

VIRGINIA:

DEPARTMENT OF HEALTH PROFESSIONS

RE: Cleve Ewell

ORDER OF SUSPENSION

Section 54.1-104 of the Code of Virginia authorizes the Department of Health Professions to suspend the license, certificate, registration, or any other authority issued to any person who submits a check, money draft, or similar instrument for payment of a fee required by statute or regulation which is not honored by the bank or financial institution named thereon. The suspension shall become effective ten (10) days following delivery by certified mail of written notice of the dishonor and the impending suspension to such person's last known address. Suspension under this provision shall be exempt from the Administrative Process Act.

An instrument dated January 14, 2002, was submitted by Cleve Ewell for payment of a \$260 renewal fee. The financial institution upon which it was drawn did not honor this instrument. Cleve Ewell was notified of this by letter dated March 26, 2002 and advised of the impending suspension. At least ten days have passed since delivery by certified mail of that letter.

It is therefore **ORDERED** that license number **0101043333**, issued to Cleve Ewell, is hereby **SUSPENDED**.

This **ORDER** shall be made available for public inspection and notification upon request.

ORDERED AND ENTERED



Robert A. Nebiker
Director, Department of Health Professions

Entered: May 10, 2002



COMMONWEALTH of VIRGINIA

Robert A. Nebiker
Director of the Department


William L. Harp, M.D.
Executive Director of the Board
medbd@dhp.state.va.us

*Department of Health Professions
Board of Medicine*

6606 West Broad Street
4th Floor
Richmond, Virginia 23230-1717
(804) 662-9908
FAX (804) 662-9517

MEMORANDUM

TO: Memo to File

FROM: Reneé Dixon, Discipline Case Manager 

DATE: May 30, 2002

SUBJECT: Cleve Ewell, M.D. / License No: 0101-043333



By Order entered May 10, 2002, the Department of Health Professions suspended the license of Cleve Ewell, M.D. due to the instrument for payment of his license renewal not being honored by the financial institution upon which it was drawn.

On May 30, 2002, Dr. Ewell submitted payment in the amount of \$285.00 for his renewal and returned check fee. Therefore, effective this date, Dr. Ewell's license has been changed to a full and unrestricted licensure status.

Pursuant to Section 2.2-4023 of the Code, the signed original of this Memorandum shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection and copying upon request.



COMMONWEALTH of VIRGINIA

Department of Health Professions Board of Medicine

October 22, 2002

Robert A. Nebiker
Director of the Department

William L. Harp, M.D.
Executive Director of the Board
medbd@dhp.state.va.us

6606 West Broad Street
4th Floor
Richmond, Virginia 23230-1717
(804) 662-9908
FAX (804) 662-9517

Cleve Winfield Ewell, M.D.
7 Collinwood Circle
Hampton, Virginia 23666

CERTIFIED MAIL
7160 3901 9844 7526 4840

RE: License No.: 0101-043333

Dear Dr. Ewell:

This letter is official notification that an informal conference of the Virginia Board of Medicine ("Board") will be held on **Wednesday, December 11, 2002, at 9:30 a.m. at the Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.** You must sign in and note your arrival time to confirm your appearance. The conferences will be held in the order recorded as present on the sign-in sheet. Please wait in the reception area and you will be called once the Informal Conference Committee ("Committee") is ready to meet with you.

This informal conference will be conducted pursuant to Sections 54.1-2919, 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code"). The Committee, composed of three members of the Board, will inquire into allegations that you may have violated certain laws and regulations governing the practice of medicine in Virginia. Specifically, you may have violated Section 54.1-2915.A(3), as further defined in Section 54.1-2914.A(11) and (13), and Section 54.1-2910.1 of the Code of Virginia (1950), as amended, ("Code"), and Part VII of the Board's General Regulations, "Practitioner Profile System," in that:

You did not provide, upon request, the information required by Section 54.1-2910.1 of the Code of Virginia and Part VII, Practitioner Profile System (18 VAC 85-20-280 et seq.) of the Board's General Regulations.

This Committee may take the following actions:

1. If a majority of the Committee is of the opinion that a suspension or revocation of your license may be justified, the Committee shall present to the Board in writing its findings, and the Board may proceed with a formal hearing.
2. The Committee may notify you in writing that you are fully exonerated of any charge that might affect your right to practice medicine in Virginia.

3. The Committee may reprimand or censure you.
4. The Committee may impose a monetary penalty pursuant to Section 54.1-2401 of the Code.
5. The Committee may place you on probation for such time as it may designate and direct that during such period you furnish the Committee or its chairman, at such intervals as the Committee may direct, evidence that you are not practicing in violation of the provisions of Chapter 29, Title 54.1 of the Code, which governs the practice of medicine in Virginia.

You have the right to information, which will be relied upon by the Committee in making a decision. Therefore, I enclose a copy of the documents, which will be distributed to the members of the Committee, and will be considered by the Committee when discussing the allegations with you and when deliberating upon your case. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. I also enclose relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws relating to the practice of medicine and other healing arts in Virginia.

Absent good cause shown to support a request for a continuance, the informal conference will be held on **December 11, 2002**. A request to continue this proceeding must state **in detail** the reason for the request and must establish good cause. Such request must be made in writing to me at the address listed on this letter and must be received by **November 27, 2002**. Only one such motion will be considered. Absent exigent circumstances, such as personal or family illness, a request for a continuance after **November 27, 2002**, will not be considered.

An attorney may represent you at the informal conference. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of counsel will not be considered unless received by **November 27, 2002**. Further, it is your responsibility to provide the enclosed materials to your attorney.

To facilitate this proceeding, you must submit eight (8) copies of any documents you wish for the Committee to consider to Reneé S. Dixon, Discipline Case Manager, Virginia Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717, by **November 27, 2002**. You may not submit any additional documents by facsimile. Should you or Senior Adjudication Analyst Lori L. Pound wish to submit any documents for the Committee's consideration after **November 27, 2002**, such documents shall be considered only upon a ruling by the Chair of the informal conference committee that good cause has been shown for late submission.

The Board hereby offers to enter into the enclosed Consent Order with you in lieu of proceeding to the informal conference. Please review this document and should you consent to its terms, have it signed before a notary public. In order for it to become effective, you must return this original Consent Order, bearing your witnessed signature, to the Board office on or before November 27, 2002. You will receive a certified copy shortly thereafter. Should the Board not receive this Consent Order from you by 12:00 noon on November 27, 2002, the Board will proceed with the informal conference as described herein.

Please advise the Board, in writing, of your intention to be present. Should you fail to appear at the informal conference, the Board may proceed to a formal administrative hearing in order to impose sanctions. Should you have any questions regarding this notice, please contact Lori L. Pound, Senior Adjudication Analyst, at (804) 662-7677.

Sincerely,



William L. Harp, M.D.
Executive Director

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Enclosures:

Virginia Code Sections:

54.1-2910.1
54.1-2914
54.1-2915
54.1-2919
2.2-4019
2.2-4021

General Regulations

18 VAC 85-20-280 - Part VII, "Practitioner Profile System"

Informal Conference Package

Consent Order

Map

cc: Harry C. Beaver, M.D., President, Virginia Board of Medicine
Robert A. Nebiker, Director, Department of Health Professions
Kathleen Nosbisch, Deputy Executive Director, Practitioner Information
Lori L. Pound, Senior Adjudication Analyst
Reneé S. Dixon, Discipline Case Manager, Board of Medicine (86647)

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

IN RE: CLEVE WINFIELD EWELL, M.D.
License No.: 0101-043333

ORDER

In accordance with Sections 54.1-2919, 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code"), an informal conference was held with Cleve Winfield Ewell, M.D., on December 11, 2002, in Williamsburg, Virginia. Members of the Virginia Board of Medicine ("Board") serving on the Informal Conference Committee ("Committee") were: Clarke Russ, M.D., Chairman; Thomas Leecost, D.P.M.; and J. Kirkwood Allen. Dr. Ewell appeared personally and was represented by Avery T. Waterman, Jr., Esquire, legal counsel. The purpose of the informal conference was to inquire into allegations that Dr. Ewell may have violated certain laws governing the practice of medicine in the Commonwealth of Virginia, as set forth in a Notice of Informal Conference dated October 22, 2002.

FINDINGS OF FACT

Now, having properly considered the evidence and statements presented, the Committee makes the following Findings of Fact:

1. Dr. Ewell was issued license number 0101-043333 by the Board to practice medicine in the Commonwealth of Virginia on December 30, 1988. Said license will expire on January 31, 2004, unless renewed or otherwise restricted.
2. By letter dated March 23, 2001 and sent by first class mail March 26, 2001, the Board notified Dr. Ewell of the requirement to file certain information with the Board, as provided in Section 54.1-2910.1 of the Code of Virginia ("Code"). This letter indicated that the information could be provided via completion of an on-line questionnaire or the practitioner could request a paper questionnaire. Further, this letter advised

that the information must be submitted within 30 days and that failure to do so may subject the practitioner to disciplinary action by the Board.

3. By letter dated and sent by first class mail April 20, 2001, the Board notified Dr. Ewell that the Board could not ascertain that the questionnaire had been completed on-line or that a paper questionnaire had been requested. Further, this letter advised that the collection period was drawing to a close and again reminded Dr. Ewell that failure to provide the required information could result in disciplinary action by the Board.

4. By letter dated and mailed by first class mail June 5, 2001, the Board notified Dr. Ewell that the deadline for submission had passed and, as of May 31, 2001, the Board had not received any contact regarding completion of the questionnaire. This letter again reminded Dr. Ewell that failure to provide the required information could result in disciplinary action by the Board. This letter was not returned to the Board.

5. By letter dated and sent by certified mail September 6, 2001, the Board notified Dr. Ewell that the required information had not been submitted. Further, this letter advised it would be the last letter from the Board, and that failure to comply will cause this matter to be referred for disciplinary action. This letter was returned to the Board "Return to Sender Unclaimed." The Board also received a receipt for certified mail dated September 7, 2001, from the U.S. Postal Service.

6. All of the above referenced letters were sent to Dr. Ewell's official address of record with the Board. As provided in 18 VAC 85-20-21, all notices shall be validly given when mailed to the latest address given by the licensee. There is no change of address of record since on or about April 1999.

7. Dr. Ewell acknowledged receipt of Board correspondence on this matter dated March 23, 2001, April 20, 2001 and June 5, 2001. Dr. Ewell did not acknowledge receiving the letter of September 6, 2001.

8. Dr. Ewell provided the information required by Section 54.1-2910.1 of the Code and 18 VAC 85-20-280 of the Board's General Regulations on or about November 8, 2002. Further, Dr. Ewell provided the information required by Phase Two of the collection of additional data elements for the online profile on or about November 26, 2002.

9. Dr. Ewell is now in compliance with Section 54.1-2910.1 of the Code and Part VII, Practitioner Profile System (18 VAC 85-20-280 et seq.) of the Board's General Regulations.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Committee concludes that Dr. Ewell has violated Sections 54.1-2910.1 and 54.1-2915.A(3), as further defined in Section 54.1-2914.A(13) of the Code of Virginia.

ORDER

WHEREFORE, it is hereby ORDERED that a MONETARY PENALTY of two hundred fifty dollars (\$250.00) is imposed upon Dr. Ewell. This monetary penalty shall be paid within forty-five (45) days of entry of this Order.

It is further ORDERED that Dr. Ewell shall maintain a course of conduct in his practice of medicine commensurate with the requirements of Title 54.1, Chapter 29 of the Code and all laws of the Commonwealth.

Violation of this Order may constitute grounds for suspension or revocation of Dr. Ewell's license to practice medicine in the Commonwealth. In the event that Dr. Ewell violates this Order, an administrative proceeding may be convened to determine whether his license shall be revoked.

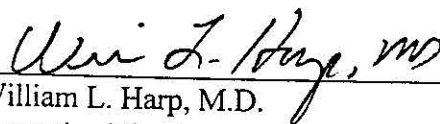
Pursuant to Section 2.2-4023 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

Upon receipt of evidence that Dr. Ewell has complied with the requirements of this Order, this case shall be closed without further proceedings. In the event Dr. Ewell fails to comply with the requirements of this Order, in the Board's discretion, he may be noticed to meet with an informal conference committee.

Pursuant to Section 54.1-2919 of the Code, Dr. Ewell may, not later than 5:00 p.m., on January 21, 2003 notify William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Fifth Floor, Richmond, Virginia 23230-1712, in writing that he desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

Therefore, this Order shall become final on January 21, 2003 unless a request for a formal administrative hearing is received as described above.

FOR THE BOARD



William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

Entered: 12/17/02



COMMONWEALTH of VIRGINIA

Robert A. Nebiker
Director

Department of Health Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712
January 30, 2003

www.dhp.state.va.us/
TEL (804) 662-9900
FAX (804) 662-9943
TDD (804) 662-7197

Cleve Winfield Ewell, M.D.
7 Collinwood Circle
Hampton, Virginia 23666

CERTIFIED MAIL

7160 3901 9844 7520 6802

RE: License No.: 0101-043333

Dear Dr. Ewell:

This letter is official notification that the Virginia Board of Medicine ("Board") has received verification that you paid the monetary penalty imposed by the Board's Order entered December 17, 2002. Based on receipt of this information, it has been determined that you have fully complied with the terms of the Board's Order. Therefore, this matter has been closed effective this date.

Pursuant to §2.2-4023 of the *Code of Virginia*, a signed copy of this letter shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

The Board wishes you well in your future endeavors.

Sincerely,

A handwritten signature in black ink, appearing to read "William L. Harp, M.D.", with a stylized flourish at the end.

William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

cc: Kathleen Nosbisch, Deputy Executive Director, Practitioner Information
Reneé S. Dixon, Discipline Case Manager, Board of Medicine [86647]
Patricia Hanchey, Senior Administrative Assistant
Tamika Hines, Office Manager, Enforcement Division