

The Valley Beautiful in a Whole New Light

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\$1.5 million fine against doctor dropped

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After more than two years of what his attorney labeled as being "wrongfully put through the wringer," a former Erwin physician learned this month that a \$1.5 million fine against him had been dropped.

Dr. David Livingston was among six physicians fined a total of \$48 million Feb. 10, 2003, by the Medical Board of California. He was accused of violating a 2001 California law by prescribing "life-

style" drugs such as Viagra and Propecia for residents of that state without having performed "a good faith examination."

"We think this is a complete vindication," said Adam Palmer of the Phoenix, Ariz., law firm Hendrickson and Palmer. "Going after Dr. Livingston always appeared to be punitive in our eyes."

Since 2003, Palmer consistently has contended that the California board lacked jurisdiction over nonresident doctors and did not have the authority or power to collect a fine. He also argued that

Livingston, who remained in good medical standing in Tennessee, had done nothing wrong.

At the time he wrote the prescriptions, Livingston was associated with MultiRX, one of numerous internet pharmacies supplying lifestyle medications to customers. The company advertised that more than 200 doctors wrote prescriptions as part of its worldwide network.

"Dr. Livingston got involved in telemedicine in his infancy," said Palmer, who pointed out that the local doctor had ended his associ-

ation with the Internet pharmacy long before the action was taken in California.

State records show that Livingston appeared before the Tennessee Board of Medical Examiners on Nov. 27, 2001. At that hearing, he agreed to prescribe drugs only for individuals with whom he had a physician-patient relationship and on whom he had performed physical exams after taking medical histories.

Speaking Friday on behalf of the Medical Board of California, Please see FINE, Page 6-A

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Information Officer Candis Cohen told The Erwin Record: "We based our actions on the best information we had at the time from the California Pharmacy Board. Later, we determined that some of the evidence did not meet our burden of proof and, accordingly, withdrew the citation."

Palmer, who has represented both Livingston and an Arizona doctor in the case, said he received notification of the decision in a document dated June 14. In the notice, the only comment from Joan M. Jerzak, chief of enforcement for the California medical board, was that "After review of all information and evidence provided, the citation is hereby withdrawn."

Following the California board's issuance of the citation two years ago, Livingston stepped down as chief of staff at Unicoi County Memorial Hospital. His letter of resignation said he did not want the controversy to be "a hindrance" to the hospital.

Livingston continued his private practice

in Erwin until mid-March of this year.

Licensed in Tennessee since 1992, he had originally worked in the UCMH emergency room under a contract with Emergency Coverage Corp. of Knoxville. He established Erwin Family Practice in the Pauline Vaughn Building, behind the hospital, in July 2001.

Jim Pate, UCMH chief executive officer, said he understands that Livingston has relocated somewhere in the Nashville area.

"Anytime people hear that a doctor has been fined like this," Palmer said, "it's bound to make them wonder. But no one has ever alleged that Dr. Livingston was a bad doctor."

Palmer added that the physician in Arizona, who also has been cleared of charges, saw his rates double for malpractice insurance and lost contracts to treat patients under health-insurance plans.

Because of sovereign immunity, Palmer said, the California state board cannot be sued for recovery of financial losses.

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