have been obtaining an unknown quantity of the same medication from the street, Dr. Sykes replied,

It was a large assumption on my part. \* \* \* I can be very naïve at times, and I could only assume—of course, I made phone calls to them asking how they were doing, how many pills were they down to now. And there was,

at one point, where one of them had ended up in the hospital because of seizures. And come to find out, through the records, stated that he had tried to just go cold turkey off the medication.

\* \* \*

I thought I was doing them justice and really trying to get them off the medication, but there was no direct supervision. I wasn't handing them the medication saying, 'This is all you can take today, and then we'll go down next week,' and blah, blah, blah. I didn't do that because, you know, I had a job that required me to be there all the time.

(Tr. at 32-33).

19. Dr. Sykes testified that he had not felt that he had had the means to monitor the Son and the Father. However, Dr. Sykes testified, "there were times where I would just check up on them at their home, at least once a month, but I placed phone calls fairly often to see how they were doing." Dr. Sykes testified that it was not until his last visit to their home that he had detected anything wrong. Dr. Sykes testified that, on that visit, he had found the Son "passed out on the floor," and the Father "[not] a whole lot better[.]" Dr. Sykes further testified that, after he had found the Son passed out on the floor, Dr. Sykes had realized that the Son and the Father had not been "adhering to the regimen or the treatment that [Dr. Sykes] was trying to give them" and that "if they can't help themselves, [he] can't help them either." Dr. Sykes testified that he ceased prescribing to them after that incident. (Tr. at 52).

20. Dr. Sykes acknowledged that, with "[h]indsight," he can see that he should never have started prescribing medication to the Son and the Father. When asked why not, Dr. Sykes replied that it has taken a "harsh and long toll" on Dr. Sykes' family. (Tr. at 55). When asked about the Son and the Father, and whether he believes that they had suffered because of his conduct, Dr. Sykes replied,

I don't think they have—I don't think they have suffered, no. They have suffered only if they had been lying to me the whole time because when this was all over, it was all over cold turkey, and they—the long-term suffering from their addiction, they will suffer the rest of their lives.

So I take that back. Yes they will. They will suffer the rest of their lives just for the addiction alone.

(Tr. at 56). When asked if his prescribing had perpetuated the Son's and the Father's addictions, Dr. Sykes testified that he had "maintained it at a certain degree, hoping to lower that degree, yes." (Tr. at 56).

21. Dr. Sykes testified that, during the time that he had prescribed medication to the Son and the Father, no one had contacted him to ask him why he had been writing those prescriptions. Dr. Sykes further testified, “And that’s probably one of the reasons why it may have gone on so long, because I didn’t know that any eyebrows were being raised.” Nevertheless, Dr. Sykes testified that he does not need an outsider to tell him that what he did was inappropriate and unprofessional. (Tr. at 59).
22. From November 17 through 19, 2004, Dr. Sykes attended a three-day continuing medical education course at Vanderbilt University Medical Center in Nashville, Tennessee, entitled *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls*. (Resp. Ex. C) In a November 19, 2004, letter to the Board, Anderson Spickard, Jr., M.D., and David T. Dodd, M.D., of the Center for Professional Health, Vanderbilt University Medical Center, described the course,

The content of our course includes components dealing with improving practice management, dealing with problem patients, exploration of personality traits that influence prescribing practices, and critical issues in pharmacological management of patient complaints. Held in a small group format, this course works toward getting physicians to look deeply within themselves to better determine how their own vulnerabilities may lead to problem prescribing.

(Resp. Ex. B). Drs. Spickard and Dodd further stated that Dr. Sykes had attended all sessions of the course and had been an active participant. (Resp. Ex. B). [Note that the State did not have an opportunity to cross-examine the authors of this letter.]

Dr. Sykes testified that he had learned from the course that it is “really hard for [him] to say no.” Dr. Sykes further testified that, in a personality profile, he had scored nine out of nine in the “compassion” section. (Tr. at 30-31). However, Dr. Sykes further testified that, having completed the course, he can now say “No” very easily. In addition, Dr. Sykes testified that he has learned that he cannot prescribe to patients simply because he feels sorry for them, but must “find a legitimate reason to place them on any controlled substance.” (Tr. at 60-62).

23. Dr. Sykes testified that this experience and the knowledge he gained at the CME course will enable him to become a better physician in the future. For example, Dr. Sykes testified,

[T]here are so many patients out there that are in pain, but there are much more—many more patients out there with diabetes, hypertension, et cetera,

and so on, that need to be treated as well. And you can survive and make a living on that alone, and that's what I want to do.

(Tr. at 66).

### **FINDINGS OF FACT**

1. In or about June 2003, Evan Laythe Sykes, D.O., submitted to the Board an Application for Training Certificate in order to participate in a residency program at Selby General Hospital in Marietta, Ohio. Subsequently, on June 27, 2003, the Board sent to Dr. Sykes an Acknowledgement of Application for Training Certificate and, by letter dated October 29, 2003, advised Dr. Sykes that a training certificate had been issued to him for the period July 1, 2003, through June 30, 2004. Further, on or about March 5, 2004, Dr. Sykes signed and submitted to the Board an application for renewal of his training certificate.

On July 9, 2004, Selby General Hospital informed Dr. Sykes that Dr. Sykes' residency contract at that facility would not be renewed, and that his then-current residency contract would expire on August 30, 2004. Dr. Sykes is not currently engaged in a residency training program in Ohio.

In or about March 2004, Dr. Sykes submitted to the Board an Application for Certificate – Medicine or Osteopathic Medicine. That license application is currently pending.

2. In or about 2003, Dr. Sykes was placed on suspension and subsequently terminated from his residency program at Pikeville Methodist Hospital in Pikeville, Kentucky. This action was based on conduct of Dr. Sykes in which he had written a significant number of controlled drug prescriptions to two men who were not patients of his residency program. Moreover, Dr. Sykes had not kept medical records of such prescribing. More specifically, in or around August or September 2002, a friend from Dr. Sykes' hometown contacted Dr. Sykes and told Dr. Sykes that he and his father were addicted to hydrocodone. Dr. Sykes estimated that he had eventually written from fifteen to twenty-five prescriptions for Lortab for each of the two men over a three to four month period.

In addition, Dr. Sykes wrote narcotic prescriptions for two or three other people who were not patients of his residency program, with the understanding that these other people would fill the prescriptions and then give the hydrocodone to the two men from Dr. Sykes' hometown. Further, Dr. Sykes stated that he had written prescriptions for Lortab to three of his own friends, with the understanding that his friends would fill the prescriptions and give Dr. Sykes the Lortab, which Dr. Sykes would then give to the two men from his hometown. Moreover, Dr. Sykes stated that he had written prescriptions for Valium to the

two men from his hometown for withdrawal symptoms. Finally, Dr. Sykes stated that, until in or about February 2004, he had been a licensed pharmacist in Kentucky, and that he had known that writing prescriptions for hydrocodone to the two men outside the scope of his residency program had been wrong.

### CONCLUSIONS OF LAW

1. The conduct of Evan Laythe Sykes, D.O., as set forth in Findings of Fact 2 constitutes “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction 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. Sykes as set forth in Findings of Fact 2 constitutes “[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: Trafficking in Drugs, Section 2925.03, Ohio Revised Code.
3. The conduct of Dr. Sykes as set forth in Findings of Fact 2 constitutes “[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: Illegal Processing of Drug Documents, Section 2925.23, Ohio Revised Code.
4. The conduct of Dr. Sykes as set forth in Findings of Fact 2 constitutes “[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: Deception to Obtain a Dangerous Drug, Section 2925.22, Ohio Revised Code.
5. Dr. Sykes acknowledged that he had known at the time that what he was doing was wrong. Moreover, Dr. Sykes acknowledged that he had prescribed medication to third parties with the intention that the prescriptions be filled and the medication given to Dr. Sykes’ addicted friend and the addicted friend’s father. Accordingly, as set forth in Findings of Fact 2, the conduct of Dr. Sykes constitutes a failure to furnish satisfactory proof of good moral character as required by Sections 4731.291 and 4731.08, Ohio Revised Code.

\* \* \* \* \*

The evidence reveals that Dr. Sykes engaged in criminal conduct being fully aware that his conduct was wrong. More importantly, however, Dr. Sykes’s testimony reveals that he is oblivious as to the severity of poor judgment that he utilized in his interactions with these two individuals. It is true that Dr. Sykes has been fairly honest with the Board concerning his

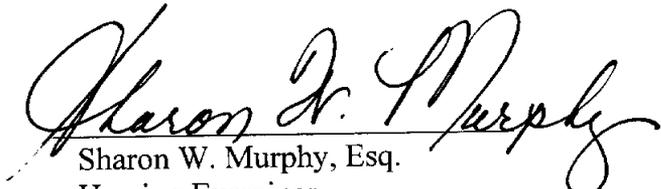
misconduct. It is also true that, on his own accord, he attended a continuing medical education course on the subject of prescribing controlled substances. Nevertheless, in considering Dr. Sykes' testimony as a whole, it is evident that, even after participating in that course, he does not comprehend how serious and potentially harmful his conduct has been. For that reason, it is unlikely that Dr. Sykes would be amenable to reeducation.

**PROPOSED ORDER**

It is hereby ORDERED that:

The applications of Evan Laythe Sykes, D.O., for a certificate to practice osteopathic medicine and surgery in Ohio and for renewal of his training certificate are PERMANENTLY DENIED.

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.

.....  
EVAN LAYTHE SYKES, D.O.

Dr. Davidson directed the Board's attention to the matter of Evan Laythe Sykes, D.O. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

Dr. Davidson advised that a motion to admit additional evidence has been submitted by Ms. Albers and was previously distributed to Board members. She asked Mr. Byers whether he had any objection to the admission of the additional evidence. Mr. Byers stated that he did not.

**DR. BUCHAN MOVED TO ADMIT THE ADDITIONAL EVIDENCE, AN AFFIDAVIT SIGNED BY KAY L. RIEVE, ADMINISTRATIVE OFFICER, VERIFYING THAT DR. SYKES DOES HOLD A CURRENT TRAINING CERTIFICATE. MR. BROWNING 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 continued that a request to address the Board has been timely filed on behalf of Dr. Sykes. Five minutes would be allowed for that address.

Dr. Sykes was accompanied by his attorney, Kevin P. Byers.

Mr. Byers stated that, hopefully, the Board members have had the chance to look over the brief objections, as well as the full record in this matter. He at this time deferred to Dr. Sykes.

Dr. Sykes thanked the Board for its time and consideration. Dr. Sykes stated that the recommendations state that Dr. Sykes seems to come across as oblivious as to the severity of his poor judgment when this all occurred. Dr. Sykes stated that nothing could be further from the truth. He knew then and he knows now that, by doing what he did, he not only harmed himself, his family, his reputation and so forth, but by perpetuating an ongoing addiction in these close friends of his, he harmed them as well. At the time he decided to undergo this weaning process, he obviously used poor judgment. It should never have been started to begin with, but their being very close friends of his, he was over compassionate and decided to go through this process. It occurred over a very short period of time – roughly four months. It started and was over with before he knew it. He realized after that time period that he'd been duped, and he took it upon himself to cut all ties with these individuals before it was brought to his attention by any governing body.

Dr. Sykes continued that soon after he was given his training certificate in Ohio, he underwent a CME study at Vanderbilt University that dealt with the prescribing pitfalls of controlled substances. This wasn't just a slide lecture; it was a very intense, introspective course from which he gained a lot of insight into the reasoning behind why he started this to begin with. It was very helpful, a very learning experience, and he thinks that it should become a standard course in every area of medical education.

Dr. Sykes stated that he has learned a great deal from this whole process. He's suffered a lot, as far as family, friends and all his colleagues. He's almost gone into hiding because he's so embarrassed by all this. He swore to the Board that it would never ever hear this from him again. It will never happen again. It can't happen again. The Board will never see his name again. Dr. Sykes pleaded with the Board to allow him to practice medicine, for which he's striven to educate himself for almost 20 years.

Dr. Egner asked whether she could ask a question.

Dr. Davidson stated that there has been a hearing, and the Board can ask clarifying questions.

Dr. Egner noted that Dr. Sykes did a year of internship and then entered into a residency program for family practice. She asked what year he was in when this occurred.

Dr. Sykes stated that this happened when he was a first year resident, a year after his internship.

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

Ms. Albers stated that Dr. Sykes presents a very sympathetic picture today, but it is very important for

Board members to look at the facts in this case. Dr. Sykes' behavior was so egregious that she doesn't know how to address it. How Dr. Sykes could possibly think that by prescribing medication to these people to supposedly wean them off a hydrocodone addiction without keeping any patient records or having any way of knowing what they were doing with this medication, if they were selling it or taking it, is beyond her. Ms. Albers stated that it's even more egregious because Dr. Sykes was a pharmacist. When he involved the other people in his prescribing, including his friends' friends and his own friends, he did so because he knew that in Kentucky prescriptions can be traced by the KASPER system, a program that allows pharmacies and the Kentucky Boards to track controlled substance prescriptions using patients' Social Security numbers.

Ms. Albers stated that, while it's sad to see this happen to a young man at this stage of his career, Dr. Sykes' behavior was so egregious that this Board needs to deny his permanent application and also to revoke his training certificate.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF EVAN LAYTHE SYKES, M.D. MS. SLOAN SECONDED THE MOTION.**

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

Dr. Egner stated that there are three types of people: One that acts appropriately. She believes that, of the young residents who act inappropriately, there are two reasons for doing that. One type is so naïve and so unaware of what they're doing that they get involved in crazy situations that spiral out of control before they know what they're doing. Dr. Sykes would like to believe that he is this type. Dr. Egner stated that she does think that those people are able to improve and should probably keep their licenses.

Dr. Egner continued that there are residents who don't really see many limitations upon themselves. They take chances. They may do things beyond their level, and the Board members have all seen this. If that is the type of resident Dr. Sykes is, that he just felt that he could do this, he knew the system, then he has gone way beyond what he should with a medical license, and that license needs to be taken away.

Dr. Egner commented that she remembers a case when she was first on the Board where two podiatrists fresh out of training got caught shipping drugs into the state prison. They were canning the drugs. Dr. Egner stated that she remembers that when she read that testimony, she thought, "my gosh, what kind of guys are these?" Then they showed up at the Board meeting and they looked like they could be her sons. They were the most normal-looking kids. Unfortunately for them, early in their career, they did something so outlandish that it was over the line. If Dr. Sykes did this with more knowledge than he portrays, it is over the line and he shouldn't have a license.

Dr. Egner stated that she would like to hear other Board members' opinions of where Dr. Sykes falls in this.

Dr. Kumar stated that Dr. Egner raises a good question. He stated that he has thought about this case a lot. There are two things that tell him that, in some aspects, Dr. Sykes is over the line. One is the fact that he knew very well that he was doing something wrong when he wrote the prescriptions in different names for different people because he was concerned about the fact that he would be picked up by Kentucky's KASPER system. Dr. Sykes was aware of the fact that there's a system that tracks this type of thing, and if he gets caught he's in trouble. Dr. Kumar stated that he doesn't think that this is an innocent mistake where Dr. Sykes got caught in the process. He was at the time trying to go around the issue as well.

Dr. Kumar stated that the second thing that sort of bothered him is that Dr. Sykes claims, even today, that he reported before any authorities caught up to him. Dr. Kumar stated that he thinks that, to some degree, that is incorrect as well because the residency people caught up with the process first. They are the ones that took him to task and told him to stop doing all these things. They even suspended him for that purpose. Dr. Kumar indicated that Dr. Sykes did not initially volunteer this information. These two things tell him that Dr. Sykes was aware of what was going on. He tried to skirt the issue and was hoping that he wouldn't get caught. He avoided the KASPER system, hoping that he wouldn't get caught.

Mr. Browning agreed with Dr. Kumar. He added that the fact that Dr. Sykes was a pharmacist doesn't help his case. He was aware of the processes and laws to a greater degree than he might otherwise be. Mr. Browning stated that his only question is whether or not this is a capital crime and whether the Board should take someone out at the very beginning of his career for a very bad mistake. There's obviously an argument that that's exactly what the Board should do. Mr. Browning stated that he thinks that Dr. Sykes knew what he was doing when he did it.

Ms. Lubow reminded the Board that the additional evidence it admitted earlier in the discussion indicates that Dr. Sykes does currently hold a training certificate in Ohio.

**DR. BUCHAN MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF EVAN LAYTHE SYKES, M.D. TO SUBSTITUTE AN ORDER PERMANENTLY REVOKING DR. SYKES' TRAINING CERTIFICATE AND PERMANENTLY DENYING DR. SYKES FULL LICENSURE. DR. BHATI 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.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF EVAN LAYTHE SYKES, D.O. 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.



# State Medical Board of Ohio

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August 11, 2004

Evan Laythe Sykes, D.O.  
c/o Selby General Hospital  
Medical Education Department  
1106 Colegate Drive  
Marietta, Ohio 45750

Dear Doctor Sykes:

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

- (1) You currently hold an active training certificate to practice osteopathic medicine and surgery, and in or about March 2004, you submitted to the Board an Application for Certificate – Medicine or Osteopathic Medicine. Your license application is currently pending.
- (2) In the materials you submitted to the Board when applying for your training certificate and/or your full license, and/or during your interview by a Board investigator and/or your subsequent deposition by a representative of the Board, you stated that in or about 2003, you were placed on suspension and subsequently terminated from your residency program at Pikeville Methodist Hospital in Pikeville, Kentucky, after you admitted to the head of human resources and your director of medical education that you had been “writing a significant number of controlled drug prescriptions to people outside the realm of [your] residency program and that there was no proper documentation for such.” You further stated that in or around August or September 2002, you were contacted by a friend from your hometown, who told you that he and his father were addicted to hydrocodone. Although the two men were not patients of your residency program, you wrote prescriptions to them for hydrocodone (Lortab). You also stated you did not keep any medical records, and you variously estimated that you wrote 15 to 25 prescriptions for Lortab, for each of the two men, over a three to four month period.

In addition, you stated that you also wrote narcotic prescriptions for two or three other people who were not patients of your residency program, with the understanding that these other people would fill the prescriptions and then give the hydrocodone to the two men from your hometown. You further stated that you had written prescriptions for Valium to the two men from your hometown, for withdrawal symptoms. In addition, you stated that you wrote prescriptions for Lortab to three of your own friends, with the understanding that your friends would fill the prescriptions, and give you the Lortab,

*Mailed 8-12-04*

which you would then give to the two men from your hometown. You also stated that from in or about 1995 through in or about February 2004, you were a licensed pharmacist in Kentucky, and you knew that writing prescriptions for hydrocodone to the two men outside the scope of your residency program was wrong.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction 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, your acts, conduct, and/or omissions as alleged in paragraph (2) 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: Trafficking in Drugs, Section 2925.03, Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) 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: Illegal Processing of Drug Documents, Section 2925.23, Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) 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: Deception to Obtain a Dangerous Drug, Section 2925.22, Ohio Revised Code

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Sections 4731.291 and 4731.08, 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 days of the time of mailing of this notice.

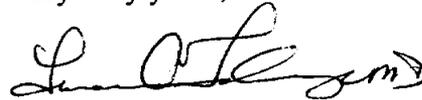
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at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

In the event that there is no request for such hearing received within thirty 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 osteopathic 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 3163  
RETURN RECEIPT REQUESTED

Duplicate Mailing: Evan Laythe Sykes, D.O.  
1203-A County House Lane  
Marietta, Ohio 45750

CERTIFIED MAIL # 7000 0600 0024 5144 3170  
RETURN RECEIPT REQUESTED

cc: John Kevin West, Esq.  
McCoy, West, Franklin & Beal  
309 North Broadway  
P.O. Box 1660  
Lexington, Kentucky 40588-1660

CERTIFIED MAIL # 7000 0600 0024 5144 3194  
RETURN RECEIPT REQUESTED