

**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION**

CHRISTOPHER JAMES EDMANDS, D.O.,	:	
	:	
Appellant,	:	CASE NO. 14CV-5644
	:	
vs.	:	JUDGE LYNCH
	:	
STATE MEDICAL BOARD OF OHIO,	:	
	:	
Appellee.	:	

**DECISION AND JUDGMENT ENTRY AFFIRMING THE
ORDER OF THE STATE MEDICAL BOARD ON MAY 14, 2014 AND
NOTICE OF FINAL APPEALABLE ORDER**

LYNCH, J

This is an appeal pursuant to R.C. 119.12 from a May 14, 2014 Order of the State Medical Board of Ohio (the “Board”).

I. HISTORY OF THIS MATTER

On August 2, 2013, Dr. Christopher J. Edmands submitted to the Board an application for a license to practice osteopathic medicine and surgery in the State of Ohio. On or about February 20, 2013, Dr. Edmands entered into a Consent Order with the West Virginia Board of Osteopathic Medicine (the “West Virginia Board”), wherein the West Virginia Board reprimanded Dr. Edmands and placed his license on probation for 12 months. In the Consent Order, the West Virginia Board found that Dr. Edmands, while working as medical director with Amedisys Hospice in Parkersburg, West Virginia, pre-signed prescriptions, verbal orders, and blank face-to-face visit forms for staff to complete. The West Virginia Board also found that on July 30, 2012, Dr. Edmands was notified that his contract with Amedisys was not being renewed because of his actions.

In a letter attached to his application to the Board, Dr. Edmands admitted that, while serving as the Medical Director at Amedisys, he pre-signed certain prescriptions, verbal orders, and blank face-to-face visit forms for staff members to complete. By way of explanation, Dr. Edmands stated that he pre-signed these forms only to provide the most efficient way to manage the patients' end of life care. He acknowledged that his practice of pre-signing these documents was not acceptable, but he did so that the patients could receive continuous care. He stated that no patients were harmed by this practice and, to the best of his knowledge, none of the pre-signed prescriptions were abused by the hospice nurses. He admitted that he should not have pre-signed any forms and assured the West Virginia Board that he would never do so again.

In a letter dated March 12, 2014, the Board informed Dr. Edmands that based on his suspension in West Virginia, the Board intended to determine whether the Board would refuse to register him in Ohio. This letter also informed Dr. Edmands that he was entitled to a hearing on the matter. Subsequently, the Board received a letter from Dr. Edmands dated March 19, 2014 in which Dr. Edmands indicated, in part, "I have no further information to present to the OH Board of Medicine's review and therefore, am not requesting a hearing." Dr. Edmands never requested a hearing within the 30 day time period.

On May 14, 2014, the Board considered Dr. Edmands' application for a license to practice osteopathic medicine and surgery in the State of Ohio. In formulating its decision to permanently deny Dr. Edmands' application for a certificate to practice medicine and surgery in the state of Ohio, the Board reviewed and considered Dr. Edmands' application, the West Virginia Board's Consent Order, and the letter Dr. Edmands attached to the application explaining the disciplinary action in West Virginia. Dr. Edmands argues that the Board did not

consider his May 6, 2014 letter to the Board advising that as of April 30, 2014 his probation in West Virginia had been lifted.

On July 9, 2014, the Board filed a motion to dismiss Dr. Edmands' appeal arguing that Dr. Edmands waived his right to appeal the Board's order when he failed to request an administrative hearing. Dr. Edmands argued that the March 12, 2014 notice denied him his due process right to an administrative hearing and that the Board's decision was not based on reliable, probative, and substantial evidence. On September 8, 2014, this Court denied Dr. Edmands' due process argument and granted the Board's motion to dismiss Dr. Edmands' appeal.

An appeal to the Tenth District followed. On June 30, 2015, the Court of Appeals affirmed this Court's decision denying Dr. Edmands' due process claim but held that this Court erroneously failed to consider or decide Dr. Edmands' argument that the Board's order was not supported by reliable, probative and substantial evidence.

II. LAW

This appeal is governed by R.C. 119.12 which in pertinent part provides:

Any party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the court of common pleas of Franklin County. .

* * *

The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law.

When considering an appeal from an order of the Medical Board, a common pleas court must uphold the order if it is supported by reliable, probative, and substantial evidence, and is in accordance with law. R.C. 119.12. *Pons v. Ohio State Med. Bd.*, 66 Ohio St.3d 619, 621 (1993). In this regard, the statutory standard for review was explained in *Our Place, Inc. v. Ohio Liquor Control Agency* (1992), 63 Ohio St. 3d 570. Therein it was stated:

The evidence required by R.C. 119.12 can be defined as follows: (1) "Reliable" evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonable probability that the evidence is true. (2) "Probative" evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue. (3) "Substantial" evidence is evidence with some weight; it must have importance and value

III. THE COURT'S FINDINGS AND CONCLUSIONS

This Court's scope of review of an agency's decision in an administrative appeal is limited. An agency's findings of fact are presumed to be correct and must be given deference by a reviewing court unless that court determines that the agency's findings are internally inconsistent, impeached by the evidence of a prior inconsistent statement, rest on improper inferences or are otherwise unsupportable. *Ohio Historical Society v. State Employment Relations Bd.*, 66 Ohio St.3d 466, 471, 1993-Ohio-182. Similarly, a reviewing court is to "give due deference to the administrative resolution of evidentiary conflicts." *Univ. of Cincinnati v. Conrad*, 63 Ohio St.2d 108, 111 (1980). The Court "will not substitute its judgment for the Board's where there is some evidence supporting the board's order." *Harris v. Lewis*, 69 Ohio St. 2d 577, 579 (1982). *See also In re Frank and Glenda Miller* (1976), 10th Dist. No. 76AP-348, 1976 Ohio App. LEXIS 6408, p. 8 ("The inference made by the commission should not be altered by the Common Pleas Court or this court merely because we would come to a different conclusion").

The Ohio Supreme Court has recognized that the General Assembly granted the Medical Board a broad measure of discretion. *Arlen v. State*, 61 Ohio St.2d 168, 174 (1980). In *Farrand v. State Med. Bd.*, 151 Ohio St. 222, 224 (1949), the court stated:

The purpose of the General Assembly in providing for administrative hearings in particular fields was to facilitate such matters by placing the decision on facts with boards or commissions composed of men equipped with the necessary knowledge and experience pertaining to a particular field. ...

“Accordingly, when courts review a medical board order, they are obligated to accord due deference to the board’s interpretation of the technical and ethical requirements of the medical profession.” *Landefeld v. State Med. Bd.*, 10th Dist. No. 99AP-612, 2000 Ohio App. LEXIS, pg. 9.

Thus, when undertaking a review of decision of an administrative agency, a court of common pleas acts in a limited or restricted appellate capacity. *University Hospitals, University of Cincinnati College of Medicine v. State Emp. Relations Bd.* (1992), 63 Ohio St. 3d 339, 343, citing *Andrews v. Bd. of Liquor Control* (1955), 164 Ohio St. 275, 279-280. In considering this matter on appeal, this court is limited to determining whether the agency's decision is supported by sufficient evidence in the record and is in accordance with law. This court may not substitute its judgment for that of the agency -- it may not reverse simply because it interprets the evidence differently than did the administrative adjudicator, or finds itself musing that the end result might seem disproportionate to the transgressions perpetrated by an appellant. See *Angelkovski v. Buckeye Potato Chips Co.* (1983), 11 Ohio App. 3d 159, 161-162.

Here, the crux of Dr. Edmands’ is exactly that: that in the end, the permanent denial of his application to practice medicine in the state of Ohio was unduly harsh in comparison to other decisions of the Board in similar cases. The Board has the authority to impose a wide range of sanctions upon finding a violation of R.C. 4731.21, from a reprimand to revocation. *Clayman v.*

State Med. Bd. Of Ohio, 726 N.E.2d 1098, 1103 (Ohio App. 10th Dist. 1999). In *Clayman*, court further stated that the “discretion this granted to the board in imposing a wide range of potential sanctions reflects the deference due to the board’s expertise in carrying out its statutorily granted authority over the practice of medical professions in Ohio, tailored to the particular circumstances of each case.” *Id.*

The argument that handing down a harsh penalty in this case is inconsistent with prior decisions calls for this court to revisit the issue of second guessing the sanction imposed. In *Linder v. Ohio Liquor Control Comm.*, 10th Dist. No. 00AP-1430 (May 31, 2001) it was observed:

The case involving the Lindners emphasizes how harsh the effects of *Henry's Cafe* can be. As a practical matter, courts have no power to review penalties meted out by the agency. Thus, we have little or no ability to review a penalty even if it seems on the surface to be unreasonable or unduly harsh. Though she had no prior violations, appellant had her liquor license revoked, not suspended for a period of time. Perhaps the time to reconsider *Henry's Cafe* has arrived, but the Supreme Court of Ohio must be the court to do that reconsideration. We, as an intermediate appellate court, are required to follow the syllabus of *Henry's Cafe* unless or until such reconsideration occurs.

Dr. Edmands further argues that the Board’s decision was not supported by reliable, probative, and substantial evidence because a formal hearing was not held. Specifically, Dr. Edmands argues that because a formal hearing was not held, the Board did not have any evidence before it which (1) set forth the reasons for Dr. Edmands’ actions, any defenses he may have had, or any remorse he may now feel; and (2) showed whether Dr. Edmands would be likely to repeat such behavior. In the order remanding the case to this Court, the Tenth District specifically held that Dr. Edmands failed to request an administrative hearing and that the Board’s order was issued pursuant to an adjudication under R.C. 119. By failing to request an

administrative hearing, Dr. Edmands waived his right to present any additional mitigating evidence to the Board.

In formulating its decision, the Board reviewed and considered Dr. Edmands' application, the West Virginia Board's Consent Order, and the letter Dr. Edmands attached to the application explaining the disciplinary action in West Virginia. This Court notes that all of this information was provided by Dr. Edmands.

Therefore, after reviewing the record and upon consideration, this Court finds that Appellee's order is supported by reliable, substantial and probative evidence and is in accordance with law. Accordingly, the Order issued by the State Medical Board of Ohio on May 14, 2014 permanently denying Dr. Edmands' application for a certificate to practice medicine and surgery in the state of Ohio is hereby **AFFIRMED**. Judgment in favor of Appellee with costs to be paid by Appellant. Pursuant to Civil Rule 58, the Clerk of Court shall serve upon all parties notice of this judgment and its date of entry.

THIS IS A FINAL APPEALABLE ORDER AND THERE IS NO JUST CAUSE FOR DELAY.

Julie M. Lynch, Judge
(signature page to follow)

Electronic copies to all counsel of record

Franklin County Court of Common Pleas

Date: 09-21-2016
Case Title: CHRISTOPHER J EDMANDS DO -VS- OHIO STATE MEDICAL BOARD
Case Number: 14CV005644
Type: DECISION/ENTRY

It Is So Ordered.


The image shows a handwritten signature in black ink that reads "Julie M. Lynch". The signature is written in a cursive style. To the right of the signature is a circular blue ink stamp. The stamp contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY OHIO" around the inner edge, and "ALL THINGS ARE" at the bottom. In the center of the stamp is a small emblem.

/s/ Judge Julie M. Lynch

Court Disposition

Case Number: 14CV005644

Case Style: CHRISTOPHER J EDMANDS DO -VS- OHIO STATE
MEDICAL BOARD

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes