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MAY 28 1996

K.B.M.L.

COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE
CASE NO. 321

KENTUCKY BOARD OF MEDICAL LICENSURE

PLAINTIFF

V.

J. DOUGLAS GREEN, M.D.
License No. 20604

DEFENDANT

ORDER DENYING MOTION TO VACATE
REMAINING TERM OF PROBATION

**** **** **** ****

At its May 16, 1996 meeting, the Board, acting by and through its Hearing Panel A, considered a motion by J. Douglas Green, M.D., to vacate the remaining term of his probationary period. Having considered the motion and being sufficiently advised, Hearing Panel A ORDERS that the motion is hereby DENIED.

SO ORDERED this 28th day of May, 1996.


DANNY M. CLARK, M.D.
Chairman, Hearing Panel A

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COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE
CASE NO. 321

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY J. DOUGLAS GREEN, M.D. (LICENSE NO. 20604) ADDRESS OF RECORD: 3321 PRESTON HIGHWAY, LOUISVILLE, KENTUCKY 40213

ORDER OF PROBATION

The above-styled action came before the Kentucky Board of Medical Licensure's Hearing Panel A on May 21, 1992, for final action. Prior to rendering a final action, the Panel considered the Hearing Officer's Recommended Findings of Fact and Conclusions of Law dated February 28, 1992, Exceptions to the Recommended Findings of Fact and Conclusions of Law filed on behalf of Dr. Green on May 5, 1992, the transcript of the hearing held in this matter on August 29, 1990, transcripts of various depositions taken in this matter, and a brief oral presentation made by Dr. Green's legal counsel, J. Fox DeHoisey, Esq.

The Panel, having considered all of the above-referenced information, and otherwise being sufficiently advised, hereby FINDS that sufficient grounds exist for the Panel to discipline Dr. Green's license to practice medicine in the Commonwealth of Kentucky. These grounds are delineated in the Hearing Officer's Recommended Findings of Fact and Conclusions of Law dated February 28, 1992, on pages 2 through 10. The Panel adopts the Hearing Officer's Recommended Findings of Fact and Conclusions of Law as its own and incorporates such by reference into this Order of Probation.

WHEREFORE, pursuant to KRS 311.595, it is ORDERED that the

license to practice medicine in the Commonwealth of Kentucky held by J. Douglas Green, M.D., shall be placed on probation for a period of five (5) years, subject to the following terms and conditions:

1. Dr. Green shall not prescribe, dispense, administer or otherwise professionally utilize EDTA or chelation therapy for treatment of arteriosclerosis, to improve blood circulation or as an anionic surfactant. However, this restriction shall not preclude Dr. Green from utilizing EDTA or chelation therapy for treatment of documented cases of heavy metal poisoning.

2. Dr. Green shall make his office medical records available to the Board or its designee, upon request, for review.

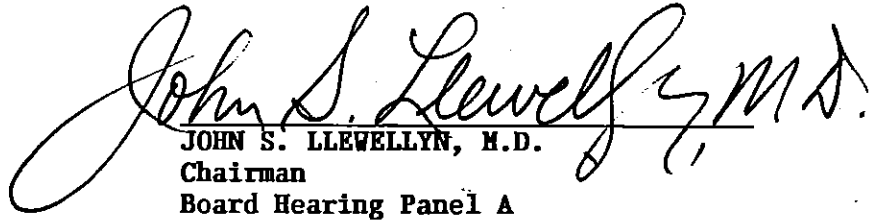
3. Dr. Green shall not violate any provision of the Kentucky Medical Practice Act (KRS 311.530, et seq.).

4. Dr. Green shall pay a fine in the amount of Six Hundred Eighty-Four and 30/100 Dollars (\$684.30) as reimbursement of investigative and hearing costs expended by the Board. Said fine is payable to the Kentucky Board of Medical Licensure and is due within one (1) year of the effective date of this Order of Probation.

In the event that Dr. Green violates any of the aforementioned terms and conditions of probation, the Board or its appropriate Panel may immediately suspend Dr. Green's Kentucky medical license pursuant to KRS 311.592(1).


This Order of Probation is appealable pursuant to KRS 311.593.

SO ORDERED this 15th day of June, 1992.


JOHN S. LLEWELLYN, M.D.
Chairman
Board Hearing Panel A

CERTIFICATE

This is to certify that the original of the foregoing Order of Probation was hand-delivered to C. William Schmidt, Executive Director of the Kentucky Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and a copy was mailed, postage prepaid, to J. Fox DeMoisey, Esq., Counsel for Dr. Green, 1210 Starks Building, Louisville, Kentucky 40202; and (via certified mail) to J. Douglas Green, M.D., 3321 Preston Highway, Louisville, Kentucky 40213, on this the 1st day of June, 1992.


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COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE
CASE NO. 321

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH
OF KENTUCKY HELD BY J. DOUGLAS GREEN, M.D.

RECOMMENDED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

INTRODUCTION

The following is based upon a hearing that was held at the offices of the State Board of Medical Licensure on August 29, 1990, the deposition of Dr. Ronald E. Waldridge, and the videotape deposition of Dr. T.C. McDaniel which was taken on January 5, 1991.

The hearing was based upon a complaint which was filed by the Medical Licensure Board, hereafter the Board, against Dr. Green on May 5, 1988. In the complaint, it was alleged that Dr. Green administered treatments on two of his patients, the [REDACTED], which the Board alleged not justified by the patients' medical records and, in fact, useless and potentially harmful. In addition, the treatments were alleged to be unethical as a departure from or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky. Based upon those allegations, the Board charged the Respondent with having violated KRS 311.595(8), 311.597(3) and 311.597(4).

Unfortunately, due to various scheduling problems and the removal of the original hearing officer assigned in the case, this matter took a significant period of time for the preparation of Findings of Fact and Conclusions of Law. However, none of the parties have filed any objections to the extended period of time in which this matter has been before the hearing officer.

FINDINGS OF FACT

1. Dr. Ronald Waldridge, a Board-certified family physician, testified by way of a deposition as the Board's expert witness in this case. In arriving at his medical opinion on this matter, Dr. Waldridge reviewed copies of Dr. Green's medical records and the hospital records from Humana Hospital Suburban of the [REDACTED] which covered a period of time from June 6 to June 15, 1983, and June 11 to June 16, 1987, as well as August 12 to August 13, 1987.

In a written report that Dr. Waldridge prepared for the Board regarding all these records, he stated that it appeared that Dr. Green was using EDTA on the [REDACTED] as treatment for arteriosclerosis. However, according to Dr. Waldridge's report, EDTA therapy is not an approved treatment arteriosclerosis. In the report, Dr. Waldridge went on to say that EDTA therapy is principally used as a chelation therapy for heavy metal poisoning. However, there was no evidence in

the records, according to Dr. Waldridge's report, that either of the [REDACTED] suffered from heavy metal poisoning and, in addition, there was no evidence that either of the parties suffered from arteriosclerosis. Dr. Waldridge concluded his report by indicating that he saw no evidence that the treatment that Dr. Green provided to the [REDACTED] contributed to their illnesses at the time of their hospitalization but, that they were useless to the [REDACTED] and were potentially harmful. Finally, Dr. Waldridge indicated in his report that the treatments for the [REDACTED] were completely contrary to the standard practice of medical care for any physician.

2. In his deposition, Dr. Waldridge indicated that he did not have any personal knowledge of the use of an anionic surfactant or EDTA in the manner that the treatment was used by Dr. Green. Instead, Dr. Waldridge's information regarding the use of EDTA came from research he had performed over a period of time at the University of Louisville Medical School which involved the reading of various medical reports and journals. Based upon that information, Dr. Waldridge testified that the only generally widely recognized acceptable use of EDTA was for treatment of heavy metal poisoning. However, apparently, tests had been performed in the 1970s to determine the use of EDTA to treat arteriosclerosis. According to Dr. Waldridge, the results of those tests indicated that EDTA was not accepted as

a form of treatment for arteriosclerosis and any associated diseases. Further, Dr. Waldridge testified that he was unable to find any widely generally accepted medical authority such as the American Medical Association, the American College of Physicians and Surgeons, etc., which recommended or endorsed the use of EDTA to treat patients suffering from arteriosclerosis.

3. Counsel for Dr. Green raised the issue in his cross-examination of Dr. Waldridge that Dr. Green was not attempting to treat the patients for arteriosclerosis. In pursuing this issue, Dr. Green's counsel questioned Dr. Waldridge as to whether or not he had read the detailed response which Dr. Green had prepared to the complaint. Unfortunately, Dr. Waldridge had not had the opportunity to review the answer prior to the taking of his deposition. However, Dr. Waldridge was given the opportunity by the parties during a break in his deposition to review Dr. Green's answer. After reviewing Dr. Green's answer, Dr. Waldridge indicated that it appeared Dr. Green was not attempting to treat the patients for arteriosclerosis through the use of EDTA. Instead, Dr. Waldridge acknowledged that Dr. Green was allegedly using EDTA to improve the blood flow in the patients' arteries due to the drug having a different electrical charge than the charge on the vessel wall and on the surfaces of the

form structures of the blood thereby allowing for a freer flow of blood in the arteries and in the arterioles. According to Dr. Green, this freer flow of blood is by virtue of the repelling effect of the electrical charges as opposed to the attracting process that results in the formation of a clot. However, Dr. Waldridge testified that there is no literature or tests that support such a theory and he was unable to discover such a theory reported in any of the literature he reviewed on behalf of the Board.

Counsel for Dr. Green also attempted to establish that the use of EDTA by Dr. Green was not to be considered as chelation therapy which usage as a treatment for arteriosclerosis has been rejected by medical studies. However, Dr. Waldridge testified that even if the term "chelation" is not applied to the therapy undertaken by Dr. Green that there is still no medical authority or test to support the use of EDTA to improve the blood flow in the patient's arteries. According to Dr. Waldridge, the only recognized use of EDTA is for treatment of heavy metal poisoning. Therefore, to use the drug in any other form of treatment would be in violation of the standard of care that doctors are to follow in Kentucky.

Finally, one important point made by Dr. Waldridge was his belief that the EDTA treatments did not hurt the patients.

4. In response to Dr. Waldridge's deposition, Dr. Green submitted the videotape deposition of Dr. T. C. McDaniel. According to his testimony, Dr. McDaniel is an osteopath who has practiced medicine for over 30 years. In addition, he apparently was formerly a member of the Kentucky Board of Medical Licensure for 14 years. Dr. McDaniel testified that he knew Dr. Green personally and had instructed him on the use of EDTA as a treatment for circulatory problems. However, the overwhelming portion of Dr. McDaniel's deposition was a rambling, disjointed discourse on numerous physical problems he had encountered over the years and general problems he perceived in the practice of medicine. In addition, throughout his deposition, Dr. McDaniel seemed to indicate that he was not competent to address himself as to whether the practice rendered by Dr. Green was indeed outside or below the standard of care that should be followed by physicians in Kentucky. Therefore, this hearing officer put little weight on the testimony elicited from Dr. McDaniel as a response to Dr. Waldridge's testimony.

5. Dr. Green testified that he had been a surgeon in Oklahoma for a period of 25 years prior to coming to Kentucky.

6. In his testimony Dr. Green reiterated the point that he used low dosages of EDTA to improve the blood flow circulation of the patients at issue. According to Dr. Green,

his treatment was not meant to claw away at the plaque in the artery which he believed is the description associated with chelation therapy. Instead, Dr. Green believes that the different electrical charges in the plaque and the EDTA will result in an improvement in the blood circulation at the capillary bed.

In his testimony, Dr. Green admitted that he did not perform any specific laboratory tests on the patients to determine their precise medical problems. Instead, Dr. Green indicated that he had performed some examinations with his hands on the patients to determine that the patients were suffering from arteriosclerosis. However, upon cross examination by counsel for the Board, Dr. Green admitted that the medical records from the hospital of the patients determined that neither one of them were were suffering from coronary artery disease. In addition, Dr. Green admitted under cross-examination that it would have been more appropriate for him to have required the patients to undergo the scientific tests to determine the precise medical problems they were suffering from. Unfortunately, according to Dr. Green, the patients were not very cooperative in agreeing to undergo these tests.

6. Dr. Green admitted under cross-examination that his treatment is not endorsed as far as he knows by any

certifying group or medical authority. He did admit that conclusive studies were performed that established that the use of EDTA to remove arteriosclerosis plaque did not work.

7. Dr. Green, under cross-examination, admitted that the use of EDTA treatment on the patients did not have much benefit, but it also did not inflict any damage on the patients.

CONCLUSIONS OF LAW

1. This matter was properly before the Medical Licensure Board by virtue of a complaint filed with the Board by two patients who had received treatments by Dr. Green.

2. In the complaint, the use of the EDTA treatment on the patients by Dr. Green was alleged to be in violation of KRS 311.595(8), 311.597(3) and 311.597(4). KRS 311.595(8) authorizes the Board to take action against a physician who is engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof. KRS 311.597(3) is one of many subsections in that section of the Kentucky Revised Statutes which defines dishonorable, unethical or unprofessional conduct. Subsection (3) provides that unprofessional conduct is a serious act, or a pattern of acts committed during the course of a doctor's medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence or malpractice. Subsection (4) defines

dishonorable, unethical, unprofessional conduct as that which is calculated or has the effect of bringing the medical profession into disrepute, including, but not limited to any departure from or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky, and any departure from, or failure to conform to the principles of medical ethics of the American Medical Association or the code of ethics of the American Osteopathic Association. For the purposes of this subsection, actual injury to the patient need not be established.

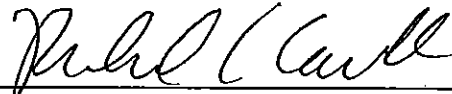
3. Following a careful review of all of the testimony and evidence submitted in this case, it is the conclusion of this hearing officer that the action engaged in by Dr. Green was not established as to be gross incompetence, gross ignorance, gross negligence or malpractice. However, it was clearly established by counsel for the Board that the treatment engaged in by Dr. Green was not an acceptable and recognized type of treatment for arteriosclerosis or to improve blood circulation and was, in fact, a departure from or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky.

Even though counsel for Dr. Green skillfully attempted to distinguish Dr. Green's use of EDTA from that of chelation therapy, and even though the complaint did not allege that Dr.

Green had performed chelation, it was clear to this hearing officer that Dr. Green was unable to point to any study or medical authority which endorsed or advocated the use of EDTA in the manner he prescribed it for the patients. While it is acknowledged that counsel for the Board was unable to establish that the patients suffered any injuries from such treatment, it must be remembered that subsection (4) of KRS 311.597 specifically states that actual injury to a patient need not be established. Therefore, it is the conclusion of this hearing officer that the use of EDTA as authorized by Dr. Green on the patients at issue was in violation of KRS 311.595(8) as that violation is specifically defined in KRS 311.597(4).

RECOMMENDED ACTION

It is the recommendation of this hearing officer that Dr. Green be prohibited from using EDTA in the manner described above and that appropriate disciplinary sanction be taken against him by the Board.



Richard C. Carroll
Hearing Officer

2/28/92

Date

CERTIFICATE OF SERVICE

I hereby certify that the original of the Recommended Findings of Fact and Conclusions of law was sent to Mr. C. William Schmidt, Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40207; with copies to Hon. David Carby, Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40207; and Hon. J. Fox DeMoisey, 615 Louisville Galleria, Louisville, Kentucky 40202, Counsel for Dr. Green, this 28 day of February, 1992.



Richard C. Carroll