



State Medical Board of Ohio

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

October 11, 2006

James Curtis Dilday, M.D.
P. O. Box 72099
Tuscaloosa, AL 35407

Dear Doctor Dilday:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Christopher B. McNeil, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 11, 2006, 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 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 an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with 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

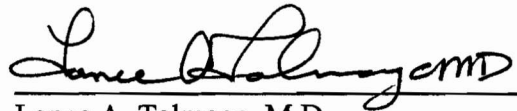
CERTIFIED MAIL NO. 7003 0500 0002 4330 1095
RETURN RECEIPT REQUESTED

Mailed 10-12-06

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Christopher B. McNeil, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 11, 2006, 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 James Curtis Dilday, M.D., 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)

October 11, 2006

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

JAMES CURTIS DILDAY, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on October 11, 2006.

Upon the Report and Recommendation of Christopher B. McNeil, 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 training certificate of James Curtis Dilday, M.D., is PERMANENTLY REVOKED.

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

(SEAL)



Lance A. Talmage, M.D.
Secretary

October 11, 2006
Date

**REPORT AND RECOMMENDATION
IN THE MATTER OF JAMES CURTIS DILDAY, M.D.**

The Matter of James Curtis Dilday, M.D., was heard by Christopher B. McNeil, Esq., Hearing Examiner for the State Medical Board of Ohio, on August 29, 2006.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated May 10, 2006, the State Medical Board of Ohio [Board] notified James Curtis Dilday, M.D., that it proposes to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register, or reinstate Dr. Dilday's training certificate, or to reprimand him or place him on probation. The Board based its proposed action on a prior action against Dr. Dilday by the Arkansas Medical Board [Arkansas Board]. The Board alleged that the action of the Arkansas Board constitutes "action[]" taken by the agency responsible for regulating the practice of medicine and surgery . . . in another jurisdiction, for any reason other than the nonpayment of fees [including] the limitation, revocation, or suspension of an individual's license to practice" as that clause is used in R.C. 4731.22(B)(22). Upon stating the bases for the Board's proposed action, the Board advised Dr. Dilday of his right to a hearing. (State's Exhibit [St. Ex.] 1A).
- B. The Board received a written hearing request from Dr. Dilday on May 17, 2006. (St. Ex. 1B).

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Damion M. Clifford, Assistant Attorney General.
- B. On behalf of the Respondent: Dr. Dilday, having been apprised of his right to be present at the hearing and the right to be represented by counsel, did not personally appear at the hearing but did submit documents in support of his cause.

EVIDENCE EXAMINED

I. Testimony Heard

There was no testimony presented, but the State did present the exhibits identified below, including documents submitted for the Board's consideration by Dr. Dilday.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1I: Procedural exhibits.
2. State's Exhibit 2: Certified copies of documents pertaining to Dr. Dilday maintained by the Arkansas Board.

B. Presented by the Respondent

1. Respondent's Exhibit A: Copy of a fax transmission sent to AAG Clifford from Dr. Dilday – 11 pages originally from the University of Cincinnati College of Medicine, Department of Psychiatry.
2. Respondent's Exhibit B: Copy of an email transmission sent to AAG Clifford from Dr. Dilday dated August 21, 2006.
3. Respondent's Exhibit C: Copy of an email transmission sent to AAG Clifford from Dr. Dilday dated August 23, 2006.
4. Respondent's Exhibit D: Copy of an undated attachment to an email transmission sent by Dr. Dilday to AAG Clifford, originally from Dan Larson.
5. Respondent's Exhibit E: Copy of an email transmission sent to AAG Clifford from Dr. Dilday dated August 28, 2006.

C. Hearing Examiner Exhibits

1. Hearing Examiner's Exhibit 1: Copy of entry of August 20, 2006, reassigning the matter to Christopher McNeil.
2. Hearing Examiner's Exhibit 2: Copy of Journal Entry of August 21, 2006.

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. James Curtis Dilday, M.D., was issued a training certificate by the State Medical Board of Ohio, authorizing him to practice as a resident in a Geriatric Psychiatry Fellowship at the Department of Psychiatry at the University of Cincinnati College of Medicine. (Respondent's Exhibit [Resp. Ex.] A, p. 2) That training certificate expired on July 24, 2006, and has not been renewed. (Resp. Ex. C)
2. Dr. Dilday now resides in Tuscaloosa, Alabama. He is unemployed and has provided an unsworn statement to the Board indicating that he is not currently intending to pursue medical licensure in any state. In this statement, he wrote that he has a Master's degree in Public Health and may use that for further employment, but at the present time he is under the care and treatment of Dr. James Hooper, a Board Certified General and Forensic Psychiatrist.
3. Dr. Dilday reports that over the past four years he has developed symptoms of Post-traumatic Stress Disorder and Generalized Anxiety Disorder. He states that he is not planning to return to Ohio, that he intends to stay in Alabama where his family is, and adds that he has one more son who would like to attend college, who needs Dr. Dilday's help and assistance. (Resp. Ex. C)
4. In an emergency order filed on August 14, 2003, the Arkansas State Medical Board [Arkansas Board] suspended on an emergency basis the license to practice medicine issued by the State of Arkansas to Dr. Dilday. It took this action upon cause to believe the acts of Dr. Dilday endangered the public health, safety and welfare. On June 21, 2004, after extending to Dr. Dilday an opportunity for an administrative hearing, the Arkansas Board revoked Dr. Dilday's license to practice medicine in Arkansas, upon a finding that Dr. Dilday "persistently and flagrantly overcharged for services he did not perform [and] received money for the same[.]" (St. Ex. 2, p. 1) This finding was based on evidence that established that, in entering a no contest plea on behalf of his medical corporation, Dr. Dilday had admitted he fraudulently billed for medical services. The Arkansas Board also noted that Dr. Dilday has made restitution to the insurance companies who paid the bills submitted by Dr. Dilday's medical corporation. (St. Ex. 2, p. 1-2)
5. In addition to finding that Dr. Dilday had violated Arkansas regulations by over-charging for services, the Arkansas Board found Dr. Dilday violated applicable regulations by over-prescribing scheduled medications for his patients; prescribing scheduled medication for his patients for more than six months for pain not associated with malignant or terminal illness without keeping accurate records; and prescribed Schedule II amphetamines and methamphetamines for attention deficit disorder, narcolepsy, or

hyperkineses for a second time for a patient without obtaining a second opinion from a physician confirming the diagnosis and the controlled substance medication prescribed. (St. Ex. 2, p. 2-3)

6. Among the findings of the Arkansas Board, Dr. Dilday was determined to have “exhibited gross negligence and ignorant malpractice in the treatment of [a patient], that is, he failed to treat the [patient’s] depression, ultimately resulting in the suicide of the patient” and “persistently, flagrantly, and fraudulently overcharged for services” to the patient. (St. Ex. 2, Third Amendment to the Amended and Substituted Emergency Order, p. 1) The Arkansas Board also found Dr. Dilday: (1) overcharged another patient \$10,763.00 for services not rendered; (2) submitted \$1,580.00 in claims for services not rendered for another patient; (3) charged \$6,100.24 for another patient without performing services; (4) charged another patient \$7,979.00 without providing services; and (5) entered a plea of no contest, admitting to these fraudulent billing practices, before the Circuit Court of Pulaski County, Arkansas on December 18, 2003. (Id., p. 1-3, and Order of the Arkansas Board approved on June 21, 2004 reflecting proceedings conducted on June 3, 2004.) Similar acts of over-charging and charging for a total of 245 services not performed for eleven patients were described in the documents supporting the Arkansas Board’s revocation order. (St. Ex. 2, Amended and Substituted Emergency Order dated September 3, 2003, and Order of the Arkansas Board approved on June 21, 2004.)
7. The Arkansas Board also found that Dr. Dilday over-prescribed scheduled medication and prescribed scheduled pain medication for a patient for more than six months without complying with state regulations, where those regulations prohibit prescribing scheduled medication for patients for more than six months for pain not associated with malignant or terminal illness. (St. Ex. 2, Second Amendment to the Amended and Substituted Emergency Order, p. 1-2, and Order of Arkansas Board approved on June 21, 2004).
8. The Arkansas Board further found that Dr. Dilday prescribed Schedule II amphetamines and methamphetamines without obtaining a second opinion of the diagnosis for yet another patient and without obtaining a second opinion of the type of scheduled medication, contrary to provisions of the Arkansas Medical Practices Act; that for another patient he prescribed Adderall on numerous occasions in violation of the foregoing rule and without maintaining records showing the monitoring of the progress of this patient; that he over-prescribed Hydrocodone/apap, Methylphenid, Alprazolam, Dexedrine, Ritalin, Ambien, and Clonazepam for a patient without maintaining records showing the monitoring of the progress of the patient; that he over-prescribed Hydrocodone/apap, Alprazolam, and Carisoprodol for four patients without maintaining records showing the monitoring of the progress of the patients; that he over-prescribed Hydrocodone/apap, Dexedrine, Lorazepam, Ambien, and Apap/codeine for a patient without maintaining records showing the monitoring of the progress of the patient; that he over-prescribed Alprazolam, Hydrocodone/apap, Vicoprofen, Carisoprodol, Butorphanol nasal spray, Stadol and Diazepam for a patient without maintaining records

showing the monitoring of the progress of the patient; that he over-prescribed Alprazolam, Ambien, and Temazepam for a patient without maintaining records showing the monitoring of the progress of the patient; and that he over-prescribed amphetamines, Alprazolam, Ambien, and Adderall for a patient without maintaining records showing the monitoring of the progress of the patient. (St. Ex. 2, Amendment to the Amended and Substituted Emergency Order, p. 2-4, and the Order of the Arkansas Board approved on June 21, 2004.)

9. As a result of its findings that Dr. Dilday violated provisions of the Arkansas Medical Practices Act, the Arkansas Board revoked Dr. Dilday's license to practice medicine in Arkansas, effective June 21, 2004. (St. Ex. 2, p. 3)
10. Although he is not currently practicing medicine in Ohio, Dr. Dilday did provide the Board with testimonials in support of his cause. Dr. Dilday presented the undated, unsworn, and unauthenticated statement of Dan Larson, who writes that he spent the last three weeks working with Dr. Dilday, with Dr. Dilday serving as Mr. Larson's preceptor, teaching the fundamentals of clinical psychiatry and how to apply those fundamentals on the wards. The statement reads further: "I can honestly say that no matter how busy he was he could always answer my questions in a satisfactory way. He also made a conscious effort to direct me towards interesting teaching cases that helped reaffirm previously taught points. As a clinician he served as a role model of how to establish strong rapport with patients using a calm, genteel manner. That relationship with the patients helped him to conduct thorough and efficient interviews." (Resp. Ex. D)
11. Also relevant to his work in Ohio, Dr. Dilday offered a "Faculty Evaluation of Resident Performance" from the Geriatric Psychiatry Fellowship at the Department of Psychiatry at the University of Cincinnati College of Medicine. That evaluation, referring to "Kurt Dilday, M.D." (who presumably is Dr. Dilday), shows supervisor ratings by John Kasckow, M.D., Ph.D., rating Dr. Dilday as "above average" in patient care, medical knowledge, and practice-based learning and improvement, and "unusually proficient" in interpersonal and communication skills, professionalism, and systems-based practice. (Resp. Ex. A, p. 2-4) Similar very high ratings were written by Robert Cluxton, Pharm.D. and Muhammed Aslam, M.D. (Id., p. 5-8), and more moderate ratings were supplied by Betsy Furbish, M.D., who nevertheless wrote that Dr. Dilday was "highly motivated," but "needs to catch up on psychopharmaceutical and Medicaid issues." (Resp. Ex. A, p. 9-10) As Dr. Dilday wrote in an email to the State's counsel, these evaluations "attest to the fact that I performed at a high level in this program and some of the written comments regarding the quality of my direct patient care and level of professionalism testify that I was exemplary in these domains of function as a physician."

ANALYSIS

The evidence establishes without controversy that the Arkansas State Medical Board revoked Dr. Dilday's license to practice medicine in Arkansas, and that it did so upon proof of egregious professional misconduct. Because he requested an evidentiary hearing and then elected not to appear at that hearing, Dr. Dilday has deprived the Board of the best opportunity to evaluate evidence that might be considered in mitigation of the charge now pending before the Board. While the Board certainly can take into account that Dr. Dilday is not presently practicing medicine (at least not in Ohio), it can draw little in support of Dr. Dilday's request that the Board not take the same action taken in Arkansas. The record now before the Board makes plain that the professional errors attributed to Dr. Dilday in Arkansas are material, significant, and troubling.

Ultimately the members of the Board determine what sanction is appropriate and in so doing provide a tangible expression of policy – of what kind of violation is sufficiently serious to warrant denying the licensee the further opportunity to practice in Ohio. Here, upon review of that which transpired in Arkansas, and upon reflection of the evidence in mitigation presented through this administrative process, cause has been shown to revoke Dr. Dilday's license. Given the seriousness of the breach of public trust attributed to Dr. Dilday in Arkansas, the revocation in Ohio should be permanent.

FINDINGS OF FACT

1. The State Medical Board of Ohio issued a training certificate to Respondent, James Curtis Dilday, M.D., by which he was authorized to participate in a Geriatric Psychiatry Fellowship at the Department of Psychiatry at the University of Cincinnati College of Medicine. That training certificate expired on July 24, 2006, and has not been renewed.
2. In an order reflecting proceedings conducted on June 3, 2004, and approved on June 21, 2004, the Arkansas State Medical Board revoked Dr. Dilday's license to practice medicine in Arkansas upon findings that Dr. Dilday violated regulations of the Arkansas Medical Practices Act and the regulations of the Arkansas State Medical Board, including regulations which prohibit (a) persistent and flagrant overcharging for services (b) over-prescribing scheduled medication for patients, (c) prescribing scheduled medication for patients for more than six months for pain not associated with malignant or terminal illness without keeping accurate records of such treatment, and (d) prescribing Schedule II amphetamines and methamphetamines for attention deficit disorder, narcolepsy, or hyperkinesis for a second time for a patient without obtaining a second opinion from a physician confirming the diagnosis and the controlled substance medication prescription.
3. Upon notice that the Arkansas Board revoked Dr. Dilday's license to practice medicine in Arkansas, the Ohio Board initiated an investigation and found cause to propose to take action with respect to the certificate issued to Dr. Dilday by the Ohio Board. It set forth a

notice of its proposed action in a letter to Dr. Dilday dated May 10, 2006, which Dr. Dilday received on May 16, 2006. On May 17, 2006, the Board received a written request from Dr. Dilday asking for an evidentiary hearing prior to any final action being taken in response to the Board's charges. The Board set the matter for hearing to commence on May 31, 2006, and then continued the same. After appointing an administrative hearing examiner the Board gave Dr. Dilday the opportunity to present evidence and arguments in support of his cause on August 29, 2006.

CONCLUSIONS OF LAW

1. Because he held a training certificate issued by the State Medical Board of Ohio, the Respondent, James Curtis Dilday, M.D., is subject to the jurisdiction of the Board with respect to that training certificate in actions taken pursuant to R.C. Chapter 4731.
2. Upon sufficient cause to believe the holder of a certificate issued by the State Medical Board of Ohio has violated a provision of R.C. Chapter 4731 or regulations promulgated thereunder, the Board is authorized to take action with respect to that certificate. Upon his receipt of the Board's charging document, the Respondent timely requested an evidentiary hearing before the Board took any final action based upon the Board's charge. Upon its receipt of the Respondent's request for a hearing, the Board set the matter for hearing in the manner provided for by R.C. 119.07 and 119.09 (the Administrative Procedure Act), and provided the Respondent with an opportunity to be heard, all in the manner provided for by law and in accordance with all statutory and constitutional protections afforded to persons possessing such a certificate.
3. The Board may take disciplinary action against a certificate-holder upon sufficient proof that the "agency responsible for regulating the practice of medicine and surgery . . . in another jurisdiction, for any reason other than the nonpayment of fees" revokes the certificate holder's license to practice medicine in that jurisdiction, as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.
4. Where the State establishes by at least a preponderance of the evidence, as is the case here, that the Arkansas State Medical Board revoked Dr. Dilday's license to practice medicine upon the grounds set forth in the foregoing findings of fact, the State has met its burden of establishing a legal basis for taking action against any certificate issued by the Board to Dr. Dilday in Ohio, pursuant to Section 4731.22(B)(22) of the Ohio Revised Code.
5. Upon the foregoing findings of fact and conclusions of law, the Board may limit, revoke or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate, all pursuant to section 4731.22(B) of the Revised Code. Further, when the Board revokes an individual's certificate to practice, it may specify that the action is permanent. An


individual subject to 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. See R.C. 4731.22(L) (2005).

PROPOSED ORDER

It is hereby ORDERED that:

The training certificate of James Curtis Dilday, M.D., is PERMANENTLY REVOKED.

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



Christopher B. McNeil, Esq.
Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 11, 2006

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He 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: James Curtis Dilday, M.D. and German V. Prada, M.D. A roll call was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins 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:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins 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. Robbins advised that Dr. Talmage and Mr. Albert were the Secretary and Supervising Member and must abstain on the Reports and Recommendations scheduled for today.

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

JAMES CURTIS DILDAY, M.D.

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MR. BROWNING MOVED TO APPROVE AND CONFIRM MR. McNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JAMES CURTIS DILDAY, M.D. DR. STEINBERGH SECONDED THE MOTION.

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A vote was taken on Mr. Browning's motion to approve and confirm:

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.



State Medical Board of Ohio

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May 10, 2006

James Curtis Dilday, M.D.
University of Cincinnati College of Medicine
c/o Psychiatry Department
231 Albert Sabin Way ML #0559
Cincinnati, Ohio 45267

Dear Doctor Dilday:

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 training certificate, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about June 21, 2004, the Arkansas State Medical Board [Arkansas Board] entered an Order revoking your license to practice medicine in Arkansas. The Arkansas Board considered, ordered and adjudged that your violations of the Arkansas Medical Practices Act included persistent and flagrant over-charging for services, over-prescribing scheduled medication and prescribing scheduled medication for more than six months for pain not associated with malignant or terminal illness without keeping accurate records to include medical history, physical examination, other evaluations, consultation, treatment plans, objectives and informed consent.

Copies of the Arkansas Board Emergency Order of Suspension and Notice of Hearing dated August 18, 2003; Amended and Substituted Emergency Order and Notice of Hearing dated September 3, 2003; Amendment to the Amended and Substituted Emergency Order and Notice of Hearing dated October 16, 2003; Second Amendment to the Amended and Substituted Emergency Order and Notice of Hearing dated March 25, 2004; Third Amendment to the Amended and Substituted Emergency Order and Notice of Hearing dated April 22, 2004; and Order dated June 21, 2004, are attached hereto and incorporated herein.

The Arkansas Board Order as alleged in paragraph (1) above, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), 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

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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 training certificate, 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,

A handwritten signature in black ink, appearing to read "Lance A. Talmage", with a stylized flourish at the end.

Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4330 8636
RETURN RECEIPT REQUESTED

Samuel A. Perroni
The Perroni Law Firm
1818 North Taylor, #168
Little Rock, Arkansas 72207

CERTIFIED MAIL # 7003 0500 0002 4330 8643
RETURN RECEIPT REQUESTED

BEFORE THE ARKANSAS STATE MEDICAL BOARD

IN THE MATTER OF: JAMES CURTIS DILDAY, M.D.

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EMERGENCY ORDER OF SUSPENSION AND NOTICE OF HEARING

Pursuant to A.C.A. § 25-15-201, and A.C.A. § 25-15-211 both of the Administrative Procedure Act, and A.C.A. § 17-95-410 of the Medical Practices Act, the Arkansas State Medical Board issues the following Emergency Order of Suspension and Notice of Hearing charging James Curtis Dilday, M.D. with the alleged violation of the Medical Practices Act, more specifically by violating A.C.A. § 17-95-409(a)(2)(o), the persistent and flagrant overcharging for services. The allegations upon which the above-charges are based are as follows:

I.

James Curtis Dilday, M.D. is a licensed physician in the State of Arkansas under the provisions of the Medical Practices Act and is practicing as a psychiatrist within the State of Arkansas.

STATE MEDICAL BOARD
OF OHIO
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II.

James Curtis Dilday, M.D. submitted claims for two surgical procedures, that being the direct repair of an Aneurysm on the 21st of March 2001 and the 10th of June 2001 and he received payment from the insurance carrier, Qualchoice of Arkansas, for services rendered to patient "J.T." Patient "J.T." never had any surgical procedures performed by James Curtis Dilday, M.D.

III.

(a) James Curtis Dilday, M.D. submitted thirty-nine (39) billings for sessions with a patient identified as "K.M." to Aetna Insurance. Thirty five (35) of those sessions, patient "K.M."

did not see the physician, James Curtis Dilday, M.D. James Curtis Dilday, M.D. received monies from Aetna Insurance for the said thirty-five (35) sessions.

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(b) James Curtis Dilday, M.D. submitted bills for eight (8) surgical procedures allegedly performed on patient "K.M." Patient "K.M." never received any surgical services from James Curtis Dilday, M.D. Aetna Insurance Company paid on the eight (8) claims for surgical services on patient "K.M." to James Curtis Dilday, M.D.

IV

James Curtis Dilday, M.D. submitted a claim for thirteen (13) office visits and an additional electro convulsive therapy and outpatient encephalopathy for a patient "N.W." when patient "N.W." only saw James Curtis Dilday, M.D. one time. Aetna Insurance paid on said claim.

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V

James Curtis Dilday, M.D. submitted bills to Aetna Insurance for various treatment sessions for patients identified as "N.S." "T.S." and "K.S." and received monies from Aetna for said services. Patients "N.S." "T.S." and "K.S." never received treatment services from James Curtis Dilday, M.D.

VI.

James Curtis Dilday, M.D. submitted billings for sixty (60) sessions for a patient identified as "F.J." and received monies from American Medical Insurance Company for the same. Patient "F.J." only received three (3) treatment sessions from James Curtis Dilday, M.D.

VII.

(a) James Curtis Dilday, M.D. submitted bills for payment to the insurance company of

a patient identified as "V.C." for seven (7) surgical procedures when patient "V.C." received no surgical treatment from James Curtis Dilday, M.D. Blue Cross Blue Shield paid on one of the bills and Mail Handlers Insurance paid on seven (7) of the claims.

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(b) James Curtis Dilday, M.D. billed for forty-nine (49) sessions to the insurance company of patient "V.C." when he only rendered treatment on seventeen (17) occasions. Blue Cross Blue Shield paid said claim for said sessions that were not rendered by James Curtis Dilday, M.D.

VIII.

(a) James Curtis Dilday, M.D. billed for forty-eight (48) treatment visits for a patient identified as "K.D." to the insurance company and received payment for the same. Patient "K.D." only had fifteen (15) patient visits with James Curtis Dilday, M.D.

(b) James Curtis Dilday, M.D. billed for an upper gastrointestinal endoscopy when none was performed and received monies from the insurance carrier Great Western.

IX

James Curtis Dilday, M.D. billed the insurance carrier of a patients identified as "D.R.M." and "K.M." for some sixty-three (63) visits and received payment from an insurance company, Great Western for said billings. Patients "D.R.M." and "K.M." only had nine therapeutic sessions with James Curtis Dilday, M.D.

X.

James Curtis Dilday, M.D. billed for fifteen surgical procedures to a patient identified as "D.M." and received payment from the insurance carrier, Mail Handlers, for said procedures. James Curtis Dilday, M.D. never performed any surgical procedures on patient "D.M."

STATE MEDICAL BOARD
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XI.

James Curtis Dilday, M.D. submitted bills for three surgical procedures to the insurance carriers of patient identified as "R.H." He received payment from the insurance carriers of patient "R.H." although he had never performed any surgical procedures on the patient.

XII.

James Curtis Dilday, M.D. submitted billings for two (2) surgical procedures on a patient identified as "K.P." He received monies from the insurance carrier of patient "K.P." James Curtis Dilday, M.D. never performed any surgical procedures on patient "K.P."

XIII.

James Curtis Dilday, M.D. is facing twenty four (24) felony counts pending in Pulaski County Circuit Court Case CR03-1034. The allegations in the criminal case arise out of the allegations stated hereinabove. Said criminal trial is scheduled for the 7th of October 2003.

XIV.

Pursuant to the Administrative Procedure Act, A.C.A. § 25-15-211(c) and upon an affirmative vote of the majority of the Arkansas State Medical Board, the Board finds that the acts of James Curtis Dilday, M.D. described hereinabove, endangers the public health, safety, and welfare; and therefore the license to practice medicine in the State of Arkansas as heretofore issued to James Curtis Dilday, M.D. is suspended on an emergency basis pending a disciplinary hearing in this matter or further orders of the Board.

WHEREFORE, it is CONSIDERED, ORDERED and ADJUDGED by the Arkansas State Medical Board that the license to practice medicine as issued by the State of Arkansas to James Curtis Dilday, M.D., is suspended on an emergency basis pending further orders of the

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STATE MEDICAL BOARD
OF OHIO

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Board.

IT IS FURTHER ORDERED by the Arkansas State Medical Board that a hearing should be conducted to determine whether James Curtis Dilday, M.D. has violated the Medical Practices Act, as alleged herein; and if it is found that he has, in fact, violated the Medical Practices act, then the Board should determine whether the license of James Curtis Dilday, M.D. to practice medicine in the State of Arkansas should be revoked or suspended or whether other sanctions should be imposed pursuant to the authority granted to the Board in A.C.A. 17-95-410. Said hearing will be conducted at 1:00 pm o'clock on the 3rd day of October, 2003, at the offices of the Arkansas State Medical Board, 2100 Riverfront Drive, Little Rock, Arkansas.

James Curtis Dilday, M.D. is hereby advised that he may be represented by counsel at the hearing, and that he will be given the opportunity to examine all evidence offered to the Board, cross-examine witnesses, and offer evidence and witnesses in his own behalf.

ARKANSAS STATE MEDICAL BOARD

W. Ray Joubert
W. RAY JOUBERT, M.D. CHAIRMAN

DATE

8-18-03

APPROVED AS TO FORM:

William H. Trice, III
WILLIAM H. TRICE, III
ATTORNEY FOR THE ARKANSAS
STATE MEDICAL BOARD

STATE MEDICAL BOARD
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BEFORE THE ARKANSAS STATE MEDICAL BOARD

IN THE MATTER OF: JAMES CURTIS DILDAY, M.D.

**AMENDED AND SUBSTITUTED EMERGENCY ORDER AND
NOTICE OF HEARING**

Pursuant to A.C.A. § 25-15-201, and A.C.A. § 25-15-211 both of the Administrative Procedure Act, and A.C.A. § 17-95-410 of the Medical Practices Act, the Arkansas State Medical Board issues the following Emergency Order and Notice of Hearing charging James Curtis Dilday, M.D. with the alleged violation of the Medical Practices Act, more specifically by violating A.C.A. § 17-95-409(a)(2)(o), the persistent and flagrant overcharging for services. The allegations upon which the above-charges are based are as follows:

I.

James Curtis Dilday, M.D. is a licensed physician in the State of Arkansas under the provisions of the Medical Practices Act and is practicing as a psychiatrist within the State of Arkansas.

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II.

James Curtis Dilday, M.D. submitted claims for two surgical procedures, that being the direct repair of an Aneurysm on the 21st of March 2001 and the 10th of June 2001 and he received payment from the insurance carrier, Qualchoice of Arkansas, for services rendered to patient "J.T." Patient "J.T." never had any surgical procedures performed by James Curtis Dilday, M.D.

III.

(a) James Curtis Dilday, M.D. submitted thirty-nine (39) billings for sessions with a

patient identified as "K.M." to Aetna Insurance. Thirty five (35) of those sessions, patient "K.M." did not see the physician, James Curtis Dilday, M.D. James Curtis Dilday, M.D. received monies from Aetna Insurance for the said thirty-five (35) sessions.

(b) James Curtis Dilday, M.D. submitted bills for eight (8) surgical procedures allegedly performed on patient "K.M." Patient "K.M." never received any surgical services from James Curtis Dilday, M.D. Aetna Insurance Company paid on the eight (8) claims for surgical services on patient "K.M." to James Curtis Dilday, M.D.

IV

James Curtis Dilday, M.D. submitted a claim for thirteen (13) office visits and an additional electro convulsive therapy and outpatient encephalopathy for a patient "N.W." when patient "N.W." only saw James Curtis Dilday, M.D. one time. Aetna Insurance paid on said claim.

V.

James Curtis Dilday, M.D. submitted bills to Aetna Insurance for various treatment sessions for patients identified as "N.S." "T.S." and "K.S." and received monies from Aetna for said services. Patients "N.S." "T.S." and "K.S." never received treatment services from James Curtis Dilday, M.D.

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VI.

James Curtis Dilday, M.D. submitted billings for sixty (60) sessions for a patient identified as "F.J." and received monies from American Medical Insurance Company for the same. Patient "F.J." only received three (3) treatment sessions from James Curtis Dilday, M.D.

VII.

(a) James Curtis Dilday, M.D. submitted bills for payment to the insurance company of

a patient identified as "V.C." for seven (7) surgical procedures when patient "V.C." received no surgical treatment from James Curtis Dilday, M.D. Blue Cross Blue Shield paid on one of the bills and Mail Handlers Insurance paid on seven (7) of the claims.

(b) James Curtis Dilday, M.D. billed for forty-nine (49) sessions to the insurance company of patient "V.C." when he only rendered treatment on seventeen (17) occasions. Blue Cross Blue Shield paid said claim for said sessions that were not rendered by James Curtis Dilday, M.D.

VIII.

(a) James Curtis Dilday, M.D. billed for forty-eight (48) treatment visits for a patient identified as "K.D." to the insurance company and received payment for the same. Patient "K.D." only had fifteen (15) patient visits with James Curtis Dilday, M.D.

(b) James Curtis Dilday, M.D. billed for an upper gastrointestinal endoscopy when none was performed and received monies from the insurance carrier Great Western.

IX

James Curtis Dilday, M.D. billed the insurance carrier of a patients identified as "D.R.M." and "K.M." for some sixty-three (63) visits and received payment from an insurance company, Great Western for said billings. Patients "D.R.M." and "K.M." only had nine therapeutic sessions with James Curtis Dilday, M.D.

X.

James Curtis Dilday, M.D. billed for fifteen surgical procedures to a patient identified as "D.M." and received payment from the insurance carrier, Mail Handlers, for said procedures.

James Curtis Dilday, M.D. never performed any surgical procedures on patient "D.M."

XI.

James Curtis Dilday, M.D. submitted bills for three surgical procedures to the insurance carriers of patient identified as "R.H." He received payment from the insurance carriers of patient "R.H." although he had never performed any surgical procedures on the patient.

XII.

James Curtis Dilday, M.D. submitted billings for two (2) surgical procedures on a patient identified as "K.P." He received monies from the insurance carrier of patient "K.P." James Curtis Dilday, M.D. never performed any surgical procedures on patient "K.P."

XIII.

James Curtis Dilday, M.D. is facing twenty four (24) felony counts pending in Pulaski County Circuit Court Case CR03-1034. The allegations in the criminal case arise out of the allegations stated hereinabove. Said criminal trial is scheduled for the 7th of October 2003.

XIV.

Pursuant to the Administrative Procedure Act, A.C.A. § 25-15-211(c) and upon an affirmative vote of the majority of the Arkansas State Medical Board, and by agreement with James Curtis Dilday, M.D. through his attorney, Sam Perroni, the Board finds that an Emergency Order should be entered. Therefore to protect the citizens of Arkansas, and pursuant to an agreement of the parties reached pursuant to A.C.A. § 17-25-208 (b), the parties have entered into agreement whereby on an emergency basis, pending a disciplinary hearing in this matter or further Orders of the Board:

- (a) From the date of this Order forward, Dr. James Curtis Dilday, M.D. will accept no new patients, unless arising from an Emergency situation requiring emergency

STATE MEDICAL BOARD
OF ARKANSAS
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treatment by Dr. James Curtis Dilday.

- (b) Dr. James Curtis Dilday, M.D. will submit copies of all of his billings to the Medical Board, from this date forward until a disciplinary hearing in this matter.
- (c) Dr. James Curtis Dilday, M.D. will engage only in the practice of his speciality, that is psychiatry.
- (d) Dr. James Curtis Dilday, M.D. in providing information to the Board, will delete the names of the patients, reducing them to initials for identification, and will submit medical records upon reasonable notice for auditing by the Board.

WHEREFORE, it is CONSIDERED, ORDERED and ADJUDGED by the Arkansas State Medical Board that the license to practice medicine as issued by the State of Arkansas to James Curtis Dilday, M.D., is limited on an emergency basis pending the terms of the agreement stated in Paragraph XIV above.

IT IS FURTHER ORDERED by the Arkansas State Medical Board that a hearing should be conducted to determine whether James Curtis Dilday, M.D. has violated the Medical Practices Act, as alleged herein; and if it is found that he has, in fact, violated the Medical Practices act, then the Board should determine whether the license of James Curtis Dilday, M.D. to practice medicine in the State of Arkansas should be revoked or suspended or whether other sanctions should be imposed pursuant to the authority granted to the Board in A.C.A. 17-95-410. Said hearing will be conducted at 2:15 pm o'clock on the 4th day of **DECEMBER**, **2003**, at the offices of the Arkansas State Medical Board, 2100 Riverfront Drive, Little Rock, Arkansas.

James Curtis Dilday, M.D. is hereby advised that he may be represented by counsel at the

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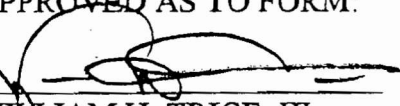
hearing, and that he will be given the opportunity to examine all evidence offered to the Board, cross-examine witnesses, and offer evidence and witnesses in his own behalf.

ARKANSAS STATE MEDICAL BOARD


W. RAY JOUBERT, M.D. CHAIRMAN

9-3-03
DATE

APPROVED AS TO FORM:


WILLIAM H. TRICE, III
ATTORNEY FOR THE ARKANSAS
STATE MEDICAL BOARD

STATE MEDICAL BOARD
OF OHIO
2006 MAY -5 A 10:39

BEFORE THE ARKANSAS STATE MEDICAL BOARD

IN THE MATTER OF: JAMES CURTIS DILDAY, M.D.

**AMENDMENT TO THE AMENDED AND SUBSTITUTED EMERGENCY ORDER
AND NOTICE OF HEARING**

Pursuant to A.C.A. § 25-15-201 and A.C.A. § 25-15-211 both of the Administrative Procedure Act and A.C.A. § 17-95-410 of the Medical Practices Act, the Arkansas State Medical Board issues the following Amendment to its Amended and Substituted Emergency Order and Notice of Hearing dated 03 September 2003 charging James Curtis Dilday with the additional alleged violation of A.C.A. § 17-95-409 (a) (2) (p) that is a violation of a Regulation of the Board, more specifically, Regulation 2.4 that is over-prescribing of scheduled medication for his patients; Regulation 2.6 that is prescribing scheduled medication for his patients for more than six (6) months for pain not associated with a malignant or terminal illness without keeping accurate records to include a medical history, a physical examination, other evaluations, consultations, treatment plans, objectives, and informed consent, all noted in the patient records, along with treatment and medications given, agreements with the patient and periodic review; and a failure to periodically review the course of the scheduled drug treatment; and Regulation 7 that is prescribing Schedule II amphetamines and methamphetamines for attention deficit disorder, narcolepsy or hyperkinesis for a second time for patients without obtaining a second opinion from a physician confirming the diagnosis and the controlled substance prescribed. The allegations upon which the above allegations are based are as follows:

I.

James Curtis Dilday, M.D. practiced medicine in the State of Arkansas under the

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provisions of the Medical Practices Act but does not have an exemption issued by the Board that would permit him to prescribe Schedule II amphetamines and Schedule II methamphetamines without obtaining a second opinion of the diagnosis of his patient and the type of scheduled medication he has prescribed.

II.

James Curtis Dilday, M.D. prescribed Aderall on numerous occasions for a patient identified as "M.W." in violation of Regulation 7, and further he had no records of monitoring the progress of the patient required by Regulation 2.6.

III.

James Curtis Dilday, M.D. from 09 January 2002 to 28 December 2002 over-prescribed the scheduled medications of hydrocodone/apap, methylphenid, alprazolam, dexedrine, ritalin, ambien, and clonazepam for a patient identified as "L.H." He further failed to maintain records of monitoring the condition of the patient as required by Regulation 2.6. He further prescribed medication on more than one occasion in violation of Regulation 7.

IV.

James Curtis Dilday, M.D. from 15 April 2002 to 03 January 2003 over-prescribed the scheduled medications of hydrocodone/apap, alprazolam and carisoprodol for a patient identified as "T.P." He further failed to maintain records of monitoring the condition of the patient as required by Regulation 2.6. He further prescribed medication on more than one occasion in violation of Regulation 7.

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V.

James Curtis Dilday, M.D. from 23 April 2002 to 30 December 2002 over-prescribed the scheduled medications of hydrocodone/apap, alprazolam, ambien and carisoprodol for a patient identified as "D.P." He further failed to maintain records of monitoring the condition of the patient as required by Regulation 2.6. He further prescribed medication on more than one occasion in violation of Regulation 7.

VI.

James Curtis Dilday, M.D. from 15 November 2001 to 18 December 2002 over-prescribed the scheduled medications of hydrocodone/apap, dexedrine, lorazepam, ambien, and apap/codeine for a patient identified as "V.B." He further failed to maintain records of monitoring and condition of the patient as required by Regulation 2.6. He further prescribed medication on more than one occasion in violation of Regulation 7.

VII.

James Curtis Dilday, M.D. from 11 June 2002 to 08 January 2003 over-prescribed the scheduled medications of alprazolam, hydrocodone/apap, vicoprofen, carisoprodol, butorphanol nasal spray, stadol and diazepam for a patient identified as "G.W." He further failed to maintain records of monitoring the condition of the patient as required by Regulation 2.6.

VIII.

James Curtis Dilday, M.D. from 16 January 2002 to 15 November 2002 over-prescribed the scheduled medications of alprazolam, ambien and temazepam for a patient identified as "J.C." He further failed to maintain records of monitoring the condition of the patient as required by Regulation 2.6.

STATE MEDICAL BOARD
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IX.

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James Curtis Dilday, M.D. from 01 February 2002 to 09 November 2002 over-prescribed the scheduled medications of alprazolam, amphetamine combo, ambien and adderall for a patient identified as "S.C." He further failed to maintain records of monitoring the condition of the patient as required by Regulation 2.6.

X.

James Curtis Dilday, M.D. from 29 May 2002 to 28 January 2003 over-prescribed the scheduled medications of hydrocodone/apap, alprazolam and carisoprodol for a patient identified as "K.W." He further failed to maintain records of monitoring the condition of the patient as required by Regulation 2.6.

XI.

James Curtis Dilday, M.D. from 14 June 2002 to 10 January 2003 over-prescribed the scheduled medications of hydrocodone/apap, alprazolam and carisoprodol for a patient identified as "G.E." He further failed to maintain records of monitoring the condition of the patient as required by Regulation 2.6.

WHEREFORE, IT IS CONSIDERED, ORDERED AND ADJUDGED by the Arkansas State Medical Board that the license to practice medicine as issued by the State of Arkansas to James Curtis Dilday, M.D. is limited on an emergency basis as stated in the previous Order of the Board dated 03 September 2003.

IT IS FURTHER ORDERED by the Arkansas State Medical Board that a hearing should be conducted to determine whether James Curtis Dilday, M.D. has violated the Medical Practices Act and the Rules and Regulations of the Board as alleged hereinabove as well as the

allegations contained in the Board's Order of 03 September 2003; if it is found that he has, in fact violated the Medical Practices Act and the Rules and Regulations of the Board as alleged in this Order and the Order of the Board dated 03 September 2003, then the Board should determine whether the license of James Curtis Dilday, M.D. to practice medicine in the State of Arkansas should be revoked or suspended or whether other sanctions should be imposed pursuant to the authority granted the Board in A.C.A. § 17-95-410. Said hearing will be conducted at 9:30am. o'clock on the 3rd day of June 2004 at the Offices of the Arkansas State Medical Board, 2100 Riverfront Drive, Little Rock, Arkansas.

James Curtis Dilday, M.D. is hereby advised that he may be represented by counsel at the hearing and that he will be given the opportunity to examine all evidence offered to the Board, cross-examine witnesses and offer evidence and witnesses in his own behalf.

ARKANSAS STATE MEDICAL BOARD

W. Ray Jouet, M.D.
W. RAY JOUET, M.D., PRESIDENT

10-16-03
DATE

Approved as to Form:

William H. Trice, III
Attorney for the Arkansas State Medical Board

STATE MEDICAL BOARD
OF OHIO
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STATE MEDICAL BOARD
OF OHIO
BEFORE THE ARKANSAS STATE MEDICAL BOARD
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IN THE MATTER OF: JAMES CURTIS DILDAY, M.D.

**SECOND AMENDMENT TO THE AMENDED AND SUBSTITUTED EMERGENCY
ORDER AND NOTICE OF HEARING**

Pursuant to A.C.A. § 25-15-201, and A.C.A. § 25-15-211 both of the Administrative Procedure Act, and A.C.A. § 17-95-410 of the Medical Practices Act, the Arkansas State Medical Board issues the following Second Amendment to its Amended and Substituted Emergency Order of Suspension and Notice of Hearing dated 3 September, 2003, and 16 October 2003, charging James Curtis Dilday, M.D. with additional alleged violations of A.C.A. § 17-95-409(a)(2)(p), that is a violation of the Regulation of the Board, more specifically, Regulation 2.4 that is, over-prescribing medication for his patients, and Regulation 2.6, that is, prescribing scheduled medication for patients for more than six months for pain not associated with malignant or terminal illness without keeping accurate records to include a medical history, physical examination, other evaluations, consultations, treatment plans, objectives and informed consent contracts, all noted in the patient records, along with treatment and medications given, agreements with the patient and periodic reviews; and a failure to periodically review the course of the scheduled drug treatment. The allegations upon which the above allegations are based are as follows:

I.

James Curtis Dilday, M.D. practiced medicine in the State of Arkansas under the provisions of the Medical Practices Act and over-prescribed for a patient "J.E." scheduled medication and prescribed scheduled medication for more than six months for pain without

STATE MEDICAL BOARD
OF OHIO

complying with Regulation 2.6.

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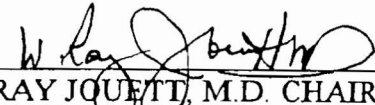
WHEREFORE, it is CONSIDERED, ORDERED and ADJUDGED by the Arkansas

State Medical Board that the license to practice medicine as issued by the State of Arkansas to James Curtis Dilday, M.D., is limited on an emergency basis as stated in the previous Order of the Board dated 3 September, 2003 and 16 October, 2003.

IT IS FURTHER ORDERED by the Arkansas State Medical Board that a hearing should be conducted to determine whether James Curtis Dilday, M.D. has violated the Medical Practices Act and the rules and regulations of the Board, as alleged hereinabove, as well as the allegations contained in the Order of 3 September, 2003 and 16 October, 2003, then the Board should determine whether the license of James Curtis Dilday, M.D. to practice medicine in the State of Arkansas should be revoked or suspended or whether other sanctions should be imposed pursuant to the authority granted the Board in A.C.A. 17-95-410. Said hearing will be conducted at 9:30 a.m. on the 3rd of June, 2004 at the offices of the Arkansas State Medical Board, 2100 Riverfront Drive, Little Rock, Arkansas.

James Curtis Dilday, M.D. is hereby advised that he may be represented by counsel at the hearing, and that he will be given the opportunity to examine all evidence offered to the Board, cross-examine witnesses, and offer evidence and witnesses in his own behalf.

ARKANSAS STATE MEDICAL BOARD

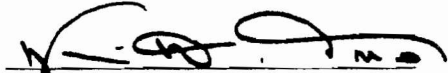

W. RAY JOUETT, M.D. CHAIRMAN

3-25-04
DATE

APPROVED AS TO FORM:

STATE MEDICAL BOARD
OF OHIO

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A handwritten signature in black ink, appearing to read 'W. H. Trice, III', is written over a horizontal line.

WILLIAM H. TRICE, III
ATTORNEY FOR THE ARKANSAS
STATE MEDICAL BOARD

BEFORE THE ARKANSAS STATE MEDICAL BOARD

STATE MEDICAL BOARD
OF OHIO

IN THE MATTER OF: JAMES CURTIS DILDAY, M.D.

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**THIRD AMENDMENT TO THE AMENDED AND SUBSTITUTED EMERGENCY
ORDER AND NOTICE OF HEARING**

Pursuant to A.C.A. § 25-15-201, and A.C.A. § 25-15-211 both of the Administrative Procedure Act, and A.C.A. § 17-95-410 of the Medical Practices Act, the Arkansas State Medical Board issues the following Third Amendment to its Amended and Substituted Emergency Order of Suspension and Notice of Hearing dated 3 September, 2003, 16 October 2003, and 25 March, 2004 to James Curtis Dilday, M.D. with additional alleged violations of A.C.A. §17-95-409(a)(2)(o), the persistent and flagrant over-charging for services and A.C.A. §17-95-409(a)(2)(g), that is, gross and ignorant malpractice in the rendering of treatment to his patients. The allegations upon which the above allegations are based are as follows:

I.

James Curtis Dilday, M.D. practiced medicine in the State of Arkansas under the provisions of the Medical Practices Act and exhibited gross negligence and ignorant malpractice in the treatment of patient "J.E.," that is, he failed to treat the depression of patient "J.E.," ultimately resulting in the suicide of the patient. James Curtis Dilday, M.D. further persistently, flagrantly, and fraudulently over-charged for services to patient "J.E.," that is, for treatments that never occurred.

II.

James Curtis Dilday, M.D. submitted claims for surgical procedures and services on 23 July 2002, 29 July 2003, 15 August 2002, 16 August 2002, and 5 September, 2002 for a patient

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identified as "J.G." James Curtis Dilday, M.D. fraudulently, persistently, and flagrantly over-charged for the services not rendered and received \$10,763.00 from United Healthcare Insurance Company for these services.

III.

James Curtis Dilday, M.D. submitted claims for surgical procedures and services on 6 March 2001 for a patient Judy Doyle. James Curtis Dilday, M.D. fraudulently, persistently, and flagrantly over-charged for the services not rendered and received \$1,580.00 from United Healthcare Insurance Company for these services.

IV.

James Curtis Dilday, M.D. submitted claims for surgical procedures and services on 17 February 2002, 8 May 2002, and 24 June 2002 for a patient identified as "M.W.." James Curtis Dilday, M.D. fraudulently, persistently, and flagrantly over-charged for the services not rendered and received \$2,464.93 from Tricare Insurance Company for these services.

V.

James Curtis Dilday, M.D. submitted claims for surgical procedures and services on 24 January 2002, 19 March 2002, 23 April 2002, 30 April 2002, 13 May 2002, 6 June 2002, 27 June 2002, 22 July 2002, 24 September 2002, and 15 October 2002 for a patient identified as "J.J." James Curtis Dilday, M.D. fraudulently, persistently, and flagrantly over-charged for the services not rendered and received \$6,100.24 from Tricare Insurance Company for these services.

VI.

James Curtis Dilday, M.D. submitted claims for surgical procedures and services on 18 October 2001, 5 December 2001, 17 February 2002, 20 February 2002, and 25 July 2002, for a

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OF OHIO
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patient identified as "K.M." James Curtis Dilday, M.D. fraudulently, persistently, and flagrantly over-charged for the services not rendered and received \$7,976.00 from Meyer's Bakery Self-Insured through Corporate Benefits Solutions for these services.

VII.

James Curtis Dilday, M.D., as an officer of Biological Psychiatry Associates on or about the 2nd of March 2002, entered a no-contest plea which was taken as a guilty plea by the Honorable John Langston in the Circuit Court, admitting to the fraudulent billing of patients and insurance companies referenced in the Amended and Substituted Emergency Order and Notice of Hearing and the 3rd Amendment to the Amended and Substituted Emergency Order and Notice of Hearing, all of which is reflected in an Amended Bill of Particulars in Pulaski County Circuit Court case no. CR03-1034 filed of record on 18 December, 2003 in the Circuit Court. James Curtis Dilday, M.D. admitted to said conduct through an entity of Biological Psychiatric Associates, P.A., which is not a corporation, but was said to be.

VIII.


James Curtis Dilday, M.D. practiced through an entity known as Biological Psychiatric Associates, P.A., although said entity was never registered with the Board as a corporation and has not been registered with the Secretary of State. James Curtis Dilday, M.D. opened a bank account in the name of said entity for which James Curtis Dilday, M.D. was the only authorized signatory to receive any monies from the account.

WHEREFORE, it is CONSIDERED, ORDERED and ADJUDGED by the Arkansas State Medical Board that a hearing should be conducted to determine whether James Curtis Dilday, M.D., has violated the Medical Practices Act as alleged hereinabove, as well as the

Amended and Substituted Emergency Order and Notice of Hearing dated the 3 September 2003, the Amendment filed dated the 16th of October, 2003, and the 2nd Amendment filed 25 March, 2004. If it is found that he has, in fact, violated the Medical Practices Act and the Rules and Regulations of the Board as in said Orders, then the Board should determine whether the license of James Curtis Dilday, M.D. to practice medicine in the State of Arkansas should be revoked or suspended, or whether other sanctions should be imposed pursuant to the authority granted the Board in A.C.A. § 17-95-410. Said hearing will be conducted at 9:30 on the 3rd of June, 2004 at the offices of the Arkansas State Medical Board, 2100 Riverfront Drive, Little Rock, AR.

James Curtis Dilday, M.D. is hereby advised that he may be represented by counsel at the hearing and that he will be given the opportunity to examine all evidence offered to the Board, cross examine witnesses, and offer evidence of his own in his own behalf.

ARKANSAS STATE MEDICAL BOARD


W. RAY JOUETT, M.D. CHAIRMAN

4-22-04
DATE

APPROVED AS TO FORM:


WILLIAM H. TRICE, III
ATTORNEY FOR THE ARKANSAS STATE MEDICAL BOARD

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OF ARKANSAS
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BEFORE THE ARKANSAS STATE MEDICAL BOARD

IN THE MATTER OF: JAMES CURTIS DILDAY, M.D.

ORDER

On this 3rd day of June, 2004 comes on for hearing the matter of James Curtis Dilday, M.D.

The Arkansas State Medical Board appeared together by a quorum of its membership together with its attorney, William H. Trice. James Curtis Dilday M.D. appeared together with his attorney, Sam Perroni. From the pleadings, evidence introduced, and testimony of the witnesses, the Board finds that:

1. James Curtis Dilday, M.D. is a licensed physician in the State of Arkansas as under the provisions of the Medical Practices Act.
2. James Curtis Dilday practiced as a medical corporation known as James Curtis Dilday, M.D. doing business as Biological Psychiatry Associates, P.A.
3. James Curtis Dilday persistently and flagrantly overcharged for services he did not perform, received money for the same all as referenced in Counts II, III, IV, V, VI, VII, X, XI, XII, XIII of the Order of the Board dated 3 September, 2003, and Counts II, III, IV, V, VI of the Order of the Board dated 22 April, 2004.
4. James Curtis Dilday, P.A. has acknowledged in testimony that on behalf of his medical corporation he entered a no contest plea, which was dealt by the Circuit Court of Pulaski County, Arkansas as a guilty plea, to fraudulently billing for services as stated in the amended felony information in Case No. CR-03-1034 introduced as Board's Exhibit No. 5.
5. James Curtis Dilday, as a result of entering said plea, has made restitution to the

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insurance companies who paid the bills as submitted by the Biological Psychiatry Associates, Inc.,
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the medical corporation of James Curtis Dilday, M.D. and referred to in the criminal information,
introduced as Board's Exhibit 5.

6. James Curtis Dilday, M.D. has admitted in testimony that he violated Regulation 7 of the Regulations of the Board, and as alleged in Counts II, III, IV, V, VI of the Order of the Board dated 16 October, 2003.

7. James Curtis Dilday has admitted in testimony that he has violated Regulation 2.6 of the Board, and as alleged in Counts II, III, IV, V, VI, VII, VIII, IX, X, XI in the Order of the Board dated 16 October, 2003.

8. The Board finds from the records introduced involving the patients referred to in the Order of the Board dated 16 October, 2003, and the expert opinion testimony of Dr. Richard Owings that James Curtis Dilday, M.D. violated Regulation 2.4 of the Board, more specifically, he over-prescribed scheduled medication for his patients as alleged in Counts III, IV, V, VI, VII, VIII, IX, X, XI, of the Order of the Board dated 16 October, 2003.

WHEREFORE, it is considered, ordered, and adjudged that:

1. James Curtis Dilday, M.D. has violated the Medical Practices Act, more specifically, ACA § 17-95-409(A)(2)(o), that is, the persistent and flagrant over-charging for services.

2. James Curtis Dilday, M.D. has violated the Medical Practices Act and the Rules and Regulations of the Board, that being ACA § 17-95-409(A)(2)(p), that is, he has violated Regulation 2.4, more specifically, he has over-prescribed scheduled medication for his patients.

3. James Curtis Dilday, M.D. has violated the Medical Practices Act and the

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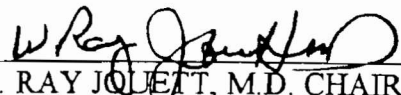
Regulations of the Board, that being ACA § 17-95-409(A)(2)(p), that is, he has violated Regulation 2.6, more specifically, prescribing scheduled medication for his patients for more than six months for pain not associated with malignant or terminal illness without keeping accurate records to include medical history, physical examination, other evaluations, consultation, treatment plans, objectives, and informed consent.

4. James Curtis Dilday, M.D. has violated the Medical Practices Act and the Regulations of the Board, that being ACA § 17-95-409(A)(2)(p), that is, he violated Regulation 7, more specifically, he has prescribed schedule 2 amphetamines or methamphetamines for attention deficit disorder, narcolepsy, or hyperkineses for a second time for a patient without obtaining a second opinion from a physician confirming the diagnosis and the controlled substance medication prescribed.

5. As a result of the above violations of the Medical Practices Act and the Rules and Regulations of the Board, the license of James Curtis Dilday, M.D. to practice medicine in the State of Arkansas, is hereby revoked.

IT IS SO ORDERED.

ARKANSAS STATE MEDICAL BOARD


W. RAY JOUETT, M.D. CHAIRMAN

6.21.04
DATE

APPROVED AS TO FORM:


WILLIAM H. TRICE, III ATTORNEY FOR THE ARKANSAS
STATE MEDICAL BOARD